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## 4. Housing for Sale

### 4.1 Shared Ownership

- 4.1.1. Schemes given grant confirmation before 1st April 2011 must follow procedures as set out in previous versions of the CFG. Where a scheme has been converted to Shared Ownership as part of a programme of conversions agreed as part of an AHP delivery contract, the procedures in the current CFG should be followed irrespective of when the scheme originally received grant confirmation.

### Accessing Shared Ownership

- 4.1.2. Shared ownership must be available and affordable to households up to the maximum gross household income as set out in the London Plan 2021 of £90,000, and updated annually in the London Plan Annual Monitoring Report.
- 4.1.3. As per London Plan policy, local authorities and housing providers of SO have discretion to apply additional eligibility for the first three months of marketing a home as SO, reflecting local housing need. Boroughs may operate different maximum income eligibility caps below the London-wide cap, to determine eligibility locally during this period. Any local criteria, including income caps below the maximum amounts set out above, should automatically cascade out to the London-wide eligibility criteria within three months to ensure that homes are not left vacant. IPs should check with the relevant Borough to confirm eligibility criteria that apply locally.
- 4.1.4. Where relevant, the three month marketing period based on local eligibility criteria should not start earlier than 6 months before practical completion, and the cascade to widen the eligibility cannot be triggered until 3 months before practical completion.
- 4.1.5. All properties (including re-sales) must be offered for sale through the Homes for Londoners Portal.
- 4.1.6. IPs are expected to offer homes which are affordable to Londoners on a range of incomes not just the maximum, and home owners should be encouraged to purchase the maximum share possible.
- 4.1.7. Existing intermediate housing occupants can be assisted to access SO products, subject to the following conditions:
- That they meet the general eligibility criteria for the scheme, that is that the annual household income is no more than £90,000.
  - They are otherwise unable to afford to purchase a property that is suitable for their needs without assistance.
- 4.1.8. Owner Occupiers, in exceptional cases, can access SO products subject to the following conditions:
- That they meet the general eligibility criteria for the scheme, that is that from 1<sup>st</sup> April 2016 the annual household income is no more than £90,000;
  - They are otherwise unable to afford to purchase a property that is suitable for their needs without assistance.

- That they are required to have already sold their property or sell their property at the same time as buying through Shared Ownership
- 4.1.9. Each application from an existing intermediate housing occupant or owner occupier will be assessed on its individual merits by the IP;
- They must have written support from the relevant local authority that the applicant has a housing need before accessing the scheme. It is for local authorities to determine how best to make such assessments of housing need and determine their own processes which are likely to be most responsive to their local housing markets; and
  - The IP must retain a record of the local authority's written support.
- 4.1.10. The following routes and products are also available under the SO product and may be provided using grant: Home Ownership for people with Long-term Disabilities (HOLD); Older Persons Shared Ownership (OPSO); Self-build; and discounted market sale.

### **Flexible home ownership options**

#### **Shared Ownership – key features**

- 4.1.11. Shared ownership products are appropriate for those on low to moderate incomes to support purchase of between 25% (10% for homes funded through AHP 2021-26) and 75% of the value of the property.
- 4.1.12. Key features of shared ownership are as follows:
- Shared ownership is aimed at helping people in housing need who are unable to afford to purchase a property in the open market. Shared ownership is therefore subject to applicant eligibility and affordability requirements (see below).
  - Shared ownership sales are restricted to households up to the maximum incomes as set out in the London Plan 2021 and updated in the London Plan Annual Monitoring Report (£90,000 in 2021/22).
  - The minimum initial equity share that can be purchased is 25% (10% for homes funded through AHP 2021-26); the maximum initial share is 75%. Further shares can be purchased at a later date; some restrictions might apply - see below.
  - Purchasers should buy the maximum share they can afford and sustain.
  - It is anticipated that eligible applicants purchasing under the shared ownership route will purchase a share in a property through savings (if any) and a mortgage obtained through a Qualifying Lending Institution (please see **Glossary** entry). Purchase without a mortgage will be allowable under certain circumstances as detailed below.
  - Prospective shared ownership must be provided with Key Information Documents during the marketing, assessment and purchase processes.
  - IPs will undertake a headline affordability assessment at application stage to ascertain the maximum share that an applicant could afford and sustain.
  - IPs must ensure a further rigorous affordability check is carried out taking into account savings and outgoings, to assess the sustainability of the purchase, and the share sold should reflect both of these two affordability assessments.

- Initial sales are based on the market value of the property and IPs must obtain a valuation from a RICS qualified independent valuer at the initial stages and staircasing.
  - Rents on the unsold equity are capped at 2.75%. It is not expected that rents will be set significantly below this level as this requires considerable levels of subsidy.
  - Rent increases are to be limited by CPI plus 1% using the CPI figures for a specified month, published annually. When the CPI figure for the specified month is nil or negative, rent increases should be applied in line with the provision at paragraph 4.1.154.
  - Many leases issued prior to 12 October 2023, or those which have secured an exemption in line with paragraph 4.1.152, use RPI as the relevant inflation index. Those leases provide for rent increases to be limited by RPI plus 0.5% using the RPI figures for the specified month, published annually. When the RPI figure for the specified month is nil or negative, rent increases should be applied in line with the provision at paragraph 4.1.154. RPI will be phased out by 2030.
  - The leaseholder can staircase to 100% in minimum tranches of 10% (5% for homes funded through AHP 2021-26), unless the maximum staircase has been restricted by the Local Planning Authority as a condition of the planning permission.
  - For homes funded through AHP 2021-26, the leaseholder can, additionally, staircase in 1% increments each year during the first 15 years of the term of the lease. 1% staircasing can be combined with traditional staircasing (in 5% increments).
  - For homes funded through AHP 2021-26, the leaseholder will receive support from their landlord to pay for essential repairs for 10 years from the lease start date, as detailed in the model lease (Initial Repair Period).
  - Purchasers are responsible for payment of their own legal fees and Stamp Duty Land Tax at first purchase, staircasing and upon resale.
  - Standard form leases are available on the [Homes England website](#)
  - Shared ownership leases must prohibit sub-letting, with provision for exceptional circumstances.
  - IPs delivering Shared Ownership homes under the AHP 2021-26 are expected to sign up to the [GLA's Service Charges Charter](#).
- 4.1.13. Following a Government consultation in 2015, the standard model lease was updated to remove the requirement for leaseholders who have staircased to 100% or their assignees (former shared owners) to offer their former Shared Ownership homes back to the originating landlord prior to sale on the open market within the first 21 years following the final staircasing event (the post final staircasing right of pre-emption). Where former or current shared owners have this right of pre-emption contained either within their existing form of lease or registered against their freehold title, this guidance makes clear that this should be removed from the lease or title to the property.
- 4.1.14. In circumstances where a shared owner has not staircased to 100% and wishes to sell, the obligation to offer their home back to their landlord (either for them to put forward a nominee purchaser or take a surrender of the

lease) remains in place and must be complied with before they may offer a home on the open market. This is the pre-final staircasing right of pre-emption and is commonly referred to as the nomination period, right of first refusal or first option to buy. Note that the time period of this right has been reduced for homes delivered through the AHP 2021-26 from eight weeks to four weeks.

- 4.1.15. Where an applicant is seeking to purchase their share without a mortgage, the IP must seek approval from the GLA and approval will only be given in exceptional circumstances, and will not be given for poor credit history.
- 4.1.16. For full guidance, please refer to sections below.

#### **Home Ownership for People with a long-term disability (HOLD) – key features**

- 4.1.17. HOLD is shared ownership, except that it is designed to assist people with a long term disability, to purchase a home more suitable for their needs, where such properties are not being developed by IPs. In the case of HOLD, applicants should seek a more suitable property being offered for sale on the open market.
- 4.1.18. There is also additional guidance on the [Homes England's website](#).

#### **Older Persons Shared Ownership (OPSO) – key features**

- 4.1.19. OPSO operates on shared ownership principles but with some differences:
- It is only available for people aged 55 or over;
  - The maximum level of equity that can be purchased is 75%; and
  - At 75% ownership the leaseholder does NOT have to pay rent on the remaining 25% share of the property.
- 4.1.20. IPs must give priority to people who are unable to afford the full costs of purchasing sheltered accommodation.
- 4.1.21. IPs must not consider any sale to a person younger than 55.

#### **Self-build – key features**

- 4.1.22. Self-build shared ownership is distinct in the manner in which the property is constructed. Self-build shared ownership can allow some of the equity to be based on the self-builder's notional labour cost during the construction period.
- 4.1.23. Please note that "self-build" in this context is different from "Self Build" property that was previously funded by the Housing Corporation and developed for outright sale by a mutual co-operative Self Build Group. Please see the **Glossary** entry for details.
- 4.1.24. Self-build schemes developed for shared ownership must be financially viable and must look to demonstrate a maximum scheme cost/value relationship of 80% i.e. the costs of the scheme must be at least 20% less than the value of the completed properties. Any schemes that fall short of this criterion will be subject to technical assessment by the GLA.
- 4.1.25. IPs must also ensure that:
- The self-build group is registered with the Registrar of Friendly Societies on NHF model rules;
  - The self-build group works with an IP which can claim grant;

- The IP signs an appropriate Development Agreement with the self-build group; and
  - The rules and working regulations of the self-build group provide adequate management structures and procedures for the IP.
- 4.1.26. All leases must be granted simultaneously after confirmation of final costs and values and the determination of the 'sweat equity' (i.e. the proportion of equity to be granted as a reward for the self-builder's labour).
- 4.1.27. If the sweat equity amounts to less than 25% of the total value of a dwelling, the self builders must purchase additional equity to have the minimum of 25%. If this is to be purchased with a mortgage the provider must check that the self builder can raise that mortgage and sustain it (see section 3 (applicant eligibility) and section 6 (affordability)).
- 4.1.28. A provision must be inserted into the lease as to the effect that it is a lease under which the tenant (or tenant's personal representative) will or may be entitled to a sum calculated by reference directly or indirectly to the value of a house or dwelling.

### Equity Loan

- 4.1.29. The equity loan product is suitable for those on moderate incomes able to raise a mortgage for 75% of the value of the home, and able to secure a deposit of 5% of their share.
- Equity loans may be made available to households on moderate incomes sufficient to raise a mortgage for 75% of the value of the property and a deposit of five per cent of the property value
  - The equity loan provided is for a maximum of 20% of the value of the property and an interest fee of 1.75% is charged from year six
  - The GLA does not take a charge on individual properties and the relationship with the customer is managed by the IP
- 4.1.30. Due to the fact that a charge will be taken over the title of a residential property the loan will potentially be regulated by the Financial Conduct Authority. Organisations wishing to provide equity loans should seek specialist advice as to the regulatory status of their proposed loans. Where the activity of providing the equity loan would be a regulated activity, providers will need to ensure that they hold the appropriate level of authorisation from the Financial Conduct Authority prior to marketing or entering into any loan. Failure to do so does risk criminal liability and/or the equity loan being unenforceable.
- 4.1.31. If the original Equity Loan tenants buy jointly, but later wish to transfer the equity to one party this can be done within the Equity Loan charge without triggering redemption provisions. Similarly, if a single buyer later wishes to add a new co-buyer then this is also permissible without triggering the redemption provisions. In both instances, the IP should document this appropriately to ensure that the IP maintains an enforceable charge.
- 4.1.32. The Equity Loan charge documentation includes an obligation on the Borrower to insure the property. If the property in question is a flat and the



IP or landlord carries out the insurance under the lease it is permissible to amend the insurance covenant in the charge so that it relates to the buyer's obligations to comply with its insurance covenants in the lease.

