

**KEY WORKER LIVING - 1****GENERAL**

- 1 Introduction
- 2 Funding Conditions
- 3 Scheme Processing
- 4 Eligible Costs and Calculation of Grant
- 5 Interest on Delayed Payments
- 6 Suspension and Recovery of Grant
- 7 Qualifying Criteria for Key Worker Living
- 8 Types of Assistance
- 9 Taxation
- 10 Monitoring and Evaluation
- 11 Compliance Audit
- 12 Guidance for Applicants
- 13 Selection of Applicants
- 14 Annexes

**KEY WORKER LIVING - 2****OPEN MARKET HOMEBUY**

- 1 Introduction
- 2 Property Purchase
- 3 London Challenge Teacher Open Market HomeBuy (Open Market HomeBuy Plus)
- 4 Clawback
- 5 Portability
- 6 Scheme Processing
- 7 Grant Payments
- 8 Scheme Information
- 9 Recycling of Grant
- 10 Standard Letters and Guidance Notes

**KEY WORKER LIVING – 3****NEW BUILD HOMEBUY**

- 1 Introduction
- 2 Property Purchase
- 3 Rents
- 4 Clawback
- 5 Mobility
- 6 Scheme Processing
- 7 Grant Payment
- 8 Scheme Information
- 9 Grant Recycling
- 10 Valuations
- 11 Leases
- 12 Cascade Principles - New Build
- 13 Clawback explanation

**KEY WORKER LIVING – 4      INTERMEDIATE RENT**

- 1      Introduction
- 2      Rents
- 3      Tenancy Agreement
- 4      Cessation as a Qualifying Keyworker
- 5      Grant Recycling
- 6      Monitoring Information

**ANNEXES**

- A      HomeBuy Agent Functions
- B      Key Worker Eligibility
- C      Tax Guidance Note: Key Worker Housing Schemes

KWL-1	4.1, 4.2	Administration charge
KWL-1	3.2	Allocation of grant
KWL-1	13.1	Application forms
KWL-1	7.5	Arrears, rent or mortgage
KWL-1	11	Audit requirements
KWL-3	12	Cascade Principles
KWL-4	4	Cessation as a qualifying Keyworker – Intermediate Rent
KWL-1	7.1	Change of Employment – General
KWL-2	4.5	Change of Employment – Open Market HomeBuy
KWL-4	3.5, 4.4	Change of Employment – Intermediate Rent
KWL-3	4.7	Change of Employment – New Build HomeBuy
KWL-2	2.12, 2.13	Charges on properties
KWL-2	7	Claiming grant (Open Market HomeBuy )
KWL-3	7	Claiming grant - New Build HomeBuy
KWL-2	4	Clawback (Open Market HomeBuy )
KWL-3	4	Clawback - New Build HomeBuy
KWL-3	13	Clawback - New Build HomeBuy
KWL-2	4.2	Clawback (retirement)
	10.2-10.3	
KWL-3	4	
	12-13	
KWL4	4.2	
KWL-1	11	Compliance audit
KWL-1	2, 3.9	Conditions (funding)
KWL-1	7.8	Confidentiality
KWL-1	13.1	Conflict of interest
KWL-1	12.2	Consumer Credit Act
KWL-2	2.14	
KWL-1	7.8	Data protection
KWL-1	3.4	Delivery plans
KWL-2	2.11	Discounts (from market value)(Open Market HomeBuy )
KWL-1	4.1	Eligible costs
KWL-1	13.3	Employer priorities
KWL-1	7	Employment checks/monitoring
KWL-1	7.1	Employment offers (intermediate rent schemes)
KWL-2	10.3	Equity Loan – explanation of terms
KWL-2	2.6	Exclusions (Open Market HomeBuy )
KWL-1	4.2	Feasibility studies
KWL-3	11.7	Fundamental clauses – New Build HomeBuy leases
KWL-1	2	Funding conditions
KWL-2	7,8	Grant claim (Open Market HomeBuy )
KWL-2	7	Grant payment (Open Market HomeBuy )
KWL-3	7	Grant payment – New Build HomeBuy
KWL-2	9	Grant recycling – Open Market HomeBuy
KWL-1	12, 13.2	Guidance for applicants
KWL Annexes	Annex B	

<b>Key Worker Living</b>	<b>Index</b>
--------------------------	--------------

KWL-2	3	Open Market HomeBuy Plus
KWL-2	1	HomeBuy Agents (Open Market HomeBuy )
KWL Annexes	Annex A	HomeBuy agents
KWL-2	2.10, 6	House prices (Open Market HomeBuy )
KWL-1	7.5	Income (KWL)
KWL-2	3	Income (London Challenge Key Teacher HomeBuy )
KWL-4		Intermediate Rent
KWL-1	5	Interest on delayed SHG payments
KWL-2	4.9	Joint Ownership – Open Market HomeBuy
KWL-2	3	Key teachers
KWL	Annex B	Key worker eligibility
KWL-1	7.2	Key worker groups list
KWL-1	5	Late SHG payments
KWL-3	11	Leases - New Build HomeBuy
KWL-2	2.3	Lease length (Open Market HomeBuy )
KWL-1	8.1	Legal considerations
KWL-2	2.7	Like for like purchases (Open Market HomeBuy )
KWL-2	3	London Challenge Key Teacher HomeBuy
KWL-2	8.1	Management information (Open Market HomeBuy )
KWL-3	5	Mobility – New Build HomeBuy
KWL-1	10	Monitoring and evaluation
KWL-4	6	Monitoring and evaluation
KWL-2	2.15	Mortgage default
KWL-2	2.9	Mortgage valuation
KWL- Annexes	Annex B	NHS Dental practices
KWL-1	9	National Insurance and Tax
KWL-1	3.11, 5	Payment dates (SHG)
KWL-2	7	Payment of grant (Open Market HomeBuy )
KWL-2	3	Points (London Challenge Key Teacher HomeBuy )
KWL Annexes	Annex B	
KWL-2	5	Portability (Open Market HomeBuy )
KWL-2	2.12	Priority of Charges (Open Market HomeBuy )
KWL-2	2	Property purchase (Open Market HomeBuy )
KWL-3	2	Property purchase - New Build HomeBuy
KWL-4	4	Property recovery
KWL-2	2.6	Property types (Open Market HomeBuy exclusions)
KWL-1	7	Qualifying criteria (KWL)
KWL-2	3	Qualifying criteria (London Challenge Key Teacher HomeBuy )
KWL-3	3	Rents - New Build HomeBuy
KWL-4	2	Rents
KWL-1	6	Recovery of grant
KWL-2	9	Recycling of grant (Open Market HomeBuy )
KWL-3	9	Recycling of grant - New Build HomeBuy
KWL-1	4.1	Removal expenses
KWL-2	4	Repayment (Open Market HomeBuy clawback)

KWL-2	4.2	Retirement (clawback)
	10.2-10.3	
KWL-3	4	
KWL4	12-13 4.2	
		KWL-2 paragraph 4.2 and paragraphs 10.2-10.3, KWL-3 section 4 and sections 12-13 and KWL-4 paragraph 4.2.
KWL-2	10.2	Sample Legal Charge – Open Market HomeBuy
KWL-2	2.2	Scheme development standards (Open Market HomeBuy )
KWL-2	8	Scheme Information – Open Market HomeBuy
KWL-3	8	Scheme Information – New Build HomeBuy
KWL-2	6	Scheme processing (Open Market HomeBuy )
KWL-3	6	Scheme processing - New Build HomeBuy
KWL-1	13	Selection of applicants
KWL-2	10	Standard letters – Open Market HomeBuy
KWL-2	4.10	Sub-letting (Open Market HomeBuy )
KWL-3	11.10	Sub-letting – New Build HomeBuy
KWL-2	9.2	Surpluses (Open Market HomeBuy )
KWL-1	6	Suspension of grant payments
KWL-1	9, 13.3	Tax
KWL Annexes	Annex C	
KWL-2	3	Teachers (London Challenge Key Teacher HomeBuy )
KWL-4	3	Tenancy Agreement
KWL-4	3.2	Tenancy, single or joint
KWL-1	3.7	Tranches (grant payment)
KWL-1	3.6	Transfer of allocations
KWL-2	6	
KWL-1	7.3	Travel to work
KWL-2	2.5	Valuations (Open Market HomeBuy )
KWL-3	10	Valuations – New Build HomeBuy
KWL-1	3.5, 3.6	Variations

## 1. INTRODUCTION

- 1.1 Following on from the success of the Starter Home Initiative and Key Worker Living programme, the Government has announced a further two years of funding for the Key Worker Living Programme starting from April 2006.
- 1.2 The Key Worker Living programme is designed to assist access to affordable housing for either rent or purchase by frontline key workers, particularly in the health, education and community safety sectors whose services are essential to local communities and who need to live within a reasonable 'travelling to work' distance of those communities. The initiative is targeted at those areas where there are clear recruitment and or retention difficulties, linked to the cost of housing. The schemes included in this programme are:
- Open Market HomeBuy
  - New Build HomeBuy
  - Intermediate Rent

The principles of these schemes can be found in the relevant chapters within this Guide, and should be read in conjunction with this chapter. The specific requirements in respect of the schemes funded as part of the Key Worker Living programme (referred to as KWL) are identified below.

- 1.3 These procedures apply where registered social landlords (RSLs) are operating the scheme and claiming grant from the Housing Corporation. It is a condition of Social Housing Grant (SHG) payment under s18 (3) of the Housing Act 1996 that the RSL operating the scheme complies with these procedures. The Housing Corporation has no discretion to pay SHG in cases, which do not comply. The acceptance of an allocation under KWL is an undertaking to comply with these procedures.
- 1.4 All RSL applications for Grant Confirmation and claims for payment of SHG must be submitted via the Internet using the Corporation's Investment Management System (IMS). *See [www.housingcorp-online.org](http://www.housingcorp-online.org)*
- 1.5 The scheme submission must comply with the Funding Conditions as accepted by the RSLs Committee and confirmed on line by the RSLs security Administrator. Plus any further conditions issued by the Housing Corporation in year. The RSL will not be able to make a submission of any kind into IMS until this confirmation has been made. The RSL must retain a minute of the Committee decision on file for Compliance Audit purposes. *See GENERAL-1.[Check referencing]*
- 1.6 This section of the Guide sets out the conditions under which RSLs are required to administer the Key Worker Living schemes and is the basis on which the Housing Corporation will assess applications for SHG.
- 1.7 The HomeBuy Agents will deliver much of the programme working with and through RSLs and other developers in the locality. Their role is detailed in

Annex A. It is expected that HomeBuy Agents and RSLs will enter into a service level agreement to facilitate the effective delivery of the programme.

## **2 FUNDING CONDITIONS**

2.1. The Funding Conditions signed by the Chief Executive and Chair of the RSL at the start of each financial year (see Capital Funding Guide General- 1) will cover allocations made under KWL together, with the following additions.

2.2 The following general funding conditions apply to all KWL schemes but additional conditions may be imposed on individual schemes or groups of schemes:

- KWL grant is provided to facilitate the provision of homes for rent at sub-market levels or assist the purchase of an eligible property by an eligible applicant and cannot be used for any other purpose;
- A KWL allocation is separate from and additional to the home ownership programmes funded through the mainstream NAHP . RSLs may not combine NAHP allocations with funds from the KWL in the same scheme to provide a higher level of subsidy per unit. Units provided through mainstream NAHP may be provided on the same site as long as they are funded separately;
- Assistance through KWL cannot be combined with any other publicly funded home ownership schemes such as the Right to Buy;
- Where applications are received for a joint purchase of a property, at least one applicant must be a qualifying key worker. Two or more key workers may not combine separate applications for assistance through KWL where they are intending to purchase jointly. In these cases a single, joint application should be submitted and the joint household income taken into account in determining the appropriate level of assistance;
- RSLs cannot recycle SHG from the RCGF for use in KWL, either independently or in combination with KWL grant (Further clarification awaited).
- KWL grant cannot be used to assist eligible applicants to purchase stock already owned by an RSL. The only exception to this is where the stock has been provided without public subsidy or through stock transfer and has never been used as social housing. RSLs may develop for sale through the KWL new housing using their own resources on sites they already own;
- Where development or rehabilitation is involved, RSLs must ensure that all necessary planning consents are obtained, building control requirements are observed and that adequate insurance is in place during development and after purchase if the RSL retains an interest in the property;

- All surpluses and grant recoveries arising from KWL schemes must be ring fenced and used to provide additional homes for key workers to buy or rent (see sections on clawback and grant recycling). Further guidance will be issued on the calculation and use of surpluses;
  - Schemes must be within the objects of the RSL. Where this is in doubt RSLs should take their own legal advice;
  - No member, employee, agent or consultant of the RSL, or any partner organisation (unless the allocation is for a specific development) should have any interest in the proposed vendor, contractor, land or property to be acquired under KWL, including individual street properties. This includes any firm, partnership or organisation in which they or their families are involved. The Housing Corporation's regulatory guidance GPN3 – Maintaining Standards of Probity identify circumstances and procedures to be observed where relatives of officers or staff who are eligible can be offered properties to rent or purchase.
- 2.3 Where an RSL is working with a partner to administer KWL, whether another RSL or other body such as a developer, they must have a formal written agreement setting out the responsibilities of each partner.

### **3 SCHEME PROCESSING**

- 3.1 KWL schemes will be processed via the internet using the Corporation's Investment Management Systems (IMS). IMS guidance documents will be on the Corporation's IMS web site - **[www.housingcorp-online.org](http://www.housingcorp-online.org)**.