### **Rent to Save**

- 4.1.33. Rent to save is designed to enable aspiring home owners to move into a home that they have chosen even if they have not yet been able to save a sufficient mortgage deposit. Rent is paid at up to 80% of the equivalent market rent for the property and a savings plan is put in place to help tenants save for a deposit.
- Let at up to 80% of the equivalent market rent for that property, with a fixed rate of inflation.
  - A savings plan is put in place for the tenant to raise a sufficient deposit to purchase (on shared ownership or equity loan terms) within five years.
  - The household could purchase (on shared ownership or equity loan terms) at any point in the tenancy.
  - The property would be let on an assured shorthold tenancy with a fixed term linked to (but not necessarily the same as) the required savings period.
  - The provider would be required to put in place regular reviews to check the progress of the household in saving for a deposit.
  - The five year period could be extended if the tenant still wishes to move into home ownership but is not quite ready.
  - The tenancy could be ended (subject to proper legal process) at any point (after the initial fixed term) if the tenant is not saving appropriately or no longer wishes to purchase.
  - If the tenant moves out at any stage the property would be re-marketed as a SO product (including rent to save).
  - If the tenant's household income went over the maximum income cap they should be offered the opportunity to buy the home outright (with the landlord having discretion to offer a discount to reflect fees/costs that they would otherwise incur), in which case grant would be recoverable or rolled over into additional new supply.

### **Rent to HomeBuy**

- 4.1.34. Rent to HomeBuy is a historic product, piloted in 2008/9 where homes were offered to prospective shared ownership applicants on an intermediate rent basis for a limited and defined period. It was anticipated that this would be 3 years post completion but up to a maximum of 5 years where there were sound reasons for doing so. After (or during) this time the expectation was that the property would be purchased on shared ownership terms by the applicant. Given properties developed through this initiative will now have reached or be close to the end of the intermediate rent period, RPs are advised as follows:
- Towards the end of the defined intermediate rent period where tenants have not already purchased their initial share, landlords should ask those tenants to confirm the amount of share that they wish to purchase. It is suggested



that a reasonable timescale be adopted to enable the required shared ownership assessment, checks and legal processes to be undertaken. Whilst not prescriptive, landlords may consider six months to be suitable. It is expected that most tenants will still be in a position to purchase the property.

- Tenants, who are assessed as not being in a position to buy at the end of the defined period due to a change in circumstances, will have their position reviewed by their landlord. Landlords will be expected to discuss alternative housing options with these tenants and provide advice in order to prevent the tenant becoming homeless.
- Where it is assessed the tenant could be in a position to purchase within 12 months' time, an extension to the intermediate tenancy can be agreed on a once only basis at the discretion of the RP.
- If the tenant's household income has gone over the maximum income cap they should be offered the opportunity to buy the home outright (with the landlord having discretion to offer a discount to reflect fees/costs that they would otherwise incur), in which case grant would be recoverable.
- Where a property under this initiative becomes void and the RP is able to demonstrate it cannot be sold to a shared ownership applicant, the GLA is prepared to consider conversion to affordable rent.

## Porting

- 4.1.35. Porting is the transfer of an equity loan from one property to another; porting does not apply to shared ownership. The GLA will permit IPs to take local decisions when considering porting loans in London (both properties must be in London). Porting will no longer be restricted to loans granted to key workers that have retained their key worker status; porting can also be extended to all eligible intermediate housing occupants in London, subject to the following conditions:
- That they meet the general eligibility criteria for the scheme, that is that the annual household income is no more than £90,000; and
  - They are otherwise unable to afford to purchase a property that is suitable for their needs without assistance.
- 4.1.36. Please note that porting is not and never has been available for the following products, whether the owner is a key worker or not:
- Expanded Open Market HomeBuy;
  - Government Loan Only;
  - First Time Buyers' Initiative;
  - HomeBuy Direct; and
  - FirstBuy.
- 4.1.37. For the avoidance of doubt, the Equity Loan Provider's equity loan must be repaid, unless agreement to port is provided:
- on sale of the property or
  - on transfer of the property
- 4.1.38. The Equity Loan Provider will be responsible for considering applications, deciding whether or not to support the application, managing the porting process, producing any supporting documentation and recycling monies. If the original equity loan had been advanced by an IP that is not currently an Equity Loan Provider then the responsibility for the loan must pass to the

appropriate Equity Loan Provider when the beneficiary buys the new property. The original loan will remain a second charge and the amount transferred from one property to another. The originating IP would relinquish responsibility for the property and the loan by assigning the second charge and the management responsibility to the Equity Loan Provider at the time of the purchase of the new property. Equity Loan Providers should seek their own legal advice as required.

- 4.1.39. If the decision to move is taken, the home owner must either have completed the sale of their existing property, or be in the process of completing the sale of their existing property at the same time as buying for the second time. This is to avoid a situation in which an owner ends up holding two equity loans simultaneously.

### **Discounted market sale**

- 4.1.40. The GLA may at its discretion use its funding programmes to support the delivery of Discounted Market Sale (DMS) homes, including where they are delivered on schemes that align with wider strategic housing policy objectives, such as community-led schemes and/or schemes that provide homes to groups of people who share a protected characteristic.
- 4.1.41. There is no minimum discount but the GLA would expect to have approved the proposed discount percentage when assessing the original grant bid. The National Planning Policy Framework (July 2021) defines DMS as homes sold at a discount of at least 20% below local market value.
- 4.1.42. DMS homes are considered approved Affordable Housing, for the purposes the AHP 2021-26 funding agreements, where they are sold at a discount of at least 20% below local market value in perpetuity, consistent with the national planning policy of Affordable Housing.
- 4.1.43. DMS schemes are subject to the same valuation requirements as other schemes (see **paragraph 7.2 in the Compliance Audit section of this guide**).
- 4.1.44. DMS homes must be affordable and sustainable to households up to the maximum London Plan thresholds for gross household income, as updated periodically in the London Plan Annual Monitoring Report. Providers of DMS homes should contact the relevant local authority to ensure that they follow applicable local policies regarding eligibility, allocations, and nominations for intermediate housing.
- 4.1.45. As with shared ownership, providers are expected to offer DMS homes which would be affordable to Londoners on a range of incomes, not just these maximum levels.
- 4.1.46. DMS homes should remain discounted by the agreed proportion or amount in perpetuity, with income caps applicable to subsequent sales.

### **Funding Principles**

#### **General**

- 4.1.47. The total public subsidy (new grant, RCGF and Disposals Proceeds Fund where allowable) eligible for a home ownership scheme is set out in the partner's original offer as agreed by the GLA. Where there are changes to

the number or cost of units, or where delivery is otherwise altered from the original offer, any agreed changes to subsidy will be addressed through the programme change mechanism specified in the funding agreement.

- 4.1.48. No member, employee, agent or consultant of a GLA investment partner or RP should have an interest in the proposed vendor, contractor or the land or property to be acquired. This includes properties purchased by individuals under Flexible Home Ownership or other such schemes. This also includes any firm, partnership or organisation in which they or their families are involved

### **Financial Viability**

- 4.1.49. It is expected that the proposed initial sale and rent income will have been considered and that, in the long term operational costs including the repayment of loan principal and interest can be met. Any initial revenue deficits must be within IPs' general capacity. The Regulator will monitor the impact of development on the IP's general financial status.

### **Sales Valuations**

- 4.1.50. IPs must obtain valuations from a Royal Institute of Chartered Surveyors (RICS) qualified independent valuer at the initial sales stage and on staircasing (other than 1% per year staircasing – see below).
- 4.1.51. Initial sales must be based on the full Market Value of the property which shall be assessed as the price the leasehold interest in the property would fetch if sold on the open market by a willing seller upon the terms and conditions contained in the shared ownership lease on the assumption that the leaseholder would acquire a 100% interest in the lease.
- 4.1.52. The following additional conditions apply to staircasing valuations (other than 1% per year staircasing):
- Tenant's improvements and failure of the tenant to keep the property in good repair will be disregarded;
  - Any service charges or improvement contributions payable will not be less than the estimates contained in the landlord's offer (if such an offer was made);
  - For freehold property, the landlord is selling a freehold interest with vacant possession; and
  - For leasehold property, the landlord is selling with vacant possession for the appropriate term, i.e. not less than 125 years (where applicable) or a term expiring 5 days before the term of the landlord's lease is to expire.
- 4.1.53. Where, in exceptional circumstances, IPs set sale prices above the valuation, they must seek the approval of their GLA Area Manager before proceeding, providing a robust business case for selling above the valuation. The reasons for selling at a price above the valuation should be documented and kept on file for audit purposes and the IP should satisfy themselves that the price remains within the means of the intended client group.
- 4.1.54. If, in exceptional circumstances, IPs wish to reduce prices below the valuation they must have the prior agreement of the GLA (agreement will

NOT be given where the discounted price is below the cost of providing the homes). IPs should also demonstrate how any discount provided would benefit subsequent purchasers.

- 4.1.55. For 1% staircasing transactions the valuation is calculated from the Land Registry's House Price Index. The detail of this methodology is contained within the Shared Ownership model lease and in the Key Information Documents that should be provided to shared owners prior to purchase of their home by landlords.

### **Validity Period for a Valuation**

- 4.1.56. Where no validity period is given for the valuation it will be assumed that the valuation is valid for 3 months.
- 4.1.57. Once a reservation is placed on a property then the valuation valid at the time that a reservation fee is paid should be assumed as fixed. The IP should make it clear at this point whether exchange of contracts is required within a fixed period in order for the valuation to remain valid.

### **Consents**

- 4.1.58. Shared ownership leases, and staircasing under those leases, are generally exempt from the need for the Regulator's consent under section 172 HRA 2008, as they are regarded as being assured tenancies. Shared Ownership leases that cannot be classed as assured tenancies (e.g. because of low rent) would need consent but are covered by category 13(a) of Regulator's General Consent 2010.

### **Grant**

- 4.1.59. IPs may use grant and RCGF funds for shared ownership schemes, on condition that the scheme is consistent with RCGF Permitted Uses – see Grant Recovery chapter.
- 4.1.60. For details of how to claim grant, and payment arrangements, please refer to the Finance section of the General chapter.

### **Applicant Eligibility**

- 4.1.61. Flexible home ownership is aimed at helping people in housing need who are unable to purchase a property on the open market.
- 4.1.62. In order to be eligible to purchase a property through SO, applicants must have a maximum household income of £90,000 and be unable to purchase a property suitable to meet their needs on the open market.
- 4.1.63. There is no restriction on the number of bedrooms that applicants are entitled to within the maximum upper limit of £90,000.
- 4.1.64. Subsequent to first share purchase, households with income exceeding £90,000 can remain in shared ownership.

- 4.1.65. Applicants must be able to afford their purchase, and sustain their housing costs. IPs must undertake appropriate checks on the applicant to ensure that they are able to do this. For more details, please see below.
- 4.1.66. As part of this process, investment partners will need to be guided by the following:
- Applicants are primarily expected to be first time buyers, though some applicants who own or have previously owned a home may be eligible, including existing shared owners - please see below for further details.
  - An applicant who is an IP tenant must not be in rent arrears or in breach of their current tenancy agreement at the time of their application.
  - Where there is an application from an IP tenant, the rented property must be able to be re-let to a local authority nominee.
  - An IP tenant whose property has to be vacated for repairs or demolition and who needs to be re-housed in alternative IP accommodation may also be eligible.
  - Tenants of mutual co-operatives are also eligible to participate if they meet all the other eligibility requirements.
  - In the case of joint tenants where only one tenant qualifies for the programme, the purchase can proceed in the name of the qualifying tenant provided both tenants surrender the joint tenancy and vacate the tenanted property on completion of the sale.
- 4.1.67. It is required that IPs conduct their own assessment of individual applicants to ensure that they meet all eligibility criteria. Where there are long delays between initial application and exchange of contracts, IPs must ensure that applicants continue to meet the eligibility criteria, as their circumstances may have changed (for example, an applicant may have changed jobs or formed a partnership).
- 4.1.68. The Government has removed the requirement to offer homes to priority groups with the exception of Armed Forces personnel (serving military personnel and former members of the British Armed Forces discharged in the last 2 years). With the exception of this group all other applicants should be considered in light of the eligibility criteria stated above with regards to housing need and income thresholds.
- 4.1.69. Joint applications can only proceed on the condition that all joint applicants become joint owners. An IP tenant qualifying for the programme may have a partner who does not want to join in the application. The application can proceed in the sole name of the qualifying applicant provided the current landlord gains vacant possession of their current property *and* there is no obligation to re-house the partner.
- 4.1.70. Capital, access to that capital and any income generated by it will be taken into account when assessing their eligibility for flexible home ownership products. However, any lump sums paid to eligible members of the armed forces as a result of illness or injury are to be disregarded when assessing eligibility and sustainability. Please note that the above applies to one off lump sums only and not to other payments, such as pensions, which are still classed as income.

- 4.1.71. Capital assets include savings, bonds, shares and any other financial investments.
- 4.1.72. It is the applicant's responsibility to notify the investment partner of any changes to their circumstances after the application details have been checked by the investment partner.
- 4.1.73. Since April 2011, where applicants may have received, or are eligible for, cash incentives from local authorities and intend to use them as a contribution towards a purchase through affordable home ownership, this may class as double subsidy. Such incentives will not make applicants ineligible provided that the relevant local authority has approved its value-for-money test. The GLA will not ask to see a copy of the local authority assessment but IPs must retain confirmation that the local authority test has been completed.
- 4.1.74. The structure of such incentive schemes is a matter for the local authority but IPs must satisfy themselves that their legal interests are not jeopardised. For the avoidance of doubt the GLA will not allow any incentive schemes which involve a legal charge on the property where the GLA already holds a legal charge (e.g. FirstBuy). IPs can allow a legal charge to be applied on other forms of affordable home ownership but such charges will not affect the amount of grant due to be repaid/recycled. For further information on calculating recoverable grant, please refer to the Grant Recovery chapter.

#### **Allocations and nominations of potential applicants**

- 4.1.75. Local authorities and housing providers may set additional eligibility criteria (e.g. lower maximum income thresholds or key worker prioritisation) for the first three months of marketing a shared ownership home. Any eligibility criteria must cascade to the London-wide criteria if the home has not been reserved after the initial three month marketing period.
- 4.1.76. Housing providers receiving grant through the Affordable Homes Programme 2021-2026 that choose to set additional prioritisation criteria for the first three months of marketing new intermediate homes are required to publish details of the criteria on which intermediate housing applications might be prioritised within their published policy statements.
- 4.1.77. Local authorities and housing providers are expected to adopt an equitable and targeted allocation process for all intermediate housing, having regard to regional and local eligibility criteria and established definitions of housing need.
- 4.1.78. In managing and prioritising potential applicants for shared ownership homes, housing providers should ensure that their marketing and sales processes are consistent with making the greatest contribution to aiding local authorities in fulfilling their strategic housing function and their duties to meet identified local housing needs.



### Information requirements for applicants

- 4.1.79. There are key information documents for shared owners that landlords are required to provide to purchasers. These are provided to help shared owners understand what they are purchasing.
  - a. Note that for homes provided through the AHP 2016-21 which have already issued leases at the time of this funding guidance being issued, a previous version of this key information requirement for shared owners formed part of the model leases.
- 4.1.80. For shared ownership homes that were not reserved at the time of this funding guidance being issued, Key Information Documents must be provided to prospective buyers, as per below.
- 4.1.81. **Key Information Document 1** should accompany property listings for initial sales and resales. It is for prospective homebuyers who are looking at different homes, before they have completed a financial assessment. It gives prospective homebuyers standardised information when they register interest in a shared ownership home.
- 4.1.82. It is a condition of grant funding that **Key Information Documents 2 and 3** are completed and provided to the customer no later than at reservation stage. The completed documents should be sent to the buyer's solicitor along with the Memorandum of Sale. Providers should obtain confirmation from the buyer's solicitor that these have been provided to the customer.
- 4.1.83. The GLA website provides templates for Key Information Documents, tailored to the shared ownership models of both the AHP 2016-23 and AHP 2021-26.

### Applicant affordability

- 4.1.84. The shared owners initial share of the property must be a minimum of 25% and a maximum of 75%. For Shared Ownership homes provided through the AHP 2021-26 the minimum share that purchasers can purchase is 10%. It is at the discretion of Shared Ownership providers as to whether they choose to offer the new Shared Ownership product introduced for the AHP 2021-26 on homes provided through other funding programmes.
- 4.1.85. Providers must encourage purchasers to buy the maximum share they can afford and must sell shares flexibly in accordance with a purchaser's individual circumstances (e.g. not just to the nearest 10 per cent).
- 4.1.86. It is expected that Shared Ownership homes in a development will be sold across a range of equity shares. Providers must not sell all homes in a scheme at the same equity share regardless of individual purchaser circumstances. It is not unreasonable to expect that providers will have a 'target' average equity share across Shared Ownership properties within a development, but this must not exclude those only able to afford lower shares.
- 4.1.87. Providers should ensure that they keep records to evidence the eligibility and affordability of purchasers.

- 4.1.88. The GLA expects providers to make decisions with regard to eligibility and affordability in a fair and consistent manner. The final decision on the Shared Ownership purchase rests with the provider in light of all the information available to them. This includes a responsibility to protect public funding in any decision they make.
- 4.1.89. For resale homes where the new buyer is purchasing 100 per cent, the applicants do not need to meet the GLA's affordability criteria.

### **Establishing affordability**

- 4.1.90. The assessment as to what share purchase an applicant can afford must be undertaken by a suitably qualified and regulated mortgage advisor or financial advisor. Due to the specialist nature of Shared Ownership mortgages, the advisor should be suitably experienced in this area. For the remainder of this chapter we will refer to 'mortgage advisor' to mean those who are regulated, qualified, and experienced at a suitable level to undertake these assessments.
- 4.1.91. This initial assessment must be provided to the applicant at no cost. The applicant must not be required to take a mortgage out through these advisors. The applicant should be clearly informed of this upfront.
- 4.1.92. The mortgage advisor may use an affordability calculator to indicate the maximum share that the applicant can afford. However, they should also carry out detailed assessments taking into account any relevant mortgage lending criteria
- 4.1.93. Detailed affordability assessments, carried out by qualified, regulated advisors or mortgage lenders should be relied upon as the definitive and final source to ultimately determine the maximum affordable share the applicant(s) can purchase and agree the share to be purchased.

### **Maximising share purchases**

- 4.1.94. The GLA recognises that applicants' individual circumstances will determine what proportion of their income can be spent on housing costs. In general we consider maximising the share purchase to mean that between 25 per cent and 40 per cent of the net household income is spent on housing costs.
- 4.1.95. For shared ownership to be considered affordable, annual housing costs, including mortgage payments, rent and service charge, should be no greater than 40 per cent of a household's net income. A repayment mortgage of 25 years with a 90 per cent loan to value ratio is a reasonable baseline assumption in modelling interest rates and deposit requirements in the assessment of affordability.
- 4.1.96. It is not intended that all applicants use 40 per cent of their net household income as their individual circumstances and availability of mortgages may vary.
- 4.1.97. The upper threshold of 40 per cent is there to protect the public subsidy, the customer, and the provider and, generally, these should not be breached. However, if after a detailed assessment the mortgage advisor and

mortgage lender are in agreement that a higher share is affordable that exceeds these upper thresholds, then this decision ultimately lies with the provider. The GLA recognises that for some purchasers, a Shared Ownership home in which annual housing exceed 40% of net household income will represent a more affordable and/or more suitable home to meet housing needs than the home occupied prior to purchase.

- 4.1.98. If the lower threshold of 25 per cent is not met and the mortgage advisor believes that this is appropriate for the applicant's personal circumstances, then this can be allowed with a common sense approach taken.
- 4.1.99. The GLA does not wish to cause any barriers to existing shared owners selling their homes. As such the requirement for applicants to maximise the share purchase should not be an absolute requirement for resales. However, mortgage advisors should still consider whether it is affordable and in the interest of the applicants to buy as much as they can afford to upfront. Providers should facilitate further share purchases at the same time as resales wherever possible. Applicants purchasing a share resale home should still be assessed to ensure that this is affordable using the thresholds noted above.

## Income

- 4.1.100. Only those applicants named on the first charge mortgage can submit their income into affordability assessment, as the purchase must be affordable and sustainable for the individual(s) tied to the mortgage without requiring further income. Applicants with another eligible household member (by eligible they must not own any property and their joint incomes must not breach £90,000 as a gross household income) may submit one third of their income towards the assessment. However, the mortgage advisor will need to make a judgement as to whether this reflects the lender's requirements.
- 4.1.101. Mortgage advisors should use their own knowledge of lender requirements on income requirements when carrying out their detailed assessment, including taking into account gross income from employment (including guaranteed overtime) and any overtime, bonuses, and commissions amounts. Additional annual income from other sources including benefits, guaranteed maintenance, or other forms of income that applicants receive. Applicants in receipt of benefits such as housing benefit are not precluded from applying for affordable home ownership products, subject to affordability assessments.
- 4.1.102. Self-employed applicants are able to apply for Shared Ownership providing they are able to satisfy the certification requirements regarding their income as required by providers, mortgage advisors, and lenders (as appropriate).

## Mortgages

- 4.1.103. Mortgage lenders should be authorised and regulated by the Financial Conduct Authority and, where required, regulated by the Prudential Regulation Authority. .

- 4.1.104. The Government does not believe that applicants should be prohibited from using unsecured lending to access Shared Ownership. Unsecured lending will not benefit from the Mortgagee Protection Clause as it is not secured against the home.
- 4.1.105. More information for lenders and providers can be found in the Joint Shared Ownership Guidance. Please note that this is due to be updated.

### **Cash purchases**

- 4.1.106. In exceptional circumstances Shared Ownership applicants can be 'cash purchasers' and not require a mortgage, though providers will need to ensure that any such purchase is affordable for the applicant, and that they have the means to afford and sustain shared ownership in the longer term, as well as them meeting the normal eligibility requirements for shared ownership.
- 4.1.107. Applicants may purchase their share in cash if they are unable to obtain a mortgage but have sufficient savings. For example, if an older person could not take out a mortgage due to their age, or someone with a lower income could afford the rent element but not a mortgage. Applicants may also choose to buy without a mortgage on religious grounds. Approval for cash purchase will not be given due to poor credit history. Applicants should still be referred for financial advice so that a detailed affordability assessment can be carried out.
- 4.1.108. Cash purchasers should be able to demonstrate that the housing costs are affordable. These payments (including rent, service charges, and other housing costs) should not be more than 40% of their net income.
- 4.1.109. Cash purchasers must still meet the eligibility requirements of being unable to afford to purchase a suitable home on the open market and having a gross household income of under £90,000.
- 4.1.110. The affordability assessment should recommend a suitable share purchase based on the applicant's savings and access to capital using the guidance in this chapter for 'Applicant Affordability' and 'Establishing Affordability'.
- 4.1.111. As there is not a lender carrying out underwriting checks, the mortgage advisor and provider should agree how to evidence the applicant's financial information to avoid relying wholly on self-certification.

### **Savings and other capital**

- 4.1.112. In order to maximise the share purchase applicants will generally be expected to liquidate what capital assets they may have. Capital assets could include savings, bonds, shares, land and any other assets or investments.
- 4.1.113. Any lump sums paid to eligible members of the armed forces as a result of illness or injury are to be disregarded when calculating how much of the applicant's savings should be used as a deposit.