#### **Allocations**

- 3.2 RSLs will be notified in writing of accepted bids and any related conditions. Where the Chief Executive and Chair of the RSL have not already signed, for the current financial year, Funding Conditions for the Investment region to which the allocation applies they will be required to do so. Grant cannot be claimed unless the local office of the Corporation has a signed set of funding conditions in place. The funding conditions must set out:
- Grant allocation and key worker categories eligible for assistance in each financial year; and
  - Financial information:
    - Total IMR requirement by financial year and in total;
    - Total administration cost by financial year and in total;
    - Total SHG payable;
    - Additional contribution from RSL (if any);
    - Additional contribution from employer/other (if any).
- 3.3 Once the allocation is accepted RSLs will enter the relevant information into IMS. RSLs will be notified via the Corporation's website at

[www.housingcorp.gov.uk](http://www.housingcorp.gov.uk) when their allocations can be viewed in IMS and grant claims submitted. All allocations agreed under the KWL programme must be used to house a qualifying key worker as defined in Annex B.

### **Delivery Plans**

- 3.4 Investment regions will require RSLs with significant KWL scheme allocations to draw up and agree delivery plans specifying the funding to be spent in each zone on each key worker group.

### **Variations**

- 3.5 Allocations, delivery plans and other key assumptions can only be varied in agreement with the Corporation and where there is a significant agreed change, an amendment will be made. RSLs have no discretion to vary the tenure of schemes for which the allocation has been given without reference to the Corporation, nor can total grant be increased because of higher than expected costs. Partnering RSLs will be expected to report on progress to their lead investment regions at the regular quarterly review meetings.
- 3.6 Where an RSL is failing to deliver within the agreed cost limits, to the agreed timetable or there is insufficient demand from priority key workers, the Corporation may transfer the allocation to another RSL. The Corporation reserves the right to amend or transfer an allocation at any point before the final grant claim has been paid.

### **Grant Payments**

- 3.7 All KWL Open Market HomeBuy will be delivered by the HomeBuy Agents. The total amount of grant payable to the HomeBuy Agent for Open Market HomeBuy will be the grant to the key worker plus the agreed admin. fee. The Corporation must agree changes in the allocation of funding between financial years. Grant will not be paid until a key worker completes the purchase of a property acquired through Open Market HomeBuy. On New Build HomeBuy and intermediate rent schemes grant payment is in four tranches, acquisition, start on site final and the last 10% on occupancy if via Traditional route; and three tranches, at start on site, final and the last 10% on occupancy if via the partnering route.
- 3.8 SHG must not be claimed by the RSL in advance of need. The total grant claimed cannot exceed the allocation.
- 3.9 At the point of claiming SHG the RSL must confirm that the submission is accurate and complies with the Funding Conditions, as signed on behalf of the RSL by the Chief Executive and Chair of the RSL at the beginning of the financial year, subject to the amendments and additional conditions contained in the KWL Procedures, plus any further conditions issued by the Housing Corporation in the year. If the RSL is not able to make this confirmation on screen the submission will not be able to proceed.

- 3.10 The RSL must be able to confirm acceptance of all certifications that appear when the scheme has been submitted
- 3.11 Payment will be made direct to the RSL after a relevant event has occurred i.e. acquisition, start on site, practical completion or occupancy. There needs to be at least ten working days between receipt of the application and the payment date. Where the Corporation receives the submission less than ten working days before the payment date, SHG will not be paid on the payment date but will be paid ten working days after receipt of the submission. The Corporation will not pay simple interest to compensate for late payments where the submission is not received within this timetable.
- 3.12 SHG can only be paid in respect of a complete submission that includes **all** the monitoring information.
- 3.13 Payment of grant is dependent on available cash within an [RSL's] cash planning target and the Housing Corporation's regional cash limit.

#### **4 ELIGIBLE COSTS AND CALCULATION OF GRANT**

- 4.1 Eligible costs are a proportion of the purchase price of the homes purchased and an administration charge to cover the cost of publicising and administering the scheme. Grant must be used to subsidise the purchase of homes by key workers and not, in the case of new developments or rehabilitation schemes, excess development costs for example where the cost of development exceeds the value of the property. *KWL grant cannot be paid towards the incidental expenses of purchasers such as legal fees and removal expenses.*
- 4.2 Feasibility studies, setting up costs and administration costs in excess of those covered by the administration charge, are ineligible for grant.

#### **5 INTEREST ON DELAYED PAYMENT OF CLAIMS**

- 5.1 The Corporation will compensate the RSL with an interest payment on the delayed payment of a SHG claim only for that part of the delay due solely to the Corporation.
- 5.2 Interest to cover delays in payment will only be paid in exceptional circumstances and where the RSL can demonstrate it has suffered a direct financial loss as a result of that delay.
- 5.3 Any claim for such interest must be made after the payment of SHG to which it relates. The RSL should submit a claim substantiated with appropriate documentation e.g. the breakdown of the calculation and evidence of the interest rate.

- 5.4 There is no timetable for the payment of claims for interest, however the Corporation will endeavour to make payments as quickly as possible.

## **6 SUSPENSION AND RECOVERY OF GRANT**

- 6.1 The Housing Corporation reserves the right to suspend grant payments if an RSL becomes subject to Housing Corporation supervision. Where grant payment has been suspended, the Corporation may also recover grant already paid.
- 6.2 Grant will be recovered, and may be suspended where:
- the RSL fails to comply with these procedures and/or any condition set out in the grant offer letter;
  - grant is not used for the purposes set out in the grant offer letter;
  - grant has been overpaid or claimed in advance of need.

This repayment is in accordance with the Guide to the recovery and recycling of capital grant (Capital Funding Guide REC - 1). Grant paid for administration costs and interest on late payments by the Corporation is attributable to the scheme and therefore recoverable in principle when a relevant event occurs.

## **7 QUALIFYING CRITERIA FOR KEY WORKER LIVING**

- 7.1 To qualify for housing under KWL at least one member of the household applying to participate in the scheme must be employed within a specified key worker group. There is no discretion to vary the terms of the allocation in this respect. For participation in any HomeBuy scheme, an offer of employment is not sufficient. For intermediate rent schemes, where the applicant is moving into an area to take up an offer of employment, they may be assisted up to 3 months before the date employment is due to commence on condition that they take up employment on the agreed date. Where available, the key worker should be required to provide a copy of their signed contract of employment.
- 7.2 Key workers eligible for assistance must fall within the key worker groups specified in the grant offer letter. The following key worker groups are eligible for assistance under this programme:
- Clinical staff employed by the NHS (excluding doctors and dentists).
  - Teachers, including FE teachers and Early Years/nursery teachers

- Police officers and community support officers in forces listed in Annex B (frontline police staff (civilians) may also be eligible in some areas - see Annex B)
- Prison officers and some Prison Service staff in prisons listed in Annex B
- Probation Officers, Senior Probation Officers, Probation Service Officers and, for intermediate rent only, Trainee Probation Officers
- LA/LEA/NHS Social workers
- LA Therapists (including Occupational Therapists and Speech and Language Therapists)
- LA Educational Psychologists
- LA/LEA/NHS nursery nurses
- LA Planners
- LA clinical staff
- Uniformed staff, below principal level, in Fire and Rescue Services.

Within these broad groups, detailed criteria will be applied to determine eligibility, as set out in Annex B. This list may be subject to change over time. Scheme providers will be notified formally in writing of any amendments.

- 7.3 Assistance through the scheme can only be given to those who could not otherwise buy or are unable/have difficulty renting a home at market rent that is suitable for their households needs and within a reasonable 'travel to work' area of their employment. The definition of 'travel to work' area will depend on the locality, the type of employment and the transport links.
- 7.4 Where someone is looking to exercise an opportunity to purchase an alternative property to the one they currently own on a like for like basis, whether or not it was purchased with government assistance, this is only permissible in specific circumstances (*see KWL-2 paragraph 2.7*). There is no scope for the purchase of a more expensive home in a different area under this scheme, where current housing needs are met in the existing property.
- 7.5 For those looking to buy a home through one of the home ownership options, the total household income, capital and savings must be taken into account and while there is no set minimum income, **RSLs are required to be mindful of the purchasers ability to afford and sustain home ownership** in the long term. Applicants must not be in mortgage or rent arrears or in breach of their current tenancy agreement at the time of the application. Where a tenant is or has been in arrears for a short period due to a sudden change in circumstances or an administrative delay or error in recording the rent paid to a public sector landlord, the RSL may use their discretion to allow the case to proceed where it is satisfied the rent is being paid and the applicant has sufficient income to support a mortgage. In the case of private sector tenants, the RSL must be satisfied that the tenant has not had a history of rent arrears. **As a guide RSLs**

**are expected, but not limited, to use 3 x joint income and 3.5 x single income to determine the potential purchasers' mortgage potential. Purchasers should be expected to maximise their borrowings sustainably.**

- 7.6 The maximum household income level for KWL is £60k. Scheme providers have discretion to accept applications from those with marginally higher incomes in exceptional circumstances. All such decisions must be seen to be fair to all applicants and transparent and fully documented for audit purposes.
- 7.7 RSLs must make reasonable checks to ensure that applicants meet the eligibility criteria for the scheme. This should include documentation such as confirmation of employment status and sight of current/ recent payslips. See Annex B.
- 7.8 It will be for individual RSLs to ensure that they comply with the Data Protection Act 1998. Personal data must be processed fairly and lawfully. In order to be eligible under the scheme all applicants must give their consent in writing for personal data about their employment status to be processed by the RSL, Housing Corporation, and Government Departments. This will allow applicants eligibility status to be monitored whilst they are in receipt of assistance under the scheme.

### **Tracking eligibility**

- 7.9 The HomeBuy Agent (or the developing RSL in the case of New Build HomeBuy and Intermediate Rent schemes) must inform the employer (and the HomeBuy Agent) that a key worker is receiving assistance under the scheme. The employer will monitor the employment status of the key worker and notify the HomeBuy Agent/ RSL of any change in the eligibility status of the individual. Although HomeBuy Agents/ RSLs should also undertake annual checks of the employment status of beneficiaries, employers are required to keep the HomeBuy Agent/ RSL informed of any changes in the employees' status.
- 7.10 The beneficiary is also obliged, under the terms of the legal charge (it will not be a condition of the lender's mortgage), to notify the HomeBuy Agent of any change in employment within seven days of the change. This requirement will also apply to New Build HomeBuy and intermediate rent tenants and will be contained in the legal documentation/ tenancy agreement.

### **Continuing Eligibility on Change of Employment**

- 7.11 Where a keyworker, who has secured a property through the KWL programme, is looking to change jobs they must seek written confirmation from the HomeBuy agent or their landlord RSL that if they take up the new position they will still be eligible and clawback will not be invoked. This will be determined by the Key Worker eligibility criteria listed in Annex B that may be amended from time to time by the Housing Corporation in conjunction

with the ODPM. The eligibility will remain in place for six months from the date of written confirmation, even if the eligibility criteria change within those six months.

## 8 TYPES OF ASSISTANCE

- 8.1 An allocation made under KWL does not imply Housing Corporation endorsement of the type of assistance or any conditions attaching to it. It is the responsibility of the RSL, taking legal advice if necessary, to ensure that the type of assistance and all other aspects of its administration of the scheme, complies with all relevant legislation, is mortgageable, within its vires and that it has taken account of any tax implications both for the RSL itself, applicants and the applicants' employers.
- 8.2 For each individual participating in Open Market HomeBuy, the amount of KWL subsidy should be the minimum required to assist the key worker household into home ownership or to trade up to a property suitable for their needs, taking into account total household income and house prices of suitable properties. **Purchasers are typically expected to fund around 75% of their purchase through a mortgage and/or savings. The balance of the purchase price will be secured through an equity loan from the HomeBuy agent, the maximum equity loan is not to exceed £50k.** However, where the full level of subsidy is needed in an individual case, this should be awarded. RSLs should not regard the average subsidy given in the allocation as an automatic entitlement.

## 9 TAXATION

- 9.1 Guidance on tax and National Insurance contributions arising from the assistance provided to key workers under KWL is set out in the attached Annex C. If RSLs require further guidance they must contact HM Revenue and Customs.

## 10 MONITORING AND EVALUATION

- 10.1 RSLs, which receive an allocation for KWL, will be required to collaborate in research commissioned by DCLG/Housing Corporation into the impact, effectiveness and value for money of KWL. They will also be required to participate in CORE and complete CORE Sales logs.
- 10.2 RSLs will be required to provide both the DCLG and Housing Corporation with the required monitoring data. Separate advice will be issued on this, which may be subject to change during the life of the programme.
- 10.3 In addition to the information in IMS, HomeBuy agents will be required to provide further management information direct to DCLG and the Housing Corporation. RSLs will need to provide HomeBuy agents with the necessary information.

## 11 COMPLIANCE AUDIT

11.1 KWL schemes will be subject to compliance audit in the same way as for ADP traditional schemes or the Partnering Programme Agreement (PPA) as appropriate. RSLs must retain all relevant documentation on file for a period of six years after receipt of funding. The Capital Funding Guide (GENERAL - 9 and Challenge Fund chapters) as well as the PPA procedures provide guidance on the documentation required. In addition for KWL, RSLs should retain:

- copies of all promotional literature and information booklets;
- copies of all leases, covenants and legal charges;
- copies of all correspondence with employers and sponsoring local authorities;
- Solicitor's correspondence confirming dates of purchase completions and purchase prices;
- copies of desk instructions for RSL staff responsible for prioritising applicants;
- details of purchasers who have benefited from the scheme in terms of occupation, household income etc.;
- similar details for rejected applicants;
- ethnic origin of applicants and purchasers;
- the RSLs assessment of accepted and rejected applications;
- details of grant repaid by purchasers on disposal or other event and the treatment of this by the RSL;
- details of any surpluses arising from KWL and the treatment of this by the RSL;
- details of tenants who cease to be entitled and the treatment of this by the RSL.