- 4.1.114. Whilst applicants are expected to maximise the amount of savings they use to purchase their share, this does not mean that they are not permitted to retain any savings. The mortgage adviser should determine the appropriate amount to be used as a deposit factoring in the individual's circumstances. They should consider the costs of purchasing the share (including Stamp Duty Land Tax if applicable), any upcoming changes in the applicant's circumstances, and appropriate emergency savings. They will also need to factor in the lender's deposit requirements to provide the best advice to the applicant.

#### **HOLD – eligibility and affordability assessment**

- 4.1.115. There are additional considerations regarding eligibility for Home Ownership for people with Long Term Disabilities (HOLD).
- 4.1.116. People with long term or other disabilities would normally be expected to apply for Shared Ownership without accessing the HOLD programme where IPs are offering properties that meet their individual needs.
- 4.1.117. If there are no Affordable Home Ownership properties available in a particular area or the existing properties are unsuitable, purchase of a property on the open market may be considered through the specialist HOLD product.
- 4.1.118. In these cases applications to purchase via HOLD will also require a letter of support from the applicant's local authority, stating that the applicant has a specific need that means that standard new build properties are unsuitable, or that an applicant needs to live in a particular area where no suitable SO properties are available.
- 4.1.119. As with all other Affordable Home Ownership products applicants need to be able to sustain the cost of home ownership. This will require applicants to either have a lump sum sufficient to cover the initial purchase without the need for a mortgage, or an on-going source of income sufficient to secure mortgage finance.
- 4.1.120. IPs intending to offer HOLD should therefore ensure that applicants are strongly advised to get independent financial advice on what assistance may be available to them, and their ability to afford Shared Ownership.

#### **Home Ownership for People with Long-term Disabilities (HOLD) – assessment of buyers**

- 4.1.121. HOLD applicants should be assessed in the normal way to ensure that the purchase is affordable. This should factor in the applicant's access to appropriate mortgage products where they rely on Support for Mortgage Interest (SMI) benefits.
- 4.1.122. Applicants should not be excluded because they rely on benefits including the SMI payments.
- 4.1.123. Providers should ensure that the mortgage advisor has sufficient experience in the specialist mortgages which may be available for HOLD applicants.

### **Older Persons Shared Ownership (OPSO) – assessment of buyers**

- 4.1.124. OPSO is only available for people aged 55 or over.
- 4.1.125. OPSO applicants should be assessed in the normal way to ensure that the purchase is affordable. These applicants may be more likely to use the cash purchase option, but they may also be deemed eligible for a mortgage.
- 4.1.126. Applicants do not require a local authority nomination in order to be approved as eligible. Each OPS application will be assessed on its individual merits by the IP and subject to the general eligibility criteria for the scheme, including maximum income caps.
- 4.1.127. OPSO applicants who are currently homeowners will need to sell their existing property before buying using OPSO (subject to specific exemptions detailed below). Existing home owners must have written support from the relevant local authority that the applicant has a housing need before being accepted onto the scheme and the IP must retain a record of the local authority's written support.
- 4.1.128. OPSO applicants may need to retain a higher level of savings or investments than other applicants to provide ongoing income, or to cover ongoing and future living and care costs. There is no cap on the level of savings or investments that an applicant can retain for this purpose. The provider should make a judgement on this according to the individual circumstances of the applicant. The overall expectation remains that OPSO applicants will use the majority of their capital to fund the purchase of the property.
- 4.1.129. Applicants with sufficient equity to be able to purchase a suitable property on the open market should not be assessed as eligible.
- 4.1.130. For extra care schemes mortgage advisors can use an additional degree of flexibility when making this assessment, to take into account the higher ongoing costs of the care being provided.
- 4.1.131. OPSO leases should contain the following provisions, in addition to the standard clauses:
- Be granted to a person aged 55 years or over. Providers must not consider any sale to a person younger than 55. Sales to or occupation by someone not meeting the age restriction will generally be regarded as a breach of the terms of the lease.
  - Restrict the maximum share to 75% of the open market value (either at initial sale or upon staircasing).
  - Contain no rent provision where the maximum share of 75% has been acquired.
  - Make provision for access to person centred services to support individuals. Where no resident warden is available the lease must detail the service available to the leaseholder for obtaining emergency assistance. This may be provided by a peripatetic warden employed by the provider, a local authority or a private agency.
  - Restrict assignment to a person of or over the age of 55 at the date of assignment. Whilst it is not the intention to place a direct restriction on



the identity of persons who may inherit the home, where the property is inherited by someone under the age of 55, the Permitted Use clause will prevent the property being used by that person unless they are a deceased leaseholder's spouse or civil partner residing at the dwelling at the time of death. The restriction on assignment will equally apply to a mortgage company.

- Contain a covenant prohibiting underletting of the whole or part of the dwelling.
- Not provide for the leaseholder to acquire the landlord's interest under an option to purchase.
- Contain a landlord covenant to provide the leaseholder with a list of duties included in the basic management fee and itemise and price those which are to be charged separately.

4.1.132. Resales of OPSO homes will generally follow the same principles as for mainstream Shared Ownership and will always be governed by the terms of the lease.

4.1.133. Where shared owners are experiencing significant difficulties in selling their OPSO home providers are encouraged to explore other options with their leaseholders. This could involve:

- The possibility of the provider repurchasing the property and letting the property at an Affordable Rent
- Giving temporary permission to the leaseholder to sub-let the property. In all cases tenancies should only be granted to persons aged 55 years or over

4.1.134. Where owners request that subletting be permitted, this should be in line with the wider funding guidance, with the additional stipulation that tenancies must only be granted to persons aged 55 years or over.

### **Older Persons Shared Ownership (OPSO) – transactions for existing owners**

4.1.135. Existing shared owners who meet the applicant eligibility requirements outlined above are able to access OPSO.

4.1.136. Existing owners who are deemed eligible are required to have already sold their property or sell their property at the same time as buying through flexible home ownership. In exceptional cases where an applicant is prevented from accessing or selling their existing home an application may be considered, but only with the GLA's prior written agreement.

4.1.137. If having considered the above requirements and guidance an IP is still of the opinion that an application should proceed the IP must forward a detailed request to their GLA Area Manager setting out the following:

- The applicant's reasons why the application should be allowed to proceed;
- Details of how the applicant has demonstrated that the existing property could not be sold;
- Why the applicant could not borrow against the existing property to fund a purchase without government assistance; and

- The IP's own reasons for supporting the application.
- 4.1.138. The fact that the GLA is prepared to consider exceptional cases is not an indication that there will be a positive outcome.
- 4.1.139. Applicants with existing property which may be considered commercial in nature may be excused from selling such property provided the GLA has given its prior approval.

### **Immigration Act Status**

- 4.1.140. People accessing grant funded SO properties are required to demonstrate that they can afford and sustain home ownership in the longer term (see applicant eligibility information above).
- 4.1.141. Those applicants who are subject to immigration control (i.e. who require leave to enter or remain in the United Kingdom under the Immigration Act 1971) are less likely to be able to satisfy this requirement unless they have indefinite leave to remain in the UK.
- 4.1.142. However, there is nothing which legally prevents individuals subject to immigration control but without indefinite leave to remain from accessing SO properties provided that they fulfil the IP's usual requirements. If such an applicant can demonstrate their ability to sustain their home ownership obligations, it is likely to be discriminatory to deny them access to the product.
- 4.1.143. IPs may wish to take the view that if a qualifying lending institution is willing to provide finance for the purchase then the individual is considered good security and therefore should be allowed access to the scheme.
- 4.1.144. IPs must adopt a case by case approach and are responsible for the decision as to whether the individual in question qualifies for SO.

### **Rents, service charges, and other fees and charges**

- 4.1.145. Rents and service charges must be reasonable and consistent with those agreed at bidding stage and in compliance with [the regulator's standards](#).
- 4.1.146. The initial rent for Shared Ownership properties must not exceed 2.75% of the capital value of the unsold equity at the point of initial sale. It is not expected that rents will be set significantly below this level as this requires considerable levels of subsidy.
- 4.1.147. In setting rents IPs must have regard to the affordability of the total housing expenditure of the residents i.e.:
- Mortgage costs;
  - Rent; and
  - Service charges (including the cost of management and insurance)
- 4.1.148. Additional fees and charges for applicable for Shared Ownership homes should be kept to a minimum and only reflect the costs to the landlord of undertaking particular tasks.
- 4.1.149. IPs are required to publish on their website details of additional fees and charges (other than service charges) for Shared Ownership homes to

ensure residents and potential residents are sufficiently informed about any further costs. This should include the full range of potential costs, including permission fees and costs and fees relating to resales and lease extensions – supporting the requirement to furnish prospective shared owners with Key Information Documents.

- 4.1.150. IPs delivering Shared Ownership homes under the AHP 2021-26 are expected to sign up to the [GLA's Service Charges Charter](#). Through Key Information Documents provided to all prospective shared owners (under all funding programmes), IPs will be required to confirm to prospective buyers whether they have or haven't signed up to the Charter.

### Rent Increases

- 4.1.151. Once the method of setting increases has been decided on and written into the lease, then the provisions of the lease will be binding.
- 4.1.152. The GLA has encouraged partners, since 2022, to substitute RPI for CPIH in existing and new leases. The model lease already contains, as a fundamental clause, provision for replacement of RPI, should the Index cease to be published, with another 'generally respected measure of the general increase in retail prices'. Partners will be required to limit annual rent increases to a maximum of CPI + 1 % for new leases issued effective from 12 October 2023 onwards. Shared ownership homes that have already started on site will be exempt from the requirement and may apply rent increases limited to RPI + 0.5% if partners elect to do so. Where providers have allocations with the GLA for named projects, which were approved before 12 October 2023, these will also be exempt from the requirement and may apply rent increases limited to RPI + 0.5% if partners elect to do so. In both cases, the GLA encourages partners to move to a CPI + 1% linked rent increase as soon as it is sustainable to do so. Providers that amend leases or operate rent reviews with reference to CPI + 1% (on an ongoing basis), will not be considered in breach of the fundamental clauses of the lease.
- 4.1.153. From 12 October 2023 onwards, annual rent increases are to be by a maximum of CPI + 1%, using the CPI figure, for a specified month, published annually. Exempt leases may use the RPI figure + 0.5%, for a specified month, published annually.
- 4.1.154. When the index figure for the specific month is nil or below and the RPI-based model lease applies, any rent increase will be limited to a maximum of 0.5%. When the index figure for the specific month is nil and the CPI-based model lease applies, any rent increase will be limited to 1%. When the index figure for the specific month is any negative amount and the CPI-based model lease applies, any rent increase will be limited to a maximum of 0%.
- 4.1.155. For the avoidance of doubt, increases may (i) be set below this CPI plus 1% limit; (ii) a rent increase not applied; or (iii) where considered appropriate by the landlord, a rent reduction may be applied. When choosing not to apply a rent increase when the relevant index is nil or negative, the GLA does not anticipate Shared Ownership leases should be subject to a formal variation as this would be both costly and time

consuming for both landlords and leaseholders. The latest model leases published in October 2023 now make it clear that downward rent reviews are permissible.

- 4.1.156. IPs can choose whether to increase rents on the anniversary date of each lease, or whether to increase all of their home ownership rents on the same date each year e.g. 1st April.
- 4.1.157. Rent setting is a matter for landlords to decide but in doing so landlords should consider whether or not the terms of the lease would be breached.
- 4.1.158. Notice of any rent increase must be given in writing to the leaseholder according to the manner and time stated in the lease.