## 12 GUIDANCE FOR APPLICANTS

12.1 Guidance at Annex B should be referred to together with any guidance produced locally by key worker employers. RSLs should also produce guidance for applicants which could include, for example, their detailed interpretation of 'travel to work' rules and, for first-time buyers, an indication of outgoings and how these are likely to increase to ensure sustainable home ownership, implications of the clawback requirements.

12.2 When making loans HomeBuy Agents must ensure that promotional material complies with the requirements of the Consumer Credit Act 1974.

### 13 SELECTION OF APPLICANTS

- 13.1 RSLs must have clear written procedures for communicating with and selecting applicants. Applicants must complete the HomeBuy Agents application form and have their eligibility assessed by the HomeBuy Agent. HomeBuy Agents and RSLs should ensure that the arrangements they make for administering the scheme provide protection for the public funds involved and facilitate effective programme delivery. Applicants must be selected in accordance with the priorities and criteria set out in the guidance to applicants. RSLs must avoid any conflict of interest for staff involved in selecting applicants.
- 13.2 The criteria must be clear to applicants and sufficient for the RSL to demonstrate at audit that those selected to purchase under the scheme met the priorities identified in Annex B. The guidance should include:
- Eligible occupations and employers;
  - Upper household income limits;
  - Qualifying criteria as set out for each sector;
  - Criteria used to prioritise applications. These may simply be date of application for those who meet the criteria or may be more specific, for example those whose specialisms are in particularly short supply. The criteria to be used must take account of the advice received from DCLG;
  - The types of properties to be purchased, whether on a development or open market. If open market, an indication of acceptable size, values, locality and condition and any ineligible properties.
  - Any tax implications arising from the assistance offered;
  - Any resale covenants and other conditions and arrangements for repayment on resale and/or leaving qualifying form of employment.
  - Information regarding the tenancy used for rented properties and indicative rent levels, together with the implications on leaving qualifying form of employment.
  - Applicants should be required to certify that the information they have provided is complete and accurate and that they will not purchase more than one property through any schemes benefiting from public subsidy. They also need to certify that the property is their only home.
- 13.3 As set out in Annex C on Tax issues, in order to minimise the tax implications of KWL assistance employers must not nominate or prioritise applications from individual key workers, either formally or informally. Employers may indicate their general priorities for types of staff to be assisted under the scheme and these priorities may be included in the RSLs selection criteria. However, decisions on individual applications should be determined entirely

by RSLs without further reference to or advice from employers, apart from any checks required from employers in order to validate information provided on application forms submitted by key workers.

## **14 ANNEXES**

14.1 Annexes referred to above are at the end of the KWL chapter.

## 2. OPEN MARKET HOMEBUY

### 1. INTRODUCTION

- 1.1 Open Market HomeBuy through the Key Worker Living programme enables the purchase of a property on the open market with an equity loan and is based on equity loans of up to £50k, with equity loans of up to £100K to retain exceptional teachers and those demonstrating leadership qualities in challenging schools within Greater London. The equity loan must be secured as a mortgage on the property. This loan has to be repaid when the property is sold, when the applicant purchases the remaining share of the property or if the key worker leaves qualifying employment.
- 1.2 Purchasers are typically expected to fund around 75% of their purchase through a mortgage and/or savings. The balance of the purchase price will be secured through an equity loan from the HomeBuy agent, the maximum equity loan is not to exceed £50k.
- 1.3 Homebuy agents are required to be mindful of the purchasers ability to afford and sustain home ownership and as a guide are expected, but not limited, to use 3 x joint income and 3.5 x single income to determine the potential purchasers' mortgage potential. Purchasers should be expected to maximise their borrowings sustainably
- 14 HomeBuy agents are required to manage their cash allocation for Open Market HomeBuy to deliver as a minimum the agreed number of units annually.

### 2. PROPERTY PURCHASE

#### Eligibility

- 2.1 Properties purchased through KWL may be part of development or rehabilitation schemes or be open market purchases of existing properties.
- 2.2 As with housing for sale schemes developed through the mainstream NAHP, KWL schemes do not have to fulfil the standards specified as 'essential items' in Section 1: Quality of Housing of the current version of Scheme Development Standards. [HC - is this right/appropriate?]
- 2.3 All properties purchased by key workers through KWL must meet the following criteria:
  - a size suitable for the key worker's housing needs. Guidance at Annex B;
  - wholly for residential use (a home where planning use is part commercial is not eligible. A flat over a shop would be eligible, provided that the flat itself is self contained and wholly residential);

- purchased with vacant possession and immediately habitable (a new home under construction may be considered, provided the price is fixed and contracts can be exchanged within 6 months of the key worker being instructed to select a home);
- of a satisfactory standard of construction and in a reasonable state of repair as evidenced by the homebuyer's survey and valuation report;
- new properties must have a National House Building Council (NHBC) guarantee or similar warranty;
- new developments must be on freehold land or have a lease length of at least 60 years. An open market leasehold property must provide adequate security for any equity loans provided i.e. more than 55 years remaining at the date of purchase completion.

2.4 The following types of property may be purchased but there is additional criteria outlined below that must be met:

- A home the applicant is currently renting from a private landlord provided it is self-contained and the landlord is not resident. This could include properties being disposed of by a public body or agency but are not available to purchase through any other government body/agency LCHO sales scheme.
- A property owned or part-owned by a family member (except spouse/partner) or business associate provided an independent valuation is obtained from a RICS surveyor appointed by the HomeBuy Agent;
- An estranged spouse or partner's share in a formerly shared home can be bought out following a relationship breakdown where the disposal is required/ supported by a court order or legal settlement after a court order
- A 'second' property can be purchased even though the applicant has an on-going interest in a 'marital home' but only in circumstances where the property cannot be sold because the estranged spouse/partner is allowed by the court to remain there whilst bringing up dependent children;

2.5 In order to minimise any opportunities for collusion or fraud the purchase of the properties above will be subject to an independent valuation for mortgage or survey purposes; and/or proof of a court decision. All properties must have an independent valuation undertaken by a RICS surveyor.

2.6 The following types of property cannot be purchased through KWL:

- commercial property;
- a home for sale at auction;

- a mobile home (including fixed homes covered by the Mobile Homes Act 1983) a caravan or a houseboat;
- a property occupied or part occupied by sitting tenants;
- a home offered at a discount under other publicly funded discount, incentive or assisted purchase schemes, except where subsidy is provided by a public sector employer in respect of its employees. NB. Developer subsidy provided through Section 106 agreements does not fall into this category;
- a plot of land on which the applicant intends to build;
- a home which is to be built by the key worker individually or as part of a group;

### **Like-for-like purchases**

2.7 Where someone is looking to exercise an opportunity via Open Market HomeBuy to purchase an alternative property to the one they currently own on a like-for-like basis, whether or not it was purchased with government assistance, this is only permissible in the following circumstances:

- Disability of any of the household (mental or physical);
- Poor quality of current home (i.e. no central heating);
- Single parent needing to live closer to family for support;
- Move to be closer to a dependent relative;
- They will be closer to work;
- Their travelling costs will be significantly reduced;
- They will be closer to child care/child's school;
- They are suffering from neighbour problems or harassment;
- Separation (the purchaser must not have a current interest in the previous home unless it is still held subject to a court order)
- Domestic violence;
- Moving from a flat to a house (where there has been a relevant change of circumstances or where there are children in the household).

2.8 There is no scope for the purchase of an alternative home either through the London Challenge Teachers element or the £50,000 Open Market HomeBuy element of a more expensive home in a different area on a like-for-like basis, where current housing needs are met in the existing property.

2.9 An independent and full valuation endorsing the full purchase price (not just the share the purchaser is buying with a mortgage) must be obtained for all homes bought under KWL.

2.10 KWL funding may only be used to purchase qualifying properties above the mortgage valuation where:

- the purchase price is within the limits submitted in the bid and confirmed in the allocation;
- the grant is calculated on the lower of the actual price and the value of the property,
- the purchaser intends to meet the difference between value and the price without resorting to further secured borrowing over and above the mortgage.

2.11 Where properties are offered at a discount off market value in addition to the KWL grant, for example through developer subsidy, the valuation should be for the full market value but the grant should be calculated on the basis of the price at which the property has been offered to the purchaser.

### **Priority of charges**

2.12 Purchasers will normally need to obtain a mortgage from a commercial mortgage provider. HomeBuy Agents must put arrangements in place to ensure that:

- the commercial lender has first charge on the property (NB where HomeBuy Agents grant an equity loan a commercial lender will need to be a qualifying lending institution (QLI) as set out in the Social Landlords (Additional Purposes or Objects) Order 2005 (SI 2005 No 2863) in order to benefit from having a first charge on the property. QLIs are all mortgage lenders who are authorised persons under the Financial Services and Markets Act 2000 and have permission to enter into regulated mortgage contracts.
- any amount recoverable from the purchaser as a condition of the assistance provided under KWL, arising from the disposal of the property or other relevant event, is registered as a second charge on the property.

2.13 Where there is a contribution from another source, for example an employer or the HomeBuy Agent itself, this may rank as a second charge and KWL contribution be registered as a third charge. In order both to protect both KWL and other contributions secured by a charge; the amount of the commercial mortgage, KWL and other contribution together must not exceed 100% of the mortgage lenders valuation at the time of purchase. The HomeBuy Agent should only agree to further borrowing after the purchase of the property, where the total amount secured, including the further advance, does not exceed 100% of the then mortgage lenders current value of the property. It is the responsibility of the HomeBuy Agent to ensure that the necessary priority of charges is achieved. The HomeBuy Agent will be liable for any losses arising from failure to do so.

### **Consumer Credit Act 1974**

2.14 When making and securing loans the HomeBuy Agent will require a Consumer Credit Licence and must ensure that it is complying with the provisions of the Consumer Credit Act 1974.

### Mortgage default

- 2.15 If a property that was purchased through KWL is repossessed by a lender with first charge on the property, the lender will have first call on the sales receipt to repay its outstanding loan plus interest. The balance will be used to repay the loan or grant secured by the second charge (if there has been a separate financial contribution towards the cost of purchase by an employer or HomeBuy Agent that has been secured on the property) and then any amount recoverable under KWL.

### 3. LONDON CHALLENGE TEACHER OPEN MARKET HOMEBUY

- 3.1. Open Market HomeBuy assistance between £50,001 and £100,000 is only available to London Challenge Teachers. The qualifying criteria is as follows:

- be qualified teachers in schools in the Greater London area;
  - employed in maintained primary and secondary schools including:
    - City Technology Colleges;
    - City Academies;
    - Schools for children with special needs;
    - Pupil referral units; or,
- be hospital-based teachers or peripatetic teachers or teachers employed in the Ethnic Minority Advisory Service, Inclusion Support Services or similar services by a Local Education Authority within the Greater London area, or be qualified teachers in a non-maintained school for children with special needs where the pupils are LEA funded (within the Greater London area).
- be unable to buy a home suitable for their household needs within a reasonable travel to work area of their employment
- have indefinite leave *either to enter or to remain* in the UK (excluding key workers from member states of the EU/EEA)
- have a household income that does not exceed £60K (£80k for applications prior to 1 April 2006).
- sell their existing property if they own one, *see para 2.7*

and **must** score a minimum of 7 points as outlined in the criteria in Annex B

### 4. CLAWBACK

- 4.1 On sale or transfer of property, or within 2 years of a key worker leaving a qualifying form of employment the equity loan must be repaid to the HomeBuy Agent. Changes in the sector specific eligibility criteria will not, on their own, trigger clawback. Beneficiaries' eligibility status will be judged against the criteria prevailing at the time they were granted assistance under the scheme, unless they change employment or wish to exercise the portability

option in which case their eligibility will be re-assessed against the current version of the sector specific eligibility criteria. The amount repayable in respect of an equity loan will be that proportion of the value of the property that the loan advanced bore to the original purchase price. So if the loan represented 25% of the purchase price then the loan repayment sum will be 25% of the market value of the home at the date of repayment. All valuation fees will be payable by the owner.

### **Exclusions**

4.2 The clawback rules would not apply where a key worker left their employment because:

- they retired, provided that a minimum of five years continuous service has been undertaken since the qualifying key worker was granted assistance under the scheme
- they were made redundant
- they left with the employer's permission, for health reasons validated by a health professional (i.e. early retirement on health grounds, dismissal on health grounds)
- they died in service (when it would become a matter for probate)

In such cases, sale of the property or transfer of ownership only would trigger repayment.

4.3 Repayment would also not be required if they took a career break of up to 12 months with their employer's permission. This period could be extended to a maximum of three years, at the employer's discretion in exceptional circumstances, with an assumption that this would be for family reasons. Further extensions beyond the three years will trigger the clawback requirements. There may be other special circumstances where it would be appropriate to defer repayment until a later date on sale of the property or transfer of ownership. All exceptional cases should be presented to the Housing Corporation who will decide whether this approach is merited.

### **Divorce**

4.4 Where a court is considering the terms of the property settlement they will serve the HomeBuy Agent (as one of the mortgagees) with an application form indicating the intention to proceed for ancillary relief, i.e. a property transfer order. The HomeBuy Agent should ask to see the financial statement, setting out the applicant's financial situation and agree with the Housing Corporation whether it is appropriate to defer or waive the clawback, should the court decide that immediate sale of the property would not be advisable. As a general rule clawback should be applied as usual if there are: a) no children; or b) there are children, but both parties can be adequately housed from the proceeds of the sale. Waiver or deferral clawback would normally only be

considered if there are children under the age of 18 or in full time education, and rehousing would be difficult, or other extenuating circumstances apply.

### **Change of employment**

- 4.5 Repayment of the loan will not be required as long as the new post qualifies as eligible employment under the scheme as set out in Annex B. The only exceptions to this rule are:
- If eligible police force employees (including British Transport Police and the Civil Nuclear Constabulary) wish to make a permanent transfer to another police force, or any other eligible employment, it will be up to the exporting police force to decide whether to invoke clawback or allow the key worker to retain the loan.
  - London Challenge Teachers purchasing homes with equity loans in excess of £50,001 will be required to remain as a teacher and be employed within the Greater London area, i.e. in a London Borough or the City of London
  - If eligible fire and rescue service employees wish to make a permanent transfer to another fire and rescue service, or any other eligible employment, it will be up to the exporting service to decide whether to invoke clawback or allow the key worker to retain the loan.

### **Recovering the loan**

- 4.6 The clawback provisions take effect from the date that the beneficiary leaves eligible employment. Thus, the loan must be repaid two years from the date the key worker leaves eligible employment, not two years from the date that notification is received. If the beneficiary returns to eligible employment within the two-year period the clawback provisions no longer apply.
- 4.7 The HomeBuy Agent should write to the beneficiary and set out the next steps as soon as notification from the employer/employee is received. This letter should make it clear to the beneficiary that, in cases of hardship, they can make a case for deferral or waiver of clawback. The Housing Corporation will adjudicate on all such cases.
- 4.8 The HomeBuy Agent will be expected to use all reasonable endeavours to recover debts. As they have a charge on the property the HomeBuy Agent can initiate legal action to ensure repayment. The lender must be informed of the intention to initiate legal action, as the property may need to be sold to recover the debt.

### **Joint ownership**

- 4.9 Where the property is being purchased by joint owners the legal charge must be signed by both parties to ensure that both are fully aware of the terms, whereby at least one party must remain in eligible key worker employment.

### **Sub-letting**

- 4.10 It is expected that the HomeBuy property will be occupied as the only or main residence (see 9.11 in the legal charge KWL-2 para 10.2). HomeBuy Agents may consider, on a case-by-case basis, requests to sub-let in certain controlled circumstances. HomeBuy Agents should consider the following criteria when dealing with requests:

- the reasons for sub-letting are genuine and unavoidable, and are not for speculation or gain;
- the terms of the sub-let are for a fixed period after which occupation must revert back to the HomeBuy owner;
- the permission of the mortgage lender will also normally be required.

## **5. PORTABILITY**

- 5.1 If the key worker is remaining in qualifying employment but needs to move as a result of a change in household circumstances, subject to an assessment of ongoing eligibility, the value of the loan, including any equity gain, may be used for the next purchase. The value of the original loan and capital gain may also be 'topped up' in order to reflect the change in household need, although the total value of any loan including top up should not exceed the maximum loan allowable under the scheme at the time of transfer. When exercising the portability option the key worker will be expected to meet the associated administration fee from the capital gain to meet the costs incurred by the HomeBuy Agent for managing the process.

### **Portability for Starter Home Initiative beneficiaries**

- 5.2 The same portability rights are available to those in receipt of a grant under the Starter Home Initiative (SHI) provided that they are in eligible employment and sign up to the clawback rules.
- 5.3 The HomeBuy agent will be responsible for managing the process and recycling monies. If the original SHI loan had been advanced by an RSL that was not a HomeBuy agent then the responsibility for the loan should pass to the appropriate HomeBuy agent when the beneficiary buys the new property. The loan itself will remain a second charge and simply be transferred from one property to another. The originating RSL would relinquish responsibility for the property and the loan by assigning the second charge and the management responsibility to the HomeBuy Agent at the time of the purchase of the new property.

- 5.4 The expectation is that portability is used as housing needs change. Like-for-like moves are limited to the circumstances listed at para 2.7.

## **6 SCHEME PROCESSING**

- 6.1 HomeBuy Agents are expected to accommodate changes in property prices in delivering their agreed programme. If a HomeBuy Agent considers that it is unable to deliver the programme because of large increases in property prices, this must be reported to the Corporation. Variations will only be agreed in exceptional cases. Where changes to property prices or incomes mean that more or fewer workers can be housed with a given allocation, the allocation will be amended to reflect the agreed, revised figures. Where a HomeBuy Agent is failing to deliver within the agreed cost limits, to the agreed timetable or there is insufficient demand from priority key workers, the Corporation may transfer the allocation to another HomeBuy Agent. The Corporation reserves the right to amend or transfer an allocation at any point before the final grant claim has been paid.

## **7. GRANT PAYMENTS**

- 7.1 Once contracts have been exchanged, the HomeBuy Agent should make a submission for combined Grant Confirmation and Payment of SHG no later than five working days after exchange of contracts.
- 7.2 The grant claimed for each sale will be the actual amount of KWL subsidy required plus the administration cost.

## **8. SCHEME INFORMATION**

- 8.1 HomeBuy Agents must submit information on each completed sale with their final grant claim for each case. This information is required to enable the Corporation, for each allocation and generally, to report on progress of KWL and monitor the types of assistance and amounts of subsidy provided. The information required on each sale will be:

- name of key worker
- the property address
- the type of key worker
- name and type of key worker where two key workers are purchasing together
- ethnic origin
- gender
- declared disability (if any)
- length of time in their occupation
- the employer (e.g. Health Trust, Police authority, LEA)

- place of work (e.g. name of school/hospital)
- number of qualifying points (London teachers only)
- sponsor local authority (the local authority area where the purchaser is employed)
- location local authority - LA area of purchase
- value of property
- property type
- number of bedrooms
- number of children and adults in the household
- scheme type e.g. standard Open Market HomeBuy or London Challenge Teacher.
- total household income
- number of adult household members who have an income
- actual KWL subsidy [and what proportion of the purchase price this represents ]
- administration charge
- additional employer/HomeBuy Agent subsidy
- the lender
- date of completion

In addition to the information in IMS, HomeBuy agents will be required to provide further management information direct to DCLG and the Housing Corporation.

- 8.2 SHG can only be paid in respect of a complete submission, which includes all the sales information.

## **9. RECYCLING OF GRANT**

- 9.1 Where KWL assistance is repayable by the purchaser on disposal, leaving the qualifying form of employment, or other event, grant must be shown separately in the HomeBuy Agent's accounts. Although HomeBuy Agents can retain the grant for recycling into KWL, where allocations are held for more than one region, the grant must remain within the same region. Any non-HomeBuy agent receipts should be repaid to the Corporation who will allocate them for the provision of additional homes through the programme. Further guidance will be issued on accounting for and the permitted uses of recycled KWL grant.

### **Treatment of surpluses**

- 9.2 Surpluses generated as a result of the repayment or disposal of equity shares, repayment of grants or redemption of equity mortgages (including clawback)

attributable to KWL funding must be shown separately in the HomeBuy Agents' accounts. The Housing Corporation is not expecting to recover surpluses arising from properties funded through the KWL programme 2004/6 or 2006/8, however consideration is being given to the position in future years. Further guidance will be issued on accounting and reporting on the surpluses from KWL schemes.

## **10. STANDARD LETTERS AND GUIDANCE**

### **10.1 Legal representative's undertakings in respect of KWL Open Market HomeBuy**

The applicant's legal representative will need to comply with the undertakings set out in the enclosed draft undertaking that must be returned to the HomeBuy Agent duly signed and dated.

In order to comply Rule 6(3) of the Solicitors Practice Rules 1990 the HomeBuy Agent must certify to the applicant's legal representative that the undertakings comply as follows:-

[insert name of HomeBuy Agent's Lender] certifies that:

- (1) the following standard undertakings, (numbered 1-6 and described as a draft undertaking from Open Market HomeBuy purchaser's solicitor or licensed conveyancer to HomeBuy Agent) comply with the limitations contained in paragraph 6(3)(c) and 6(3)(e) of the Solicitors Practice Rules 1990 as amended by the Solicitors Practice (Lender and Borrower) Amendment Rules 1998 and 1999 and;
- (2) a Certificate of Title is not required to be completed as part of the above instructions.

The HomeBuy Agent must also specify in writing to the applicant's legal representative that one of the documents from list A or two of the documents from list B must be produced by the applicant and checked as proof of their identity:

#### **LIST A**

- a valid full passport; or
- a valid HM Forces Identity Card with the signatory's photograph

#### **LIST B**

- a cheque guarantee card, credit card (bearing the master card or visa logo), American Express/Diners Club Card, debit or multi function card (bearing the switch or delta logo) issued in the United Kingdom with an original accounts statement less than 3 months old; or
- a fire arm or shotgun certificate; or
- a receipted utility bill less than 3 months old; or

- a Council tax bill less than 3 months old; or
- a Council rent book showing the rent paid for the last 3 months; or
- a Mortgage Statement from another lender for the mortgage accounting year just ended.

**DRAFT UNDERTAKING FROM KEY WORKER LIVING PURCHASER'S SOLICITOR OR LICENSED CONVEYANCER TO HOMEBUY AGENT**

Dear [ ]

We act on behalf of [ ] (the "Borrower") in relation to the purchase of [ ] ("the Property").

We confirm the agreed purchase price of the Property is [ ] and that we have explained the terms of the Key Worker Living mortgage and implications of the clawback provisions to the borrowers.

In consideration of your agreeing to provide a loan of [ ] of the agreed purchase price to assist the Borrower to purchase the Property we undertake as follows:

1. To advise you in writing within (one) working day of contracts having been exchanged for the purchase of the Property of the completion date which will be at least [ ] working days after exchange of contracts.
2. To apply any sums received from you only towards the purchase of the Property.
3. In the event of completion of the purchase being delayed by more than fourteen days from the agreed date for completion to return to you any sums received from you forthwith.
4. To ensure that the form of "Key Worker Living" mortgage you have supplied and which has been or will be executed by you is properly executed by the person whose identity has been checked by reference to the document or documents precisely specified in writing by you as that of the Borrower and dated contemporaneously with the purchase of the Property.
5. To provide you with a certified copy of the "Key Worker Living" mortgage within (two) working days of completion of the purchase.
6. To register the "Key Worker Living" mortgage at HM Land Registry as a (Second) Charge (ranking immediately after the first mortgage to be granted by the Borrower in favour of [ ]) and to send to you A certified copy of the Office Copies in relation to the Key Worker Living mortgage as soon as practicable following receipt from HM Land Registry.

**Signed (Partner/Licensed Conveyancer):**

Date:[ ]

10.2 **SAMPLE LEGAL CHARGE TO SECURE THE RSL'S INTEREST IN PROPERTY PURCHASED THROUGH THE 'KEY WORKER LIVING' OPEN MARKET HOMEBUY SCHEME**

**“Credit agreement regulated by the Consumer Credit Act 1974”**

**Important - you should read this carefully**

Your rights

The Consumer Credit Act 1974 covers this agreement and lays down certain requirements for your protection which must be satisfied when the agreement is made. If they are not, the Lender cannot enforce the agreement against you without a Court Order.

The Act also gives you a number of rights. You have a right to settle this agreement at any time by giving notice in writing and paying off all amounts payable under the agreement. If you would like to know more about the protection and remedies provided under the Act, you should contact either your Local Trading Standards Department or your nearest Citizens Advice Bureau.

THIS LEGAL CHARGE made as a Deed the [        ] day of [        ]

BETWEEN [DEBTOR]

(‘the Debtor’) which expression shall where the context admits include persons deriving title under the Debtor or entitled to redeem this security of [address]

of the one part and [REGISTERED SOCIAL LANDLORD] of [ADDRESS]

(‘the Lender’ which expression shall where the context admits include persons deriving title under the lender) of the other part

WITNESSES AS FOLLOWS:

1 In this Deed the following words have the following meanings:

1.1 “Disposal” means a transfer to a third party of the Debtor’s interest in the Property or any part thereof or the grant of a lease whether periodic or for a fixed term other than an Exempt Disposal

1.2 “Exempt Disposal” means a disposal that is the vesting of the whole of the Debtor’s interest in the Property in a person taking under a will or on an Intestacy where such person is a member of the family of the Debtor who has resided with the Debtor throughout the period of 12 months ending with the

death of the Debtor and for the purposes of this Deed, a “member of the family” has the same meaning as that contained in section 62 of the Housing Act 1996 (as amended or replaced from time to time)

- 1.3 “Interest Rate” means 4 percentage points above the base rate for the time being of Barclays Bank PLC
- 1.4 “Key Worker” means an individual employed in one of the categories of employment from time to time specified by the Lender
- 1.5 “Property” means the property described in Schedule 1
- 1.6 “Repayment Date” means the date ascertained in accordance with the provisions of clause 7 of this Deed.
2. Unless the Debtor is one person all covenants and warranties by the Debtor shall be construed and take effect as joint and several covenants and warranties by the persons hereinbefore defined as the Debtor and all references to the Debtor shall include any one or more of the said persons.
3. In consideration of the Lender making the Advance the Debtor COVENANTS with the Lender to pay to the Lender:
  - 3.1 The Repayment Sum upon the Repayment Date and
  - 3.2 Interest thereon on demand at the Interest Rate from the Repayment Date until actual payment in full of the Repayment Sum and upon all other monies for the time being remaining due on this security or on any order or judgement which may be made or recovered hereunder.
4. The advance is £ [ ] which the parties agree represents [ %] of the value of the Property at the Date of this Deed (“the Advance”).
5. The repayment sum will be [ %] of the Disposal Value (“the Repayment Sum”).
  - 6.1 The Disposal Value is the value of the Property on the Repayment Date assuming a sale in the open market with vacant possession by a willing seller to a willing purchaser and that the Debtor has performed the covenants contained in this Deed but disregarding the value of any additions or improvements carried out by the Debtor after the date of this Deed in respect of which the Debtor shall have obtained the written consent of the Lender in accordance with clause 9.7 (“the Disposal Value”).
  - 6.2 The Disposal Value shall be ascertained by agreement between the parties (acting reasonably) or failing agreement at the expense of the Debtor by an independent qualified valuer appointed by agreement between the parties or failing agreement by or on behalf of the president for the time being of the

Royal Institution of Chartered Surveyors on the application of either party and the decision of such valuer shall be final.