#### **Level and Quality of Management and Maintenance Services and Service Charges**

- 4.1.159. All leases must include a service charge clause where appropriate.
- 4.1.160. Where IPs are selling flats and maisonettes on a leasehold basis they will continue to be responsible for the repair and maintenance of the building and the provision of services such as lighting in communal areas, as defined in the relevant lease. IPs will need to apportion these costs to the individual unit and recover the costs from the leaseholders by way of the service charges. This continues to apply alongside changes introduced to the Shared Ownership product within the AHP 2021-26 with respect to repairs and maintenance obligations within the first 10 years of occupation.
- 4.1.161. IPs must comply with the Regulator's Standards and Landlord and Tenants Acts in respect of setting service charges. The level of service charge must be affordable for the intended client group.
- 4.1.162. IPs should provide clarity to prospective buyers and at the point of initial purchase on what is and is not covered by the service charge, and where responsibility for calculating and administering service charges lies, alongside estimated amounts. This is covered in the Key Information Documents.
- 4.1.163. The process for amending the amount to be charged in a given period is specified in section 7 of the model lease and IPs are encouraged to adopt these clauses where appropriate to the property.
- 4.1.164. In increasing service charges, IPs must have due regard to the affordability of an increases in service charge and impact on shared owners.
- 4.1.165. Any increases in service charges must be communicated to residents in a transparent and timely way.
- 4.1.166. The GLA does not set maximum thresholds for the allowable increase in service charges, however each IP should satisfy themselves that any increase in service charges is reasonable and that homes remain affordable to residents.
- 4.1.167. IPs should be guided by the [GLA's Service Charges Charter](#) in administering service charges.
- 4.1.168. Where a service charge may be reduced or discounted for an initial period this should be communicated clearly to the leaseholder. Any subsequent

increase or change should be considered, in terms of affordability, to ensure that costs will be sustainable to shared owners.

- 4.1.169. IPs must ensure, in consultation with the leaseholder, that its building insurance policy provides adequate/appropriate cover particularly in respect of alternative accommodation for the leaseholder should the property become uninhabitable.
- 4.1.170. IPs must set up and maintain sinking/reserve funds for the long term upkeep of flats or other buildings where the full structure is not demised. It may also be appropriate, in some instances, to levy an estate rent charge for houses on estates with communal facilities. However, the contribution to a sinking fund for freeholders is a contractual obligation, as a condition of conveyance, rather than statutory one. IPs will need to consider the most appropriate mechanism for the recovery of these monies bearing in mind the purchasers and potential purchasers involved.
- 4.1.171. Where there are additional costs to be incurred (above the service charge) IPs should advise the leaseholder in reasonable time on the proposed works to be carried out and the expected cost of such works.
- 4.1.172. For Shared Ownership homes funded under the AHP 2021-26, it is important to note that in calculating the annual sinking/reserve fund charge, landlords should not factor in any external and structural repair work, expected or unexpected, within the first 10 years of occupation. Sinking/reserve fund contributions cannot be used for any works, expected or unexpected, within the first 10 years. However, contributions to a sinking/reserve fund may be collected during first 10 years of occupation, if deemed appropriate.

## Leases

### General

- 4.1.173. Due to a previous anomaly in the law (Statutory Instrument 1987/1940) relating to leasehold enfranchisement and Shared Ownership leases of houses, the [Housing \(Shared Ownership Leases \(Exclusion from Leasehold Reform Act 1967\) \(England\) Regulations 2009 \(Statutory Instrument 2009/2097\)](#) were enacted with effect from 7th September 2009. The Regulations set out the criteria that a Shared Ownership lease must fulfil so that even if the tenant cannot acquire 100% of the property, the tenant cannot exercise their right to enfranchise under the Leasehold Reform Act 1967.
- 4.1.174. Under the GLA's Shared Ownership product, the Shared Ownership lease sets out the rights and obligations of both the landlord (i.e. the IP) and tenant (i.e. the shared owner). The IP has a contractual right to ensure that the shared owner complies with the terms of the lease. IPs providing grant funded homes on Shared Ownership terms must ensure that their Shared Ownership leases are mortgageable and contain provisions (including Fundamental Clauses – see **section on Repayment of Right to Acquire Discount**) that qualify the scheme for grant (see **section on Waiving Repayment of Right to Acquire Discount** below). In all cases, IPs must consult their solicitors on the form of lease to be used in particular in



relation to the scheme type for which the Shared Ownership lease is required.

- 4.1.175. The GLA's model leases are the Homes England suite of [model leases](#), which are current. An updated model lease was published on 12 October 2023 to reflect the change from RPI + 0.5% to CPI + 1% for rent increases.
- 4.1.176. To qualify for grant IPs must ensure that leases contain the Fundamental Clauses detailed in the model lease (see **section on Repayment of Right to Acquire Discount** below).
- 4.1.177. Where IPs are not using the GLA's model leases, they must ensure that that leases will comply with the GLA's scheme/grant criteria and contain the Fundamental Clauses as worded in the GLA's model leases.
- 4.1.178. IPs must retain a copy of the form of lease granted for each scheme (i.e. one example pro forma for the scheme) as well as retaining the original counterpart lease signed by each leaseholder (i.e. for each individual property) at their registered office or solicitor's office. Alternatively, electronic original copy documents are acceptable provided they are stored securely.

### **Fundamental Clauses**

- 4.1.179. The [model leases](#) which are for use by IPs for grant funded Shared Ownership properties completed on or after 30 April 2015, contain the following fundamental clauses:
  - Alienation provisions (refer to clause 3.18, in the model flat lease and 3.19 in the model house lease);
  - Mortgagee protection (refer to clause 8 in the model flat lease and clause 6 in the model house lease);
  - Staircasing provisions (refer to the sixth schedule of the model flat lease and part 1 of the fifth schedule in the model house lease);
  - Rent review (refer to the fifth schedule of the model flat lease - fourth schedule in the model house lease);
  - Pre-Emption provisions (refer to clause 3.19 and seventh and eighth schedules in the model flat lease - and clause 3.20 and part two of the fifth schedule in the model house lease)
- 4.1.180. For enquiries relating to proposed changes to existing leases already granted, please contact the GLA.
- 4.1.181. In addition to the Fundamental Clauses, where one of them is referred to in the Defined Terms in the lease, that Defined Term cannot be altered without the consent of the GLA.
- 4.1.182. In addition to these Fundamental Clauses all leases granted on or after 30 April 2015 must include an appendix setting out key information about Shared Ownership. The information contained in this document explains in plain English to the shared owner their rights and responsibilities under the lease. IPs can add further information to this but must not change any of the existing wording.
- 4.1.183. The GLA has published Key Information Documents for the AHP 2016-21 and the AHP 2021-26. These are an additional requirement to the appendix featured in the lease.



- 4.1.184. New Shared Ownership homes provided through the AHP 2021-26 have the same fundamental clauses as the AHP 2016-21 programme with the following amendments or additions. For ease of reference these are highlighted in blue in the model leases.
- The landlord's period to nominate a purchaser or accept a surrender of the lease in the alienation provisions shall be reduced from eight weeks to four weeks and the related new standard form restriction inserted in LR13.
  - The new 1% Staircasing schedule (Schedule 10 in the model flat lease and Schedule 7 in the model house lease) together with any associated cross references in the main body of the lease.
  - The new Initial Repair Period schedule (Schedule 9 in the model flat lease and Schedule 6 in the model house lease) together with any associated cross references in the main body of the lease (note the Right to Shared Ownership section 12 of this chapter has more information about the Initial Repair Period in relation to where this is exercised).
  - The mortgagee forfeiture notification proviso (clause 6.2.3 in the model flat lease and clause 5.2.3 in the model house lease).
  - Any transfer deed on final Staircasing which creates an Estate Rent Charge must exclude section 121 of the Law of Property Act 1925 (part 2 of Schedule 5 in the model house lease only).
- 4.1.185. Mortgage lenders need to ensure that adequate security exists at all times for their lending on properties purchased on Shared Ownership terms from providers.
- 4.1.186. Although lenders can rely on the standard form of Shared Ownership lease as security for lending, there are circumstances in which a lender will view their security as being at risk - for example, where a provider is considering possession or forfeiture proceedings under the provisions of Schedule 2 to the Housing Act 1988 (Grounds for Possession of Dwelling-Houses let on Assured Tenancies).
- 4.1.187. To ensure mortgage lenders have a reasonable opportunity of remedying a breach of the lease (which could result in a provider taking legal action under the provisions of 1988 Housing Act), lenders will require providers to provide a written undertaking to give reasonable notice before legal proceedings are commenced. For AHP 2021 to 2026 homes this is covered by a fundamental clause (clause 6.2.3 in the model flat lease, clause 5.2.3 in the model house lease) and therefore an undertaking may not be required.
- 4.1.188. For additional guidance on providers' obligations, please see the Shared Ownership Joint Guidance published by Homes England, National Housing Federation and UK Finance. Please note that this guidance will be updated to reflect the new Shared Ownership model and current good practice.

### **Varying Shared Ownership leases**

- 4.1.189. Where IPs seek to vary a lease, they will need to seek their own legal guidance on whether the proposed variation affects a fundamental clause, either by directly changing it or by introducing other changes that affect the application of the clause. Where it is the case that a variation affects a Fundamental Clause, IPs must seek the approval of their GLA Area Manager for the variation. It is anticipated that approval will only be given to correct errors or in exceptional circumstances.
- 4.1.190. Variation of a Fundamental Clause without the GLA's approval may result in grant recovery.

### **General Features**

#### **Term**

- 4.1.191. To qualify for grant funding the term of the lease must be at least 25 years longer than the term of the IP's long term loan and be acceptable for mortgage purposes. For homes funded through the AHP 2021-26, leases for shared owners are expected to have a minimum term of 990 years. IPs who are only able to offer shared owners shorter lease terms than 990 years, due to the IP's interest (the landlord's interest) being leasehold and of a shorter term, must obtain written consent of the GLA expressly agreeing otherwise. This consent should normally be obtained prior to the first grant payment being requested.
- 4.1.192. Where the IP's interest (the landlord's interest) is leasehold and that interest is 990 years or fewer, the term of the lease granted on the initial sale must be for a period which terminates 5 days prior to the termination of the landlord's interest.
- 4.1.193. IPs must grant shared owners leases for a period not less than 125 years, and are encouraged to grant leases for the maximum term possible under the landlord's interest. Where IPs themselves have a short term leasehold interest i.e. fewer than 99 years, the scheme is ineligible for grant.

### **Lease Extensions for Property still in Shared Ownership**

- 4.1.194. Lenders have requirements on the minimum lease term they will consider to be adequate security. This may make it difficult for purchasers or those re-mortgaging to obtain a mortgage. It may also have the effect of reducing the value of the lease.
- 4.1.195. While Shared Ownership leaseholders have no statutory right to a lease extension, the Government has announced its intention to extend this right to shared owners. The GLA strongly recommends IPs grant extensions to Shared Ownership leases wherever possible. We encourage providers to offer as long a term as possible and to do so on fair terms. The government has announced its intention to reform leasehold legislation to make lease extensions fairer for leaseholders.
- 4.1.196. IPs should to seek their own legal advice to ensure any obligations under current leasehold legislation are met.

- 4.1.197. As lease extension is not subject to a fundamental clause, there is no requirement for IPs to seek the GLA's consent to extend a lease.
- 4.1.198. Extending leases will have implications for both IPs and leaseholders and the GLA recommends IPs take various issues into account when discussing extension with Shared Ownership leaseholders:

- Provider policies: Arrangements and potential costs of lease extensions must be published by IPs, and highlighted in Key Information Documents provided at the time of initial purchase. This aids equitable treatment and reduces the potential for future misunderstanding and/or complaints.
- Rents: A lease extension is not deemed a variation of the lease for rent purposes which means that the original fundamental clause in the lease in respect of rent will remain the same.
- Values: A lease extension may initially increase the value of the lease, which in turn may affect the price of any future shares the shared owner may wish to purchase. However, it should be remembered that market values can both increase or decrease.
- Staircasing: Having extended the lease the value of the both the leaseholder's and provider's shares may have increased. When staircasing, consideration should be given to how any increased share value might affect the revised rent calculation when following the rent formula written into the lease.
- Legal Costs: In most instances it is likely to be the shared owner (lessee) who will instigate the lease extension and it is anticipated that providers may expect the shared owner to pay the legal costs.
- [Residential Long Leaseholders: a guide to your rights and responsibilities](#) has been produced by government in support of statutory rather than voluntary lease extensions, but its content may be informative. Also, the Leasehold Advisory Service provides useful information.

## Premium

- 4.1.199. The premium payable (sale price of the lease) on the grant of the lease must be equal to the relevant percentage of the Market Value of the property as assessed by an independent RICS qualified valuer e.g., if 25% is sold, the premium will be 25% of the Market Value.
- 4.1.200. IPs must instruct the valuer to assume that:
- The sale is for the freehold interest, or where the IP's interest is leasehold, a 990 year lease or such lesser term of years as the IP holds;
  - The sale is an open market sale;
  - A Shared Ownership lease has not been granted; and
  - The sale is to be with vacant possession.
- 4.1.201. All proposals to sell at a discount must be agreed by the GLA. Proposals to sell at a discount will only be considered where the IP provides evidence

that prospective buyers cannot afford to purchase at least 25% on the basis of Market Value.

4.1.202. Discounts cannot be considered:

- Where the price would be reduced to below the cost of provision; or
- Where the value of the discount would exceed the maximum allowed for the statutory Right to Buy or Right to Acquire for the area, whichever is the higher.

4.1.203. Where a discount is being offered, IPs must ensure (in consultation with their legal advisors) the benefit of the discount is passed on to all future purchasers. Discounts must not be given where only the first purchasers would benefit.

### **Staircasing provisions**

4.1.204. Shared owners may increase their percentage share of the equity at any time during the term of the Shared Ownership lease, subject to the restrictions set out below. This is known as staircasing. Staircasing requirements are a fundamental clause and must be set out in the shared owner's lease.

4.1.205. There are separate staircasing arrangements dependent on which GLA affordable homes programme a Shared Ownership home was funded. For homes provided through the AHP 2016-2021 and previous programmes the minimum staircasing transaction is 10%. This includes Shared Ownership homes that are completed after 1st April 2021. For homes funded through Homes England's AHP 2021 to 2026 then the minimum staircasing transaction has reduced from 10% to 5%. For shared ownership homes provided through AHP 2021-26, additional provision for 1% staircasing must be made via the lease covering the first 15 years of the lease term.

4.1.206. Leases containing restrictive staircasing provisions (other than in programmes mentioned above) will render a scheme ineligible for grant funding.

4.1.207. The lease must provide that the leaseholder can staircase to 100%. In the event that the Local Planning Authority has restricted this through the planning permission, the buyer should be made aware of this at the point of sale.

4.1.208. For the avoidance of doubt, these provisions apply equally to the resale of Shared Ownership homes funded through the AHP 2021-26.

4.1.209. All leases granted in respect of houses and bungalows must be excluded from the enfranchisement provisions of the Leasehold Reform Act 1967, Leasehold Reform (Housing and Urban Development Act) 1993 and The Commonhold and Leasehold Reform Act 2002 in order to qualify for grant. Since 7 September 2009 changes to the above legislation by means of the Housing ([Shared Ownership Leases \(Exclusion from Leasehold Reform Act 1967\) \(England\) Regulations 2009](#)) are designed to further protect landlords from early enfranchisement. Landlords must take their own legal advice as appropriate.

## Staircasing valuations

- 4.1.210. The price paid for further shares for all staircasing transactions other than the 1% per year option is based on the full open market value of the property provided by an independent Royal Institute of Chartered Surveyors (RICS) valuer in accordance with the requirements set out above. The lease makes provision for the resolution of disagreement or dispute that may arise, between the landlord and the leaseholder, in respect of choosing a valuer.
- 4.1.211. For 1% staircasing transactions the valuation is calculated from the Land Registry's House Price Index. The detail of this methodology is contained within the Shared Ownership model lease and in the Key Information Document that should be provided to shared owners prior to purchase of their home by landlords.
- 4.1.212. Under the terms of the model lease, leaseholders have three months to complete their staircasing purchase from the date IPs receive the valuation from either the RICS valuer or from their landlord if proceeding through the 1% staircasing option.
- 4.1.213. Where a RICS valuation is being used for staircasing transactions of 5% or more, IPs have discretion to extend the three month period to six months where there has been a delay which is outside the control of the leaseholder and the IP, for example if documents were lost in the post or there were legal delays.
- 4.1.214. Where IPs apply discretion, they must retain on file documentary evidence explaining the reasons for waiving the three-month validity period.
- The staircasing provisions must allow staircasing to 100% where the properties have been grant funded, except on:
- Older Persons Shared Ownership schemes; and
  - Rural Restricted Staircasing schemes;
  - Designated Protected Area schemes

## Rent

- 4.1.215. IPs must ensure that there are appropriate rent provisions and a means of reviewing rent increases.

## Service Charge Clauses

- 4.1.216. The GLA recognises that the form of wording used in the current model lease will not be appropriate in all circumstances, and whilst the GLA will no longer require the service charge as worded to be a Fundamental Clause, the inclusion of a service charge will still be a condition of grant. In light of this, the IP is permitted to make such amendments to the model clause (and the related definitions) as are required to reflect the requirements of the individual development. It will be for IPs to ensure that the form of service charge clause included in the relevant lease is compliant with the

relevant statutory and regulatory requirements and provides an appropriate mechanism to enable the landlord to recover its service charge costs.

- 4.1.217. If an IP wishes to alter the service charge clause in a lease granted before 22 October 2010, then they are able to do so without GLA consent. However the IP should be mindful that the lease remains compliant with the relevant statutory and regulatory requirements, and must seek their own legal advice about changing leases retrospectively. The IP should also keep on file a record of when the change is made and the reason for the change.

### **Stamp Duty and legal fees**

- 4.1.218. Purchasers of Shared Ownership properties are responsible for the payment of their own legal fees and Stamp Duty Land Tax (SDLT).
- 4.1.219. The Shared Ownership leases must contain an appropriate SDLT statement which gives an option of paying either:
- On a market basis as if the property had been purchased outright from the beginning: or
  - In stages, paying the amount due on the initial share, and then only paying further amounts when the shares purchased exceed 80% of the value of the property
- 4.1.220. IPs should recommend purchasers seek advice from their solicitor over the best option for them.

### **Sub-Letting**

- 4.1.221. Shared Ownership leases must prohibit sub-letting by the shared ownership leaseholder to protect public funds and ensure applicants are not entering Shared Ownership for commercial gain. The model lease stops the shared ownership leaseholder having the right to sub-let without the prior written consent of their landlord, but the IP may agree to do so in exceptional circumstances which comply with this guidance and the grant funding conditions provided by the GLA from time to time. Exceptional circumstances may result from a variety of difficult situations, including but not limited to personal and/or building safety challenges.
- 4.1.222. In making decisions on requests for sub-letting made by shared ownership leaseholders where exceptional circumstances have arisen, IPs should ensure that a flexible and considerate approach is adopted that reflects the particular circumstances presented to them. In doing so, unless absolutely necessary, IPs are expected to avoid adopting a blanket approach to sub-letting.
- 4.1.223. IPs should ensure that information relating to their policy and approach to sub-letting should be readily available in a clear and accessible format. This does not have to be a separate policy document but can be covered as part of the information made available to shared ownership leaseholders. For example, as part of any sales information or as part of a provider's frequently asked questions. The approach to sub-letting also forms part of



the information provided to shared ownership leaseholders within the Key Information Documents prior to any Shared Ownership purchase.

- 4.1.224. Requests stemming from circumstances linked to building safety challenges should always be considered exceptional circumstances for the purposes of sub-letting. This does not, however, preclude the shared owner from having to secure the permission of their mortgage provider and/or the building's freeholder if required.
- 4.1.225. Where a sub-letting arrangement is agreed by an IP it is reasonable to expect the rent charged to any tenant by the shared ownership leaseholder to cover their costs. This would include covering the costs of the shared ownership leaseholder's mortgage, rent and service charge as well as any additional costs incurred such as any mandatory electrical, gas and fire safety checks. Additionally, if there is any letting management fee (or similar) associated with the sub-letting arrangement then this would be a reasonable expense for the shared ownership leaseholder to have covered.
- 4.1.226. Where a sub-letting arrangement is agreed by an IP as a result of building safety issues then any increased costs to the shared ownership leaseholder due to this, such as higher insurance premiums, should be taken into account when determining the appropriate level of rent to be charged. This could mean a higher cost to a sub-letting tenant than paragraph 4.1.225 would result in. If this is the case and is evidenced, then this would be considered reasonable and fair and would not be in breach of the general principle of sub-letting that there should not be any financial gain to the shared ownership leaseholder from any arrangement agreed.
- 4.1.227. Where an IP has any doubt as to whether or not to allow a subletting request, they should contact their GLA Area Manager in the first instance.
- 4.1.228. If a request is from a serving member of the armed forces whose tour of duty requires them to serve away from the area in which they live (a distance of at least 50 miles or 90 minutes travelling time) for a fixed period, and the general criteria above are also met, the shared owner may sublet subject to the IP being satisfied that all of their additional criteria (if any) are met.
- 4.1.229. In all cases IPs must seek their own legal advice before agreeing to sub-letting.
- 4.1.230. For the avoidance of doubt, sub-letting does not include the taking in of lodgers where the owner occupier is the resident landlord.

#### **Right of First Refusal (Pre-emption right)**

- 4.1.231. The Pre-emption Right is a fundamental clause of the shared ownership lease. Until 30 April 2015, the GLA's model lease included a Post Final Staircasing Right of Pre-emption as well as a Pre-Final Staircasing Right of Pre-emption.
- 4.1.232. Changes introduced on 30 April 2015 removed the requirement to include the Post Final Staircasing Right of Pre-emption. The Pre-Final Staircasing Right of Pre-emption remains as a fundamental clause.

- 4.1.233. A revised form of model lease has been published on the GLA's website for registered providers to use for new shared ownership properties from 30 April 2015. The revised model lease is published [here](#).
- 4.1.234. For properties where a shared ownership lease has been entered into prior to 30 April 2015 (or using the model form of lease applicable prior 30 April 2015) there are a number of different scenarios which may apply.

### Flats

- 4.1.235. **Existing leases pre-Final Staircasing** – the GLA recommends that the pro forma [Deed of Variation](#) (at section 5.3.25) should be entered into prior to or on Final Staircasing at the option of the leaseholder. The Deed of Variation is intended to remove the lease provisions relating to the Post-Final Staircasing Right of Pre-emption. Once amended by the Variation, the form of lease will allow the leaseholder to apply to remove the restriction from the title on Final Staircasing.
- 4.1.236. **Existing leases post-Final Staircasing** – the same form of [Deed of Variation](#) will apply. The amended form of lease will enable the leaseholder to apply to remove the restriction as it will no longer be required by the lease.