- 7.1 The Repayment Date shall be the date of the earliest of the following events to occur:
- 7.1.1 a Disposal by the Debtor;
  - 7.1.2 (subject to Clauses 7.2, 7.3, and 7.5) the date falling two years after the date the Debtor ceases to be a Key Worker through leaving his or her current employment or where the Debtor is more than one person the date that none of the individual Debtors is a Key Worker as a result of such individual leaving his or her current employment; and
  - 7.1.3 the expiry of a default notice served by the lender under section 87(1) of the Consumer Credit Act 1974 following the Debtor being in breach of the Debtor's covenants and obligations hereunder.
- 7.2 A Repayment Date shall not arise pursuant to Clause 7.1.2 where the Debtor ceases to be a Key Worker as a direct result of the occurrence of one of the following events:
- 7.2.1 redundancy; or
  - 7.2.2 retirement provided that such retirement takes effect at least five years after the date of this Deed; or
  - 7.2.3 the Debtor's employment ceasing (with the relevant employer's consent) on health grounds as certified by an appropriately qualified professional.
- 7.3 Where with the agreement of his or her employer the Debtor ceases to be a Key Worker for a fixed period of up to three years ('the Break Period') on the basis that he or she will return to the employer's employment at the end of the Break Period but does not resume employment as a Key Worker upon the expiry of the Break Period the Debtor shall be deemed to have ceased being a Key Worker for the purposes of Clause 7.1.2 on the last day of the Break Period
- 7.4 For the avoidance of doubt the Debtor shall not be deemed to have ceased being a Key Worker for the purposes of Clause 7.1.2 where the Debtor changes jobs PROVIDED THAT:
- 7.4.1 The Debtor provides the Lender with full written details of the new job he intends to take up; and

- 7.4.2 The Lender confirms in writing to the Debtor that the Debtor will continue to qualify as a Key Worker whilst employed in such new job; and
- 7.4.3 The Debtor commences employment in such a new job within six (6) months of the date of the Lender's confirmation under clause 7.4.2 regardless of whether the categories of employment for a Key Worker may have changed during such six month period.
- 7.5 Where the Property is transferred via an Exempt Disposal to a transferee who does not qualify as a Key Worker a Repayment Date shall not arise pursuant to Clause 7.1.2 for the period of such transferee's ownership of the Property.

**NOTICE TO DEBTOR**

**IMPORTANT - YOU SHOULD READ THIS CAREFULLY**

**REPAYMENT OF CREDIT**

**Under this agreement there are no interest or other credit charges so the loan has no annual percentage rate (APR). But the amount you are required to repay when the loan comes to an end is linked to the value of your home at that time. You may have to repay less than you borrowed, or the same amount, but it is likely that you will have to repay more.**

**If you have to repay more than you borrowed, the effect will be similar to a loan under which you pay credit charges at the rate at which your home has increased in value. For example, if your home increases in value by 4 percent or 8 percent a year, the sum you will repay will be equivalent to borrowing under a loan with an APR OF 4.0 OR AN APR OF 8.0**

8. The Debtor CHARGES with full title guarantee the Property BY WAY OF LEGAL MORTGAGE with the payment to the Lender of the Repayment Sum interest and all other money covenanted to be paid by the Debtor or other wise secured by this Deed.
9. The debtor COVENANTS with the Lender at all times during the continuance of this security:
- 9.1 to keep the Property and all additions thereto in good and substantial repair (allowing the Lender to enter and view the state of repair of the same at all reasonable times and upon reasonable notice without becoming liable to account as mortgagee in possession) and insured against all usual comprehensive risks to the full reinstatement value thereof with a quoted insurance company and with the interests of the Lender noted on the policy

and duly and punctually to pay all premiums and other monies necessary for effecting and keeping up such insurance immediately on the same becoming due or within one week thereafter and on demand to produce to the Lender the policy of such insurance or a copy of the same and the receipt for every such payment

- 9.2 to apply all monies received in respect of such insurance in reinstating the Property or (at the option of the Lender) or in or towards the discharge of the Repayment Sum
- 9.3 to observe and perform all restrictive and other covenants conditions and stipulation (if any) for the time being affecting the Property or the use or enjoyment of the same or any part thereof
- 9.4 to pay and discharge all rents and service charges (if any) which now are or at any time during the continuance of this security may become payable in respect of the Property or any part thereof
- 9.5 to execute and do at the expense of the Debtor all such works and things whatever as may now or at any time during the continuance of this security be directed or required by any national or local or other public authority to be executed or done upon or in respect of the Property or any part thereof or by the owner or occupier thereof
- 9.6 to obtain all necessary licences permissions and consents and execute and do all works and things and bear and pay all expenses required or imposed by any existing or future legislation in respect of any works carried out by the Debtor on the Property or any part thereof or of any user thereof during the continuance of this security
- 9.7 not to make or cause or permit to be made any improvement alteration or addition to the Property nor carry out any development or change of user on the Property within the meaning of any legislation for the time being relating to Town and Country Planning without the previous consent in writing of the Lender (such consent not to be unreasonably withheld or delayed)
- 9.8 within seven days of the receipt thereof to deliver to the Lender full particulars of any notice or order or proposal therefore served or made by a planning authority affecting the Property or any part thereof of which the Debtor has notice and take all necessary steps to comply therewith and in default of such compliance permit the Lender to enter on the Property for the purpose of taking such steps
- 9.9 to notify the Lender within 7 days of the Debtor leaving his or her current employment (whether or not such change would lead to the Debtor ceasing to qualify as a Key Worker)

- 9.10 at the request of the Lender to make or join with the Lender in making such representations or objections or appeals in respect of any such notice order or proposal as aforesaid as the Lender may reasonably require and to indemnify the Lender against all costs charges and expenses properly and reasonably incurred by the Lender in respect of such representations objections and appeals
- 9.11 to occupy the Property as the Debtor's only or main residence.
10. If default shall at any time be made by the Debtor in the performance of any of the covenants contained in the preceding clause it shall be lawful for but not obligatory upon the Lender to perform the same and to pay all costs and damages occasioned by such default and with power in the case of any failure to repair in accordance with the covenants hereinbefore contained to enter upon the Property without becoming liable to account as mortgagee in possession and all monies expended by the Lender for any such purpose and all costs charges and expenses properly incurred by the Lender in relation to the protection or enforcement of this security whether involving litigation or not and on a complete unlimited and unqualified indemnity basis with interest thereon at the Interest Rate from the time of the same having been expended or incurred shall on demand be repaid to the Lender by the Debtor and until such repayment shall be a charge on the Property PROVIDED that the charge hereby conferred shall be in addition and without prejudice to any and every other remedy lien or security which the Lender may or but for the said charge would have for the recovery of monies thereby secured or any part thereof.
11. The Debtor will not without prior consent in writing of the Lender (which shall not be unreasonably withheld or delayed) exercise the power of leasing or agreeing to lease or accepting surrenders of leases conferred on a mortgagee in possession by the Law of Property Act 1925 nor otherwise grant or agree to grant any lease or tenancy of the Property or any part thereof nor confer upon any person any contractual right or interest to occupy the Property or any part thereof.
12. The statutory power of sale and of appointing a receiver shall arise on the date of this Deed and shall be exercisable at any time after this date and Section 103 of the Law of Property Act 1925 (which restricts the exercise of the said power of sale) shall not apply to this security.
13. If the Lender shall enter into possession of the Property or any part thereof of the Lender may from time to time go out of such possession and shall not be liable to account as mortgagee in possession while in fact out of such possession Provided that notice of such fact shall within seven days after its happening be served on the Debtor.

**IN WITNESS** whereof the Debtor has executed this Deed

**SCHEDULE 1**

Description of the property [ADDRESS]; [TITLE NUMBER]

This is a credit agreement regulated by the Consumer Credit Act 1974. Sign it only if you want to be legally bound by its terms.

Signed and delivered as a deed by the Debtor(s)

In the presence of:

Date(s) of signature(s)<sup>1</sup>

Common seal of Lender

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<sup>1</sup> Creditor may omit “date of signature(s)” where by virtue of Regulation 6(3) (c) of the Regulations, the date is not required.

### 10.3 KEY WORKER LIVING – EQUITY LOAN

#### EXPLANATION OF TERMS

This document is not a legal agreement. It explains the terms of the Key Worker Living Loan agreement (“the Loan Agreement”). It is essential that you satisfy yourself as to the terms of the loan and receive advice from your legal representative about it.

The Loan Agreement recognises that you are being lent a sum of money by a registered social landlord to assist you to purchase your home. In all probability, you will be borrowing further sums from a lender such as a bank or building society. That lender will also take a mortgage over your home.

The Loan Agreement contains a number of promises on your part. We refer to these later in this document.

As you can see from the first page of the Loan Agreement, the Consumer Credit Act 1974 affords you certain protection. Please note what it says in the loan agreement about obtaining more information from either your local Trading Standards Department or your nearest Citizens Advice Bureau. You can also ask your legal representative about this protection.

In the remainder of this document we explain the terms of the Loan Agreement in more detail:

Clause 1 contains definitions of a number of terms used in the Loan Agreement. Where you find these words used, please refer back to Clause 1 for an explanation of their meaning.

If you are purchasing your home jointly with one or more people, Clause 2 makes it clear that all the promises given in the loan agreement are given by you all jointly.

Clause 3 records that the registered social landlord lender has lent you what is described as the Advance. The Advance is described in more detail in Clause 4.

Clause 3.1 deals with the circumstances in which you will have to repay money to the registered social landlord lender. The Repayment Sum is the sum you would have to pay. That is described in more detail in Clause 5 as a percentage of the Disposal Value. The Disposal Value is then described in Clause 6. Essentially it is the value of the property on the open market on the assumption that you have complied with the promises in the Loan Agreement. When assessing the value, any alterations you have made to your home with the registered social landlord lender’s consent are to be disregarded. It is important to note that the value of improvements or alterations you have made to the property may not be the same as the cost you have expended on those items.

Clause 3.1 also refers to the Repayment Date. It is only upon such a date that you become liable to pay back the Repayment Sum.

Clause 6 goes on to say that the value of the property is to be agreed between you and your registered social landlord lender. If, however, you cannot agree, then an independent valuer will be appointed at your expense.

Clause 7.1 sets out three circumstances where a Repayment Date occurs. It is the earliest of these three dates that counts.

Clause 7.1.1 covers a Disposal. You will see in Clause 1.1 that a Disposal is any sale of the property or the granting of any lease or tenancy of the property. One category of disposal that will not, however, trigger repayment is what is described in Clause 1.2 as an Exempt Disposal. This is a transfer of the property upon your death to a member of your family who has been living with you throughout the period of twelve months ending with your death. It does not matter that the member of the family who inherits the property is not a Key Worker.

The second circumstance in which a Repayment Date can arise is described in Clause 7.1.2. Subject to some exceptions that are described further below, it is the date two years after you cease to be a Key Worker as a result of leaving your current employment. Clause 7.4 deals with the procedure for checking whether you will cease to be a Key Worker as a result of changing your job and this is described in more detail below. If you have purchased the property jointly with one or more other individual, then it would be the date two years after the date you have all ceased to be Key Workers as a result of leaving your current employment.

The third circumstance in which a Repayment Date can arise is described in Clause 7.1.3. Where you have not complied with the terms of the Loan Agreement, particularly the promises you have given under Clause 9 (which are described in more detail below) your registered social landlord lender may serve a notice giving you details of the breach, the action you need to take to remedy the problem and the time the lender will allow for you to do this. If you do not take the action required by the notice within the time set by the lender, a Repayment Date will arise.

There are various exceptions to the general principles set out in Clause 7.1.2. These are described in Clauses 7.2, 7.3 and 7.5.

Clause 7.2 provides that if you have ceased to be a Key Worker because you have been made redundant, retired (and that retirement takes effect at least five years after the date of this deed), or your employment ends on health grounds, then a Repayment Date does not arise because you have ceased to be a Key Worker. You will not be obliged to repay the loan to your registered social landlord lender two years after your employment ends, but you would still be required to repay the loan in the event of selling the property or transferring ownership, i.e. making a Disposal.