### Houses

- 4.1.237. **Existing leases pre-Final Staircasing** – although a similar Deed of Variation could be used for the House lease, the only provisions which need to be changed are contained in the form of draft transfer which is appended to the lease. In our view it is therefore very difficult to provide a useful pro forma Deed of Variation as each transfer will be specific to the property in question. As the draft form of transfer contained in the house lease is subject to further amendment in any case upon Final Staircasing, a more pragmatic approach would be to remove the Right of Pre-emption from the transfer at this stage. We confirm that the inclusion of the Post Final Staircasing Right of Pre-emption is no longer a funding condition. Removal of the pre-emption provisions from the transfer on Final Staircasing will mean that a title restriction is no longer required for this purpose.
- 4.1.238. **Freehold houses post-Final Staircasing** – Shared Ownership providers who have the benefit of restrictions on title protecting Post Final Staircasing Rights of Pre-emption in relation to houses (Former Landlords) and Former Shared Owners should note that the title restriction protecting the Post Final Staircasing Right of Pre-emption is no longer a funding condition and should be dealt with, either through withdrawal or cancellation, prior to any onward sale on the open market. Once achieved the Former Shared Owner would be free to sell on the open market without first having to offer back their property to the Former landlord. Where the Former Shared Owner intends to apply to remove the restriction on title, they may choose to make an individual application to cancel restriction in Land Registry Form 'RX3' supported by evidence that the restriction is no longer required. Former landlords should provide reasonable assistance to Former Shared Owners in providing confirmation of their support of such applications.

Where the Former Landlord intends to withdraw the restriction on title themselves this can be achieved through Land Registry form 'RX4.'

- 4.1.239. **For flats** once the Deed of Variation has been entered into the restriction will only be required to stay on the property title prior to Final Staircasing.
  - 4.1.240. Once the Deed of Variation has been registered against the title to the property, upon Final Staircasing the memorandum of Final Staircasing can be provided to the Land Registry as confirmation that the Former Shared Owner has purchased 100% of the equity in support of the leaseholder's application to remove the restriction.
  - 4.1.241. For existing leases post Final Staircasing, the Former Shared Owner will need to apply to the Land Registry to remove the existing Form M restriction at the same time as applying to register the Deed of Variation against the title to the property.
  - 4.1.242. We have agreed with the Land Registry that the executed form of Deed of Variation together with a copy of the memorandum of Final Staircasing will be sufficient supporting information to enable the leaseholder to apply for the removal of the restriction using Land Registry form RX3. Ordinarily the Land Registry provides specific notification to parties with the benefit of a restriction confirming that an application to remove a restriction has been submitted. In these circumstances we have agreed with the Land Registry that specific notification to the landlord will not be required as they will have entered into the Deed of Variation and executed the memorandum of Final Staircasing.
  - 4.1.243. **In the case of a house pre Final Staircasing**, the restriction protecting the right of pre-emption is only registered against the title to the property after Final Staircasing and the transfer of the freehold to the former leaseholder. There will therefore be no requirement to remove a restriction from the title relating to the Landlord's rights of pre-emption where the leaseholder has not acquired a 100% interest in the property
  - 4.1.244. **In the case of a house post Final Staircasing**, the Former Shared Owner's Form RX3 would need to be supported by the Former Landlord in providing evidence of their support to the application.
- Or**
- 4.1.245. An individual application by the Former Landlord (or their successor) could be made to withdraw the restriction. This application would be made on Form RX4 (section 47, Land Registration Act 2002 and rule 98, Land Registration Rules 2003.)
  - 4.1.246. Currently no Land Registry fee would be payable in either case.

## Resale Nominations

- 4.1.247. Where a shared owner who has less than 100% of the equity in their property is looking to sell their share, the terms of the lease require them to offer the property (initially) to qualifying applicants nominated by the IP. Note that the time a provider has to nominate a purchaser or opt to take a surrender of the lease (known as the 'nomination period') is set down in the

lease. For homes provided through the AHP 2016-21 and previous programmes this will normally be 8 weeks. For Shared Ownership homes provided through the AHP 2021-26 this has been reduced to 4 weeks.

- 4.1.248. If the IP is unable to nominate a suitable purchaser within the specified nomination period as set out in the lease (and does not intend to take a surrender of the lease), under the terms of the lease the shared ownership leaseholder will be able to sell the property on the open market at a price below, above or the same as the independent RICS valuation. In practice, this will usually mean that the shared owner will perform a “back-to-back” sale i.e. they will need to staircase to 100% ownership and sell the property outright simultaneously. The shared owner may be liable for SDLT when staircasing to 100% as part of a “back-to-back” sale. If the proposed purchaser only wants to buy a share of the property they will need the IP’s permission, which should only be given where the proposed purchaser meets the GLA’s shared ownership eligibility criteria current at the time of purchase.
- 4.1.249. However, it will be for IPs to satisfy themselves that resales have been conducted in accordance with the terms of the lease.
- 4.1.250. When a home is sold above its RICS valuation outright outside of the nomination period through a back-to-back staircasing transaction then the value that the IP receives for the staircasing element should be based on the RICS valuation as per the staircasing schedule in the lease.
- 4.1.251. Where a home is sold on the same back-to-back staircasing basis but below the RICS valuation then the provider may receive its share for the staircasing transaction based on the RICS valuation in the same way. However, providers should consider the reason a shared ownership leaseholder has been unable to achieve the sale price at the level of the RICS valuation. For example, if a shared ownership leaseholder has been attempting to sell at the RICS valuation for a long period and has not been able to secure a buyer, this may indicate that the valuation is not reflective of the current market. In this scenario, the IP may wish to accept the incoming buyer’s mortgage valuation (providing this meets the RICS requirements) or provide further information on recent sales in the area when requesting a desktop re-valuation.
- 4.1.252. When a home is sold on a Shared Ownership basis outside of the nomination period, i.e., the leaseholder sells their current share, the lease does not specify a price at which the home should be sold. Therefore, a RICS valuation is not required to comply with GLA guidance. If a mortgage is being used for the purchase, IPs may consider their own requirements for approving a mortgage for the purpose of the lender protection clause. This should balance reducing any unnecessary cost or administrative burdens for the shared ownership leaseholder, with ensuring the value of the equity in the home is sufficient to cover the mortgage obtained. IPs may wish to use the buyer’s mortgage valuation to assess this assuming that such a valuation meets the RICS requirements.

- 4.1.253. For homes affected by building safety issues, IPs must ensure that the valuer has all of the information relating to this before they value the property.
- 4.1.254. Where a back-to-back staircasing transaction is being carried out on a Shared Ownership home affected by building safety issues then it is expected that IPs ensure that the shared ownership leaseholder is not materially adversely affected where they are only able to secure a sale below the initial RICS valuation. In these cases, IPs should proactively work with the shared ownership leaseholder to obtain an up-to-date valuation which reflects the market value at minimal cost. For example, they may use the incoming buyer's valuation if they are able to obtain a copy of this and it meets RICS requirements. Or a desktop valuation could be sought, ensuring that the valuer has sufficient information about the inability to find a buyer at the previous valuation due to building safety issues.

### **Mortgage Difficulties**

- 4.1.255. As a last resort option when a shared owner has got, or is about to get, into mortgage arrears and potentially lose their home, including the likelihood of repossession by the main mortgage provider, IPs may use their Recycled Capital Grant Fund (RCGF) to act as a 'safety net' and offer flexible tenure.
- 4.1.256. Flexible Tenure is designed to enable a shared owner to remain in their home either by selling some of their shares back to their landlord in order to reduce their mortgage to a more affordable and sustainable level, or by selling all their shares back to the landlord and becoming a tenant at an Affordable Rent. This is also known as downward or reverse staircasing. For further information and requirements see **Grant Recovery chapter**.

### **Leasehold Repurchase**

- 4.1.257. Leasehold Repurchase involves buying all of the current leaseholder's share of the property because they need to move and the provider is unable to find another household in housing need who can afford to purchase the current leaseholder's equity.
- It is available in exceptional circumstances, where providers have exhausted all other funding options, and new grant may be available as a contribution to Leasehold Repurchase costs
- 4.1.258. While through Flexible Tenure the intention is the leaseholder remains in the property, under Leasehold Repurchase, the leaseholder vacates the property.
- 4.1.259. The right of first refusal / first option to buy is when someone who has staircased to 100% is required by a clause in their Shared Ownership lease (or freehold transfer) to firstly offer the originating landlord the option to buyback the property before selling on the open market. In the case of flats only, the landlord may offer to repurchase the lease from a vacating shared owner where the following conditions are satisfied:
- The property was grant funded by the GLA;



- The Shared Ownership lease was issued post April 2006 and contains a clause giving the landlord an option to indicate whether or not it will consider buying back the property.
  - The leaseholder has not staircased to 100%; and
  - The leaseholder is required to move, for example the property is no longer suitable for the leaseholder's needs, or the leaseholder's employment requires a change in location.
- 4.1.260. However the GLA would only expect the IP to exercise the repurchase option as above where the value of the property means that it has not been possible to find a suitable nominee able to afford to purchase the existing share, and the leaseholder has been unable to find a purchaser on the open market.
- 4.1.261. Where an IP considers repurchasing flats under the above conditions they can use their own resources or RCGF receipts. The usual RCGF rules will apply to the subsequent sales receipts.
- 4.1.262. If the IP is unable to fund the re-purchase through this route they are expected to invite another appropriate IP to use its RCGF, own resources, or private finance to purchase the property instead.
- 4.1.263. If it is not possible to fund the re-purchase through these routes then the IP can seek grant funding from the GLA. The GLA will assess such applications on a case by case basis.
- 4.1.264. New grant will only be available for up to 70% of the market value of the share to be purchased. While there should be no presumption of grant funding being made available, the GLA will, on a case by case basis, consider funding applications for Leasehold Repurchase in circumstances where the IP can demonstrate:
- That the shared owner is about to or is likely to lose their home;
  - That the shared owner meets all relevant criteria outlined in the **Grant Recovery chapter**;
  - That the IP meets all other relevant criteria as outlined in the **Grant Recovery chapter**;
  - That all other funding options have been exhausted including:
    - The use of the IP's own reserves;
    - The use of its own RCGF;
    - The transfer of RCGF between IPs as per the **Grant Recovery chapter**; and
    - Other private funding;
  - That the property was previously grant funded by the GLA; and
  - A justifiable case for new grant.
- 4.1.265. Copies of relevant documents supporting these requirements should be retained by the IP for audit purposes.
- 4.1.266. IPs who consider they meet the above requirements must contact their GLA Area Manager prior to submitting a bid for new grant to the GLA to ascertain whether an application would be supported.
- 4.1.267. IPs will then be required to sell the lease on current Shared Ownership terms at a lower percentage to make the property more widely affordable.



For example, the original leaseholder held a 60% share but the IP nominee could only afford to purchase a 40% share.

- 4.1.268. Following Flexible Tenure or Leasehold Repurchase, any subsequent upward staircasing will lead to grant recovery.

### **Mortgage Default**

- 4.1.269. Where a shared owner defaults, IPs must seek their own legal advice before replying to the lender's solicitor, or before taking any action against a defaulting leaseholder.
- 4.1.270. It is advised that struggling shared owners approach their lender in the first instance.

### **Additional Borrowing**

- 4.1.271. While the model Shared Ownership lease does not prohibit additional borrowing, conditions in the lease apply, in particular the Mortgagee Protection Clause (MPC). The MPC is a fundamental clause of grant funded Shared Ownership leases. Leaseholders should be aware that even if the value of their share has increased lenders may not be prepared to provide additional borrowing if they cannot rely on the MPC to protect those additional sums loaned.
- 4.1.272. In all cases, the IP's written approval is required regarding the lender and the terms of the mortgage before the mortgage is entered into. If the IP's approval is not obtained, the lender does not have the benefit of the MPC, and so is unlikely to advance any borrowings.
- 4.1.273. In addition to the requirement for IP approval, only certain loans are protected under the MPC, these include:
- The premium lent to purchase the initial share;
  - Further borrowing to enable the purchase of additional shares (staircasing);
  - Further borrowings to comply with the leaseholder's covenants in the Shared Ownership lease, such as essential repairs; and
  - Further borrowing to allow one leaseholder to buy out another leaseholder's interest (in the same property).
- 4.1.274. However, additional borrowing can only be permitted if the premium and any further borrowing do not exceed the market value of the leaseholder's share in the property.
- 4.1.275. Leaseholders wishing to borrow additional funds are advised to contact their IP and lender to discuss the options and implications.
- 4.1.276. There is nothing in model lease that prevents a leaseholder from increasing the borrowing secured against their share of the property, but any further borrowing is subject to the provider's approval.
- 4.1.277. Under the mortgagee protection clause, the landlord's written approval in respect of the lender and the terms of the mortgage is required before the mortgage is entered into. If the provider's approval is not obtained, the lender does not have the benefit of the mortgagee protection clause.