Clause 7.3 provides that if you agree a career break with your employer for a period of up to three years, then that period is disregarded for the purposes of Clause 7.1.2. In other words, during the period you are on your career break, you are, for the purposes of the loan agreement, treated as a Key Worker. Clause 7.3 goes on to say that if you do not return to employment as a Key Worker at the end of the career break, then you are deemed to have ceased to be a Key Worker at that point. Clause 7.1.2 would then take effect and a requirement to repay the loan would arise two years later.

Clause 7.5 makes it clear that even if the relative who inherits the property on your death via an Exempt Disposal is not a Key Worker, they are not obliged to repay the loan merely because they are not a Key Worker.

Clause 7.4 sets out the procedure to be followed in the event you intend to change your current employment. Clause 7.4 states that you will not cease to qualify as a Key Worker and will not have to repay the loan under Clause 7.1.2 if the following applies:

You provide your registered social landlord lender with full written details of the new job you intend to take; and

Your registered social landlord lender confirms in writing that you will continue to qualify as a Key Worker if you are employed in the new job.

Clause 7.4.3 confirms that where the registered social landlord lender confirms that you will remain a Key Worker in your new job and you start your new job within 6 months of the date of this confirmation, you will be deemed to remain a Key Worker whether or not the categories of jobs which qualify as Key Workers change during this 6 month period. If you do not start the new job within the 6-month period, or if you intend to take a different job to the one that has been approved, you will need to contact your registered social landlord lender again for confirmation that you will still qualify as a Key Worker.

If under Clause 7.1 a Repayment Date arises and you are obliged to pay to your registered social landlord lender the Repayment Sum, then Clause 3.2 provides that you will also pay interest on the Repayment Sum from the Repayment Date until the date you make payment in full. The Interest Rate is defined in Clause 1.3.

Clause 8 is what makes this document a “loan agreement”. It records that you agree to repay the Repayment Sum and that the loan agreement can be registered against the title to your property at the Land Registry.

Clause 9 sets out a number of promises that you give to your registered social landlord lender. These are in the main the sorts of promises you will also be giving to the Building Society or Bank from whom you are borrowing the remainder of the funds to purchase your home. You should read these promises carefully. They relate to matters including the condition of the property, the maintenance of insurance, the carrying out of works and your occupation of the property. Please note the specific requirement in

Clause 9.9 to notify your registered social landlord lender if you cease to be a Key Worker or you change jobs.

If you do not comply with the promises in Clause 9 regarding the condition of the property, or other matters dealt with in Clause 9, then Clause 10 allows the registered social landlord lender to carry out, for example, works of repair and charge you the cost of doing so.

Clause 11 restricts your ability to grant tenancies or leases of your home. Such tenancies or leases would, in any event, be a Disposal, as to which please see our earlier comments regarding Clause 7.1.1.

Clauses 12 and 13 of the loan agreement are technical provisions relating to the power of the registered social landlord lender to enforce the terms of the loan agreement.

### 3. NEW BUILD HOMEBUY

#### 1. INTRODUCTION

- 1.1 New Build HomeBuy through the Key Worker Living Programme is aimed at qualifying key workers who are unable to purchase a property on the open market outright or as an alternative option to the KWL Open Market Homebuy scheme, depending on individual needs and circumstances.
- 1.2 Key workers who are owner occupiers, including existing shared owners can access the scheme (subject to conditions in paragraph 5 below) but are required to sell their existing property or interest in their existing property at the same time as participating through KWL New Build HomeBuy.
- 1.3 Purchasers of New Build HomeBuy leases can buy an equity share based on a percentage of the full market value of the property. The range of initial equity shares can be between 25% (minimum purchase) and 75% maximum.
- 1.4 This section of the guide applies to all schemes that receive Grant for the development of homes for sale through New Build HomeBuy by RSLs under KWL and should be read in conjunction with Section 9 - Sale in the Capital Funding Guide. However, where there are policy and procedural differences, the guidance below in relation to Key Worker Living schemes will prevail.
- 1.5 New Build HomeBuy flats and houses can be provided through:
  - New build including Acquisition & Works, Off the Shelf (does not include the purchase of a single property) and Works Only schemes;
  - Rehabilitation including Acquisition & Works, Existing Satisfactory\*, Purchase and Repair and Works Only schemes.

\*only applies where a property is to be adapted for a disabled person.

Subsequent New Build HomeBuy are likely to become available as re-sale nominations. In these situations, the nominees will be qualifying key workers only.

- 1.6 In all instances the KWL New Build HomeBuy scheme operates as described below.

#### 2. PROPERTY PURCHASE

##### Eligibility

- 2.1. Properties made available for New Build HomeBuy through KWL may be part of a development that RSLs develop themselves or acquire from a developer.

- 2.2 It is expected that in the main, and specifically in respect of homes developed by an RSL, that the standards specified as 'essential items' in Section 1: Quality of Housing of the current version of the Scheme Development Standards will be met. It is recognised that in instances where properties are acquired from developers it may not be possible, however where [RSLs] have a choice of schemes for acquisition the higher standard is the preferred option.
- 2.3 All properties provided for KWL New Build HomeBuy by RSLs must meet the following criteria:
- A size suitable for the key worker's housing needs. Guidance at Annex B;
  - Wholly for residential use (a home where planning use is part commercial is not eligible. Flats over a shop would be eligible, provided that the flats are self contained and wholly residential);
  - Available with vacant possession and immediately habitable
  - New properties must have a National House Building Council (NHBC) guarantee or similar warranty;
  - New developments must be on freehold land or have a lease length of at least 99 years.
- 2.4 not The following programmes based on the New Build HomeBuy framework are available through KWL:
- Rural repurchase/restricted staircasing
  - Do-it-yourself Shared Ownership (DIYSO)
  - Leasehold Schemes for the Elderly
  - Self Build

### **3 RENTS**

- 3.1 In setting rents the RSL must have regard to the affordability of the [rents] to the intended client group and ensure the [rents] are sufficient to cover the RSL's long-term loan repayments but is not obliged to charge a [rent] equal to the actual amount necessary to repay the long-term loan. The maximum initial rent for New Build HomeBuy is 3%, of the unowned equity however RSLs are expected to aim for a target rent of 2.75%. Annual rent increases must not exceed RPI +0.5%. In addition to the rent, the RSL will need to determine an appropriate service charge that should include the cost of management and insurance. The RSL should be aware of the requirements in the Resident's Charter and comply with the Landlord and Tenants Acts in respect of setting rents and charges

### **4 CLAWBACK**

- 4.1 Where a Key worker leaves a qualifying form of employment, they will be required to sell their share to a nominee of the RSL Landlord or buy out the RSL Landlord's interest i.e. staircase to 100% within 5 years or the term determined in the lease. Under the terms of the clawback provisions of the lease the nomination period on re-sale prior to final staircasing is eight weeks

and the purchaser is expected to have exchanged contracts within twelve weeks of receipt of the draft contract.

- 4.2 Changes in the sector specific eligibility criteria will not, on their own, trigger clawback. Beneficiaries' eligibility status will be judged against the criteria prevailing at the time they were granted assistance under the scheme, unless they change employment or wish to exercise the portability option in which case their eligibility will be re-assessed against the current version of the sector specific eligibility criteria
- 4.3 If, within the timescale stipulated in the lease, the non-qualifying Key worker has not sold on their share or staircased to 100%, the RSL can require them to do so by serving a notice, giving them 3 months to remedy the breach of their lease. Failure to remedy the breach can result in the RSL seeking specific performance or damages for breach of contract through the courts. The RSL will need to get their own legal advice as the most appropriate course of action in these instances.

All valuation fees will be payable by the New Build HomeBuy owner.

#### **Exclusions**

- 4.4 The clawback rules would not apply where a key worker left their employment because:
- they retired, provided that a minimum of five [5] years continuous service has been undertaken since the qualifying key worker was granted assistance under the scheme
  - they were made redundant
  - they left with the employer's permission, for health reasons validated by a health professional (i.e. early retirement on health grounds, dismissal on health grounds)
  - they died in service (when it would become a matter for probate)

In such cases, sale of the property or transfer of ownership only would trigger repayment.

- 4.5 Repayment would also not be required if they took a career break of up to 12 months with their employer's permission. This period could be extended to a maximum of three years, at the employer's discretion in exceptional circumstances, with an assumption that this would be for family reasons. Further extensions beyond the three years will trigger the clawback requirements. There may be other special circumstances where it would be appropriate to defer repayment until a later date on sale of the property or transfer of ownership. All exceptional cases should be presented to the Housing Corporation who will decide whether this approach is merited.

**Divorce**

- 4.6 There could be circumstances where a court is considering the terms of the property settlement that could result in the property being transferred to a non-key worker. They will serve the RSL landlord with an application form indicating the intention to proceed for ancillary relief, i.e. a property transfer order. The RSL landlord should ask to see the financial statement, setting out the applicant's financial situation and agree with the Housing Corporation whether it is appropriate to defer or waive the clawback, should the court decide that immediate sale of the property would not be advisable. As a general rule clawback should be applied as usual if there are: a) no children; or b) there are children, but both parties can be adequately housed from the proceeds of the sale. Waiver or deferral clawback would normally only be considered if there are children under the age of 18 or in full time education, and re-housing would be difficult, or other extenuating circumstances apply.

**Change of employment**

- 4.7 Clawback will not apply as long as the new post qualifies as eligible employment under the scheme as set out in Annex B. The only exceptions to this rule are:
- If eligible police force employees (including British Transport Police and the Civil Nuclear Constabulary) wish to make a permanent transfer to another police force, or any other eligible employment, it will be up to the exporting police force to decide whether to invoke the clawback provisions.
  - If eligible fire and rescue service employees wish to make a permanent transfer to another fire and rescue service, or any other eligible employment, it will be up to the exporting service to decide whether to invoke clawback or allow the key worker to retain the loan.

**5 MOBILITY**

- 5.1 If the Key worker is in qualifying employment and needs to move as a result of a change in household circumstances, subject to an assessment of on-going eligibility and financial viability, the opportunity to move to another New Build HomeBuy unit or participate in KWL Open Market Homebuy should be afforded. The New Build HomeBuy owner must offer their property back to the RSL for nomination to another qualifying Key Worker. When exercising the mobility option the key worker will be required to meet any valuation / legal fees.

**6 SCHEME PROCESSING**

- 6.1 RSLs are expected to accommodate changes in property prices in delivering their agreed programme. If an RSL considers that it is unable to deliver the programme this must be reported to the Corporation. Variations will only be agreed in exceptional cases. Where changes to property prices or incomes

mean that more or fewer workers can be housed with a given allocation, the allocation will be amended to reflect the agreed, revised figures. Where an RSL is failing to deliver within the agreed grant limits, to the agreed timetable or there is insufficient demand from priority key workers, the Corporation may transfer the allocation to another RSL. The Corporation reserves the right to amend or transfer an allocation at any point before the final grant claim has been paid.

## **7 GRANT PAYOUT**

- 7.1 The RSL should make a submission for Payment of SHG no later than five working days before it is required. There will be three grant tranches under a partnering arrangement and four under a traditional bid. Please see *General Section para.- 3*

## **8 SCHEME INFORMATION**

- 8.1 RSLs must submit information on each completed sale with their final grant claim for each case. This information is required to enable the Corporation, for each allocation and generally, to report on progress of KWL and monitor the types of assistance and amounts of subsidy provided. The information required on each sale will be:

- name of key worker
- the property address
- the type of key worker
- name and type of key worker where two key workers are purchasing together
- ethnic origin
- gender
- declared disability (if any)
- length of time in their occupation
- the employer (e.g. Health Trust, Police authority, LEA)
- place of work (e.g. name of school/hospital)
- sponsor local authority (the local authority area where the purchaser is employed)
- location local authority - LA area of purchase
- value of property
- property type
- number of bedrooms
- number of children and adults in the household
- development type e.g. OTS, NB
- 
- total household income
- number of adult household members who have an income

- market value of the unit
- percentage of equity purchased
- rent payable
- administration charge
- additional employer/RSL subsidy
- the lender
- date of completion

In addition to the information in IMS, HomeBuy agents will be required to provide further management information direct to DCLG and the Housing Corporation. RSLs will need to provide HomeBuy agents with the information for New Build HomeBuy and complete a CORE sales log.

- 8.2 The final tranche of SHG can only be paid in respect of a complete submission, which includes all the sales information.

## **9 RECYCLING OF GRANT**

- 9.1 Where KWL assistance is in a form that is repayable by the purchaser on disposal, leaving the qualifying form of employment, staircasing or other event, grant must be shown separately in the RSLs accounts and repaid to the Corporation. HomeBuy agents receiving direct NAHP Open Market HomeBuy allocations can retain the grant for recycling into KWL. Non-HomeBuy Agent receipts will be allocated for the provision of additional homes through the programme. Further guidance will be issued on accounting for and the permitted uses of recycled KWL grant.

- 9.2 In circumstances where the RSL chooses to exercise the Right of First Refusal or the pre-emption option and buys back the property there is no requirement to offer the property to another qualifying Key worker unless the purchase is funded from RCGF receipts arising from KWL sales.

### **Treatment of surpluses**

- 9.2 Surpluses generated as a result of the repayment on staircasing or disposal of shares, repayment of grants or redemption of mortgages (including clawback) attributable to KWL funding must be shown separately in the RSLs' accounts. The Housing Corporation is not expecting to recover surpluses arising on properties funded through the KWL programme 2004/6 or 2006/8, however consideration is being given to the position in future years. Further guidance will be issued on accounting and reporting on the surpluses generated from KWL.

## **VALUATIONS**

- 10.1 The valuation current at the time of the offer will be assumed to be valid for three months from the date of the re-sale offer for both a nominated sale and staircasing to 100%. RSLs have the discretion to extend the three-month

period to six months where there has been a delay outside the control of the leaseholder.

## 11 LEASES

11.1 The Corporation has published sample KWL New Build HomeBuy leases for both flats and houses. Versions of these sample leases are available on the Corporation's website [www.corporation.gov.uk](http://www.corporation.gov.uk). The site's main Homepage provides a direct link to the Capital Funding Guide where there is a direct link to the leases.

11.2 RSLs are not obliged to adopt the Corporation's sample lease but need to be aware that the provisions of the lease will be binding on both parties. However to qualify for KWL funding RSLs must ensure that leases contain the fundamental clauses.

### Staircasing Provision

11.3 All Key Worker New Build HomeBuy leases must contain provisions allowing the Leaseholder to buy further shares up to 100%. Leases containing restrictive staircasing provision will make the scheme ineligible for grant funding.

11.4 Although RSLs may vary the size of equity shares that may be purchased, the initial share must not be less than 25% of market value. The lease must provide that the leaseholder can staircase to 100% in minimum tranches/shares of 10%, however leaseholders should be made aware that staircasing in minimum tranches of 10% up to 100% can be expensive and if they can afford to do so be encouraged to staircase in larger tranches e.g. 25%.

### Stamp Duty and Legal Fees

11.5 Purchasers of New Build HomeBuy leases are responsible for the payment of their own legal fees and Stamp Duty Land Tax (SDLT). The leases should contain, for discussion with the purchaser, an appropriate SDLT statement which gives an option to the purchaser of paying SDLT on the actual premium and rent paid and on future staircasing; or, for example, on the open market value plus minimum rent at the time of purchase (as set out in the SDLT statement).

11.6 Where a New Build HomeBuy owner buys additional shares in the property pursuant to a shared ownership lease granted after 17 March 2004, subject to certain conditions, and irrespective of whether or not the SDLT statement is included in the lease, when staircasing takes place, the shared owner will not be liable for SDLT on the staircasing. However, this is subject to the condition that immediately after staircasing, the shared owner's share in the property must not be greater than 80%.

### Fundamental Clauses

11.7 The following clauses are set out in the sample leases published by the Housing Corporation and must be included in any New Build HomeBuy lease to qualify a scheme for grant funding:

- Alienation provisions (refer to clause 3(15) in the sample flat lease - clause 3(14) in the house lease)
- Mortgagee protection (refer to clause 8 in the sample flat lease - clause 6 in the house lease)
- Staircasing provisions (refer to the fifth schedule of the sample flat lease - fourth schedule in the house lease)
- Rent review (refer to the fourth schedule of the sample flat lease - third schedule in the house lease)
- Service charge provision (where appropriate) - refer to clause 7 of the sample flat lease.
- 

11.8 In addition to the standard fundamental clauses above, the following are fundamental clauses for KWL New Build HomeBuy and constitute a lease requirement to qualify for grant funding through KWL:

- Clawback provision (refer to clause 3(16))
- Qualifying Key worker (refer to clause 3 (17))

#### **Nominations**

11.9 Where a New Build HomeBuy owner is looking to sell their share either voluntarily or under the clawback provisions only qualifying Key workers are eligible to purchase the property. If, within eight weeks, the RSL is unable to nominate an eligible purchaser, the leaseholder will need to staircase to 100% and can sell without restriction on the open market, however it has to be at the price at which the 100% staircasing was affected.

#### **Sub-letting**

11.10 The New Build HomeBuy property is to be occupied as the only or main residence. Leases must prohibit sub-letting by the leaseholder to protect public funds and ensure applicants are not entering New Build HomeBuy for commercial gain

11.11 RSLs may consider, on a case-by-case basis, requests to sub-let in certain controlled circumstances. RSLs should consider the following criteria when dealing with requests:

- the reasons for sub-letting are genuine and unavoidable, and are not for speculation or gain;
- the terms of the sub-let are for a fixed period after which the lease must revert back to the original New Build Homebuy owner;
- the permission of the mortgage lender will also normally be required.

11.12 In all cases RSLs should seek their own legal advice before agreeing to sub-letting.

#### **Right of First Refusal/ Pre-emption**

11.13 Following final staircasing the buyback/nomination period on resale is six weeks and completion should occur within 4 weeks of the offer being accepted.

## **12 CASCADE PRINCIPLES for KWL NEW BUILD**

12.1 Where RSLs experience voids as a result of slow take up of units the Housing Corporation has introduced Cascade Principles.

### **General Principles**

12.2 It is assumed that bids for the development of these homes were made on the basis that there was a need and demand in that locality for Key worker accommodation. Accordingly, every reasonable effort should be made to market the units to the identified eligible key worker groups. Developing RSLs are expected to market their new build units prior to the formal handover. It is the developing RSLs responsibility, not the HomeBuy Agents, to market schemes appropriately.

12.3 Any units subject to a tight S106 agreement should be brought to the attention of the Corporation's local Investment Officer and consideration given to whether it is possible to suspend these agreements.

12.4 RSLs should provide the Corporation with evidence of the marketing activity that has taken place, an evaluation of why the units are not attracting eligible key workers based on local housing market intelligence, and an analysis of the demand from any other groups for the units.

### **Cascade Options**

12.5 Where units have been void for more than three months or where the Corporation and/or the RSL identifies that units will be unlikely to sell/let within three months due to local market conditions the Corporation will then work with the RSL to identify options to deal with the units based on the evidence provided. Decisions can either be made on a scheme by scheme basis or to cover a group of schemes in a location dependent on local market conditions.

12.6 Options can include:

- 'KWL grant neutral' switching between shared ownership and intermediate renting;

- Extending the eligibility criteria for the units to include all permanent employees (inc administrative staff) of eligible organisations within the current groups;
- Exchanging KWL units for general needs units. The Corporation will, of course, need to consider any impact of any such changes on its ability to achieve its overall KWL targets.

RSLs must not implement these options without formal Corporation approval.

## 13 CLAWBACK

### KEY WORKER LIVING – CLAWBACK PROVISIONS IN NEW BUILD HOMEBUY LEASES

#### EXPLANATION OF TERMS

This document is not a legal agreement. It explains the terms of the clauses that will be included in shared ownership leases granted under the Key Worker Living Scheme. It is essential that you satisfy yourself as to the provisions of these clauses and receive advice from your legal representative about them.

**\*\*Please note that the clause references for the House lease are slightly different to those set out below (which refer to the clauses in the flat lease). In considering a house lease, references below to Clause 3(16) should be read as references to Clause 3(15) and references to Clause 3(18) should be read as references to Clause 3(16).**

Clause 3(16)(a) of the sample Housing Corporation Shared Ownership Lease says that if the lease is assigned in circumstances other than those set out in clause 3(16)(b) your registered social landlord can require the person to whom the lease was assigned to buy the remaining share in the property. For example therefore, if somebody purchased a 25% share and it wasn't assigned with the agreement of the registered social landlord they can require the person that has purchased that 25% to purchase the remaining 75%.

Clause 3(16)(b) sets out the circumstances in which you will not be required to purchase the remaining share i.e. where your share in the property passes under your Will or by Intestacy to a member of your family who has lived with you for a period of twelve months up to your death; or where the assignment is to someone nominated by your registered social landlord. In the latter case such nomination has to be made within eight weeks of receiving a notice from you that you wish to sell your property and the price is to be calculated in accordance with the provisions of clause 3(16)(ii)(b).

Clause 3(18) defines "Key Worker" as someone employed in one of the categories of employment that your registered social landlord specifies from time to time. Under clause 3(18)(a) if you cease to be a Key Worker because you leave your current employment (or if you own the property with others and all of the property owners who

are Key Workers cease to be Key Workers through leaving their employment), you have to notify your registered social landlord within seven days of leaving and you must either purchase the remaining share in the property or sell your lease to someone nominated by your registered social landlord under the provisions of clause 3(16) above. In either case you must do this within five years after you (or the other owners of the property, if this applies) cease to be a Key Worker as a result of leaving your current employment.

If you do not either purchase the remaining share in the property or sell your lease to someone nominated by your registered social landlord within five years after you (or the other owners of the property if this applies) cease to be a Key Worker as a result of leaving your current employment, you will be required to sell your lease to someone nominated by your registered social landlord in accordance with the provisions of Clause 3(16) above. If your registered social landlord either:

- does not nominate anyone within a further 8 weeks; or
- you do not exchange contracts to sell your lease to someone nominated by your registered social landlord within 12 weeks of the buyer's solicitor receiving a draft contract from your solicitor;

Clause 3(18)(c) will apply which provides that you may be required to purchase the remaining share in the property within three months of notice being served on you. To enable you to repay the outstanding share you are permitted to sell the property to another person (who does not need to be a Key Worker) provided they buy your share and the registered social landlord's remaining share at the same time (i.e. 100%).

Clauses 3(18)(d) provides that if you have not either sold your lease or purchased the remaining share in the property in accordance with the above provision by the date falling 5 years after you (or the other owners of the property if this applies) cease to be a Key Worker, you will be deemed to have served notice on your registered social landlord stating that you wish to assign your lease and the provisions of Clauses 3(18)(a)(ii), 3(18)(b) and 3(18)(c) shall apply.

There are various exceptions to the general principle set out in clause 3(18)(a). These are described in clause 3(18)(e)(f) and (g). (\*\***Please note that these clause numbers are slightly different in the house lease as highlighted in italics below**).

Clause 3(18)(e) (*Clause 3(16)(f)*) provides that if you have ceased to be a Key Worker as a consequence of redundancy or retirement (provided you do not retire before you have been a leaseholder of the property for at least 5 years) or you cease to be employed on health grounds, then you do not have to take the action described in clause 3(18)(a).

Clause 3(18)(f) (*Clause 3(16)(g)*) provides that if you agree a career break with your employer for a period of up to three years, then that period is disregarded for the purposes of clause 3(18)(a). In other words during the period you are on your career break, you are, for the purposes of the shared ownership lease, treated as a Key Worker. Clause 3(18)(f)

goes on to say that if you do not return to employment as a Key Worker at the end of the career break, then you are deemed to have ceased to be a Key Worker at that point. Clause 3(18)(a) would then take effect and a requirement either to buy the remaining share in the property or to sell to a nominee of your registered social landlord would arise within the following two years.

Clause 3(18)(g) (*Clause 3(16)(h)*) sets out the procedure to be followed in the event that you intend to change your current employment. This clause states that you will not cease to qualify as a Key Worker and will not have to take the action under clause 3(18)(a) if the following applies:-

- (i) You provide your registered social landlord with full written details of the new job you intend to take; and
- (ii) Your registered social landlord confirms in writing that you will continue to qualify as a Key Worker whilst you are employed in your new job.

Clause 3(18)(g)(iii) provides that where your registered social landlord has confirmed to you that you will remain a Key Worker in your new job and you start your new job within six months of the date of this confirmation, you will be deemed to remain a Key Worker whether or not the categories of jobs which qualify as Key Workers change during this six month period. If you do not start your new job within the six month period, or if you intend to take a different job to the one which has been approved, you will need to contact your registered social landlord again for confirmation that you will still qualify as a Key Worker.

Clause 3(18)(h) (*Clause 3(16)(i)*) provides that if you do sell your portion together with the registered social landlord's share of the property to another person after you have ceased to be a key worker, (provided that the sale price is no more than the Market Value paid on the final staircasing), they will not incur the usual penalty payment that is set out in Paragraph 3 of the Fourth Schedule.

In the flat lease, Clause 3(19) contains provisions for a restriction to be registered at the Land Registry against your title to prevent your property being sold without a certificate from your registered social landlord confirming that Clauses 3(16), 3(17) and 3(18) (where applicable) have been complied with.

In the house lease, Clause 3(16)(e) contains provisions for a restriction to be registered at the Land Registry against your title to prevent your property being sold without a certificate from your registered social landlord confirming that Clauses 3(15) and/or 3(16) (if applicable) have been complied with.



## 4 INTERMEDIATE RENTS

### 1 INTRODUCTION

- 1.1 The Intermediate Rent scheme is designed to assist in the recruitment and the retention of frontline key workers by making homes available for rent. This is particularly relevant for staff in the health, education and community safety sectors, whose services are essential to local communities but who are unable or do not wish to purchase a home. The intention is to target key workers who cannot afford market rents in areas within a reasonable travelling to work distance of their workplace.
- 1.2 Annex B contains details of the specific eligibility and needs criteria for each key worker sector. KWL operates in London, the South East or East. In addition to the sector eligibility rules outlined, there are further variations **for intermediate rent schemes only** as follows:
- Indefinite leave to enter/ remain is not necessary although there must be at least 6 months remaining on the key worker's work permit at the commencement of the tenancy.
  - Key workers who have temporary contracts with at least 6 months remaining at the commencement of the tenancy are eligible and do not need to meet the further requirements in Annex B in relation to the terms of their temporary contract. Those on permanent contracts are also eligible for the intermediate rent scheme.
  - Trainee key workers with an employment contract are eligible for the intermediate rent, where they are undertaking 'on the job' training rather than training for a qualification that would enable them to become a key worker.