4.1.278. Consent shall be deemed to be given by the provider where the lender advances monies to the provider to pay outstanding rent or service charge arrears, subject to a cap comprising of:

- The amounts advanced by the lender and approved by the provider plus
- An amount equivalent to interest on the above amount for a period of 18 months at the interest rate in force at the time of default plus
- Any amounts advanced by the lender to pay outstanding rent and/or service charge arrears plus
- 2.75% of the value of the property

4.1.279. The lender shall be able to deduct all monies legally due under the mortgage contract, less anything recovered, from the amount paid to the provider for final staircasing.

4.1.280. However, due to the terms of the mortgagee protection clause, leaseholders are unlikely to be provided with further advances unless the lender and the mortgage terms are approved by the provider. The provider should not agree to further advances unless they are made to enable the leaseholder to staircase, buy out another leaseholder in the same property, or to comply with its covenants under the lease.

4.1.281. Covenants under the lease would allow for repairs to the property but not improvements. Repairs might include works to correct wear and tear to bring the property back to at least the same standard when originally purchased, for example to replace a broken boiler. However, the addition of a conservatory would be classified as an improvement and so not covered by the mortgagee protection clause.

4.1.282. Whilst some home improvements might result in an increase to the property value further borrowings for this purpose are not covered by the mortgagee protection clause. If a lender was prepared to provide a further advance for home improvements it would be for the provider to consider whether it would:

- Agree to the improvements being undertaken, possibly including how they were to be undertaken and by whom and
- Approve the terms of any further borrowing

4.1.283. Covenants under the lease would not allow additional borrowing to fund the purchase of a new car, holiday, or to clear other debts etc.

4.1.284. Covenants under the lease would include further advances to pay off rent arrears. However, providers should proactively manage rent arrears and not seek to rely on capitalisation from lenders as a matter of course, as to do so will increase the cost of arrears to the leaseholder, because the lender would apply interest charges to them.

## Right to Shared Ownership

### Introduction

4.1.285. The main features of the RtSO scheme along with applicant and property eligibility can be found in [DLUHC's Right to Shared Ownership: initial guidance for registered providers](#).

4.1.286. Subject to exemptions detailed in Chapter 3 - Housing for rent, for social rented homes funded through the AHP 2021 to 2026 tenants are able to buy between 10% and 75% of their home. The requirements for the RtSO are the same as for the new Shared Ownership model, including for:

- buying further shares and staircasing to full ownership
- paying rent
- paying service charges and for maintenance and repairs (including the new 10-year initial repair period)

4.1.287. The RtSO application form will be published by DLUHC in due course.

## Eligibility

4.1.288. To be eligible for RtSO tenants must satisfy all the following criteria:

- live in a property where the Right to Shared Ownership applies (see section 2)
- hold an un-demoted secure tenancy, an assured tenancy, or a Localism Act fixed term tenancy (assured shorthold tenancy for a fixed term of at least 2 years)
- have lived in the current property for at least 12 months
- have been a tenant of social or affordable housing for at least 3 years (this need not have been with the same landlord, or continuous)
- are not in rent arrears
- are not subject to a court order for the possession of the property
- are not subject to bankruptcy proceedings or unfulfilled credit arrangements
- are not subject to legal proceedings e.g. a notice of seeking possession has been served
- are not subject to legal proceedings on the grounds of anti-social behaviour
- satisfy all standard eligibility criteria for the Shared Ownership scheme including income requirements (currently an annual household income of £80,000 or less or £90,000 or less in London) and not already owning a property
- satisfy immigration requirements

4.1.289. In case of joint applications, all applicants must either be tenants or family members who have lived in the property for the 12 months prior to purchase. All applicants who joined the application must be party to the purchase at completion.

## Pre-application

- 4.1.290. It is likely in the first instance tenants will contact their Landlord about the Right to Shared Ownership. Prior to beginning the full application process, landlords should perform an initial property eligibility check to identify whether the tenant property is in scope for the Right to Shared Ownership.
- 4.1.291. The landlord will contact the tenant within four weeks to let them know if their property is eligible. In most (less complex) circumstances, we expect landlords to complete this check much quicker.
- 4.1.292. If the property is eligible, the landlord will send the tenant an application form (hard copy or digital) and direct them to a Government webpage (yet to be published) for further information and guidance. This guidance will include FAQ's, details of eligibility criteria, exemptions, worked examples of the scheme. Tenants should be sent hard copies if requested.
- 4.1.293. If the property is not eligible due to being certified as exempt, the tenant must be notified in writing explaining the reasoning behind this. Where possible, landlords should offer tenants the option of accessing Shared Ownership on a similar property.
- 4.1.294. The tenant must also be informed of their right to dispute the decision if they would like to do so. Information on the landlord's internal disputes process should be provided. Where a dispute cannot be resolved through the landlord's own complaints procedure, the tenant may wish to take their complaint to the Housing Ombudsman Service through via their existing complaints procedure.
- 4.1.295. If a tenant would like to continue with an application, they should be able to download an application form from the Government website or complete a hard copy if requested. The application form will need to be completed and returned to their landlord.
- 4.1.296. Right to Buy agents will be available to provide the tenant with advice and guidance on the application process, however a tenant is not obliged to use this service.

## The application process

- 4.1.297. The tenant will submit a full application form to their landlord either via e-mail or in writing.
- 4.1.298. The landlord will then review the application and carry out a full eligibility check on both the tenant and property. The landlord will have eight weeks from receipt of an application to notify the tenant of the outcome and invite the tenant to a home ownership meeting.
- 4.1.299. If an application is declined, the landlord must explain why and notify the tenant of their right to dispute the decision. Where a dispute cannot be resolved through the landlord's own complaints procedure, the tenant may wish to take their complaint to the Housing Ombudsman Service through their complaints procedure.

- 4.1.300. Where possible, the home ownership meeting should be offered to the applicant as a face-to-face meeting, as well as by video call or telephone. The meeting should discuss how the product works, explain the costs associated with Shared Ownership and the responsibilities of a leaseholder. The standard suite of Key Information Documents should be provided, as per the standard shared ownership guidance.
- 4.1.301. At this point the landlord must give an estimated valuation and refer the tenant to a regulated, qualified mortgage or financial advisor to complete an initial indicative affordability assessment. The affordability assessment will take into consideration the tenant's individual financial circumstances and determine the share they can afford to purchase. Tenants will be encouraged to purchase the maximum share they can afford and sustain. If the tenant is a cash buyer, they will need to be assessed as per the standard shared ownership guidance.
- 4.1.302. The tenant will only be able to continue with their application if they can demonstrate that they can afford and sustain the costs of Shared Ownership.

### **Valuations and affordability check**

- 4.1.303. If the tenant has demonstrated affordability and wishes to proceed they must notify their landlord, or set up an information sharing agreement to allow their Independent Financial Advisor (IFA) and / or Mortgage Advisor to share this information.
- 4.1.304. Landlords will be required to obtain an official valuation. This valuation must be provided by an independent Royal Institute of Chartered Surveyors (RICS) registered valuer. By independent we mean that they should be a person / organisation external to the grant recipient organisation. The valuation should be completed within six weeks of the tenant notifying their landlord that they wish to continue.
- 4.1.305. The value of the property must be based on its open market value at the time of the application, and based on the following assumptions:
- Any improvements undertaken by the tenant will be disregarded
  - Any failure of the tenant to keep the property in good repair will be disregarded
  - The landlord is selling with vacant possession for the appropriate term, which should be 990 years, or as long as is possible under any head lease.
- 4.1.306. This valuation must be provided to the tenant and the IFA and / or Mortgage Advisor.
- 4.1.307. The tenant can dispute the landlord's valuation and commission a second valuation if they so wish from a different RICS qualified surveyor at their own cost. The second valuation will be binding on both parties. The tenant will need to raise a dispute within three months of receipt of the formal offer notice.

- 4.1.308. If the RICS valuation differs to the estimated valuation provided earlier in the application process, the IFA and / or Mortgage Advisor will reassess the tenant's affordability and determine the new maximum share that they are able to purchase. The IFA and / or Mortgage Advisor and tenant will agree any different share to be purchased in writing. If the RICS valuation is the same, the IFA and / or Mortgage Advisor will agree and re-confirm affordability with the tenant.
- 4.1.309. In either scenario, the IFA and / or Mortgage Advisor will need to consider any change of circumstances between the original assessment and the current date.
- 4.1.310. The IFA and / or Mortgage Advisor will send details to the landlord once final affordability has been confirmed. It is recommended that at this stage, prior to issuing an offer notice, the landlord confirms the applicant's affordability and the share to be purchased to avoid any dispute with the tenant.

### **Offer notice**

- 4.1.311. Once the landlord receives the affordability information (including the maximum share the tenant can afford) from either the tenant or their advisor, they can produce an official offer notice. This should be done within four weeks of receiving the affordability information.
- 4.1.312. The formal offer notice should include the following information:
- the value of the property to be sold
  - the share being purchased
  - the total rent payable on the property (as per the standard Shared Ownership terms, the annual rent should be set at no more than 2.75% of the value of the landlord's share, with annual rises limited to a maximum of CPI + 1%, unless a landlord holds an exemption from this requirement as set out paragraph 4.1.152 in which case annual rises are limited to a maximum of RPI + 0.%, with landlords encouraged to switch indexation to CPI as soon as practicable)
  - an estimate of the annual service charge, including any sinking fund contributions
  - the lease term
  - a requirement that the tenant formally respond to the offer within four weeks
- 4.1.313. Landlords must ensure that the formal offer notice and acceptance are subject to contract, are in writing and that the terms of the sale are agreed by both parties.

### **Accepting the offer**

- 4.1.314. The tenant should respond to the formal offer notice letting their landlord know that they are accepting the offer. If the tenant does not respond within four weeks the offer may be withdrawn.



**Sale**

- 4.1.315. Once the offer has been accepted, the landlord will issue a sale memorandum including the total share the tenant is purchasing. This will ensure that both parties are proceeding with an understanding of the agreed position.
- 4.1.316. The landlord will instruct their solicitors so that a formal offer of exchange can be made. Landlords must check the below without undue delay before exchanging contracts - this should be completed within four weeks:
- the tenant is not in rent arrears
  - a possession order has not been served during the period the tenant's application has been processed
  - the mortgage offer is from a qualifying lending institution
  - where a mortgage is not required by the tenant, that evidence of funds to finance the purchase has been provided
- 4.1.317. The tenant has three months from the date of acceptance to exchange contracts and a further month in which to complete the purchase. Where the tenant fails to exchange contracts on the property within this prescribed period the application may be deemed to be withdrawn. If a situation beyond the tenant's control occurs, the landlord should agree to extend these periods.
- 4.1.318. Landlords must keep in regular contact with the tenant throughout the process to try to ensure that contracts are exchanged before the valuation expires where possible. Subject to landlords being satisfied with the details provided by the tenant and their solicitors, they will then be in a position to complete the sale.