### 2 RENTS

- 2.1 In common with key worker schemes at below market rents provided under the Challenge Fund the rent re-structuring framework applicable to mainstream social rented housing does not apply to KWL Intermediate Rent. The rent of homes available for KWL Intermediate Rent must not exceed 80% of the current local market rent. Wherever possible a figure significantly lower than this but higher than social rents should be anticipated. Annual rent increases should be limited to RPI plus 0.5%.
- 2.2 Landlords can request the first month's rent in advance when the tenancy agreement is signed and can also request up to the equivalent of a further month's rent at that time as a returnable deposit against breakages/damage.
- 2.3 Either fixed or variable service charges can be used and, where payable, should be reasonable. RSLs should look to adopt the principles of the

Tenant's Charter and comply with the Regulatory Code where possible, in respect of the management of Intermediate Rented properties.

### **3 TENANCY AGREEMENT**

3.1 Applicants for Intermediate Rented homes must be granted Assured Shorthold Tenancies (AST). Contractual periodic tenancies should be granted in all cases. In no circumstances should 'permanent' Assured Tenancies be granted.

#### **3.2 Single/ Joint Tenancy**

Where the property is let to joint tenants the assured shorthold tenancy will be granted to both parties who both need to be fully aware of the terms. It should be made clear in the conditions attached to any joint tenancy that at least one party must remain in eligible key worker employment. Both the key-worker tenant and the non-key-worker tenant are placed under an obligation to inform the landlord RSL in the event that the key worker tenant ceases to be a key worker.

3.3 Below are examples of the clauses in relation to:

Key Worker (mandatory)

Change of Employment notification

Rent

that we would expect to see included in the Assured Shorthold Tenancy. They are for illustrative purposes only and we do not accept any liability for any errors with the examples. We strongly advise landlords to obtain independent legal advice on the appropriate drafting for their assured shorthold tenancy agreements.

#### **Key Worker**

3.4 Where a Key Worker is considering a change in their employment they should check with their landlord that the proposed post will be a qualifying post for the purposes of the KWL scheme. The tenant should provide the landlord with full written details of the new job prior to taking it up. The landlord will confirm in writing to the tenant whether or not they will continue to qualify as a Key Worker whilst employed in the new job. This will be determined by the Key Worker eligibility criteria listed in Annex B that may be amended from time to time by the Housing Corporation in conjunction with the DCLG. The tenant has six months in which to commence employment in that job from the date of the landlord's confirmation that it is a qualifying post. Should the qualifying categories of employment have changed during these 6 months, the tenant is still eligible / a qualifying Key worker.

Draft Clause "For the purposes of this agreement a "Key Worker" means an individual employed in one of the categories of employment from time to time specified by the Landlord. A current list of the qualifying posts/ criteria to be available from the landlord on request.

If a tenant changes their job during the tenancy he/she will cease to be a "Key Worker" unless:-

(i) He/she provides the Landlord with full written details of the new job he/she intends to take up; and

(ii) The Landlord confirms in writing that he is content that the tenant will continue to qualify as a Key Worker whilst employed in that new job; and

(iii) The tenant commences employment in that new job within six (6) months of the date of the Landlord's confirmation under sub-paragraph (ii).

For the avoidance of doubt, if the Landlord is satisfied that the job that the tenant is proposing to take up is one that falls within one of the categories of employment that they have for the time being specified as a "Key Worker" occupation the Landlord may not withhold their consent to the tenant remaining a Key Worker for the purposes of this agreement."

### 3.5 Change of Employment notification

Under the terms of the tenancy agreement the Key worker is required to notify the landlord within seven days of leaving their current qualifying employment. The landlord will need to decide which of the following draft clauses they wish to use in their tenancy agreements:

*Option A* " to notify the Landlord within 7 days of the tenant leaving his or her current employment (whether or not such change would lead to the tenant ceasing to qualify as a Key Worker) **or**

*Option B* " to notify the Landlord within 7 days of any one of the tenants leaving his or her current employment (whether or not such change would lead to the tenant ceasing to qualify as a Key Worker)

### Rent

- 3.6 Within the tenancy agreement the rent payable should be expressed as the market rent that is discounted whilst the tenant remains a qualifying key worker. Once the tenant is no longer a qualifying Key worker the market rent is payable from the next rental payment period i.e. the next month, and recoverable at that level until the property is vacated. The landlord will need to decide which of the following draft clauses they wish to use in their tenancy agreements:

"The monthly rent for the premises at the date of this agreement is £...."

"The payment of monthly rent is due in advance on the ... day of each month."

*Option A* "If, on the date that rent is due the tenant is employed as a key worker, the rent to be paid shall be reduced by .....x.....percent " **or**

*Option B* "If, on the date that rent is due one of the tenants under this agreement is employed as a key worker, the rent to be paid shall be reduced by .....x.....percent "

#### **4 CESSATION AS QUALIFYING KEYWORKER**

- 4.1 It must be a condition of the assured shorthold tenancy agreement that when a key worker leaves a qualifying form of employment the tenancy must be terminated and the property surrendered. In addition the market rent will be charged from the next rental payment period until such time as the property is vacated. Changes in the sector specific eligibility criteria will not, on their own, trigger a requirement to surrender the property. A beneficiary's eligibility status will be judged against the criteria prevailing at the time they were granted assistance under the scheme .unless they change employment or wish to transfer to another property or participate in one of the other KWL options, in which case, their eligibility will be re-assessed against the current version of the sector specific eligibility criteria.

##### **Exclusions**

- 4.2 A key worker would not have to surrender their tenancy but the market rent would be payable from the next rental payment period if they left their employment because:
- (i) They retired, provided that a minimum of five [5] years continuous service has been undertaken since the qualifying key worker was granted assistance under the scheme
  - (ii) They were made redundant
  - (iii) They left with the employer's permission, for health reasons validated by a health professional (i.e. early retirement on health grounds, dismissal on health grounds)
- 4.3 There may be other special circumstances where it would be appropriate for the landlord to delay or defer seeking possession of the property. Exceptional cases should be referred to the Housing Corporation who will decide whether the proposed approach is merited. Repossession action would not be required if the key worker took a career break of up to 12 months with their employer's permission. This period could be extended to a maximum of three years, at the employer's discretion in exceptional circumstances, with an assumption that this would be for family reasons.

##### **Change of employment**

- 4.4 If the key worker changes employment, surrender of the tenancy will not be required as long as the new post qualifies as eligible employment under the

scheme and this is confirmed in line with 3.4 above. The only exceptions to this rule are:

- If eligible police force employees (including British Transport Police and the Civil Nuclear Constabulary) wish to make a permanent transfer to another participating police force, or any other eligible employment, it will be up to the exporting police force to decide whether to revoke or allow the key worker to retain the tenancy.
- If eligible fire and rescue service employees wish to make a permanent transfer to another fire and rescue service, or any other eligible employment, it will be up to the exporting service to decide whether to revoke or allow the key worker to retain the tenancy.

### **Recovering the Property**

- 4.5 The provisions take effect from the date that the tenant leaves eligible employment. Thus, the landlord will be expected to take action to recover the property at the earliest opportunity. In addition, the market rent is payable from the next payment period until such time as the property is vacated. If the tenant returns to eligible employment before the possession order comes into force the property recovery provisions no longer apply.
- 4.6 The RSL should make contact with the tenant and set out the next steps as soon as they become aware that the tenant is no longer a qualifying key worker. The RSL will be expected to use all reasonable endeavours to recover debts. As landlord the RSL will initiate legal action to recover possession of the property, but the tenant needs to be informed of the landlord's intention to recover the cost of any legal action from them.
- 4.7 RSLs are expected to manage cases resulting from the loss of the qualifying form of employment and consequent breach of tenancy, providing advice and referring them to appropriate agencies such as the Local Authority. RSLs need to be mindful about the status of those who are on work permits, as the rules may prevent them from having recourse to public funds via access to public sector housing.
- 4.8 Where a Key worker dies in service, RSLs will be expected to manage such cases so as to avoid unnecessary hardship for any household members remaining in the property.

## **5 RECYCLING OF GRANT**

- 5.1 In circumstances where units are transferred or disposed of, e.g. as a result of stock rationalisation, (or in other circumstances where the grant is no longer being used for Intermediate Rents properties), grant must be repaid to the Corporation. Further guidance will be issued on accounting for and the permitted uses of recycled intermediate rent grant.

## 6 MONITORING INFORMATION

6.1 RSLs must submit information on each completed letting. This information is required to enable the Corporation, for each allocation and generally, to report on progress of KWL and monitor the types of assistance and amounts of subsidy provided. The information required on each letting will be:

- name of key worker
- the property address
- the type of key worker
- name and type of second key worker where two key workers are purchasing together
- ethnic origin
- gender
- declared disability (if any)
- length of time in their occupation
- the employer (e.g. Health Trust, Police authority, LEA)
- place of work (e.g. name of school/hospital)
- sponsor local authority (the local authority area where the tenant is employed)
- location local authority - LA area of purchase
- development type e.g. OTS, NB
- number of children and adults in the household
- date of letting
- total household income
- number of adult household members who have an income
- monthly rent charged
- % of market rent
- monthly service charge
- additional employer/RSL subsidy

In addition to the information in IMS, HomeBuy agents will be required to provide further management information direct to DCLG and the Housing Corporation. RSLs will need to provide HomeBuy agents with the necessary information as required.

**ANNEX A THE HOMEBUY AGENT'S ROLE**

- 1.1 The HomeBuy Agent's role has now been expanded from just Key Worker Living in the South-East, London and East regions to cover all HomeBuy products across England from 1 April 2006.
- 1.2 For further information please refer to the Home Buy Agents Agreement with the Corporation and HomeBuy Agents Agreement with Developing RSLs. The agreements are contained within one document which is available on the Corporation's website, [www.housingcorp.gov.uk](http://www.housingcorp.gov.uk) . The site's main homepage contains a direct link to the Capital Funding Guide where there is a link to the agreement.

## ANNEX B

### KEY WORKER ELIGIBILITY CRITERIA

To be able to participate in the Key Worker Living programme all applicants must be employed in a qualifying post as listed below and must:

- be unable to buy/ rent a home suitable for their household needs within a reasonable travel to work area of their employment.
- be permanent employees or be temporary employees where all the following conditions are met at the time of application:
  - i. at least 6 months must be remaining on the contract;
  - ii. the contract must have been issued at the outset for at least 12 months;
  - iii. at least 3 months of the contract have already elapsed;
  - iv. for HomeBuy the RSL is satisfied having regard to the applicant's skills, employment record and intentions that there is a reasonable prospect of continuing employment as a qualifying key worker sufficient to sustain home ownership in the longer term.
- have indefinite leave either to enter or to remain in the UK (excluding key workers from member states of the EU/EEA who are treated in the same way as UK nationals)
- have a household income that does not exceed £60K (except for applicants who applied for LCT prior to 1 April 2006 whose household income must not exceed £80K)
- be first time buyers or existing home owners who need to move home to meet their household needs.
- sell their existing property if they own one.

In addition to eligibility rules outlined above, there are further variations **for intermediate rent schemes only** as follows:

- Indefinite leave to enter/ remain is not necessary although there must be at least 6 months remaining on the key worker's work permit.
- Key workers who have temporary contracts with at least 6 months remaining at the commencement of the tenancy are eligible and do not need to meet the further requirements above in relation to the terms of their temporary contract. Those on permanent contracts are also eligible for the intermediate rent scheme..
- Where key workers who have employment contracts but are still training they are not eligible for HomeBuy but they can have access to intermediate rent until they complete their training.

Size of properties

The HomeBuy Agent / RSL must determine the current needs of the applicant's household, taking into account the number of people in the household, their age and gender and other family circumstances e.g. where the applicant has divorced or separated and children visit on a regular basis, there may be a need for an additional bedroom.

As a guide, 1 bedroom more than required based on current household composition.

Homes with more than 4 bedrooms may be purchased only in exceptional circumstances.

Location

Properties must be purchased within reasonable travelling distance of the workplace. The HomeBuy Agent/RSL will determine what this is for the areas they cover and will consider each case individually.

**SECTOR SPECIFIC ELIGIBILITY CRITERIA**

This section contains details of the specific eligibility and needs criteria for each key worker sector. Posts qualify as eligible employment under the scheme as set out below within London, South East or East regions (using Government Office boundaries). Any exceptions are indicated.

**EDUCATION****London Challenge Teacher Open Market HomeBuy assistance up to £100k**

## 1. All applicants must:

- be qualified teachers in a school in the Greater London area; employed in maintained nursery (early years) primary or secondary schools including:
  - City Technology Colleges;
  - City Academies;
  - Schools for children with special needs;
  - Pupil referral units; or,
- be hospital-based teachers or peripatetic teachers employed by a Local Education Authority or qualified teachers employed in the Ethnic Minority Advisory Service, Inclusion Support Services or similar services by a Local Education Authority, or be qualified teachers in a non-maintained school for children with special needs where the pupils are LEA funded (within the Greater London area).

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2. Applicants must score a minimum of 7 points to qualify for the London Challenge Teacher scheme:

General points –

**Advanced Skills Teacher – 5pts**

*ASTs are excellent classroom teachers who wish to remain in the classroom and share their excellent skills with other teachers*

**Teach First Graduates (From 05/06) - 5 pts**

*Those with Qualifying Teacher Status and committed to continue teaching beyond their contracted 2 years.*

**Commissioner's Teacher – 2pts**

*These are Advanced Skills Teachers working in challenging schools.*

**Fast Track - 5pts**

*The Fast Track Teaching Programme is for new entrants and existing teachers with high leadership potential. It focuses on rapid development of professional excellence and school leadership, and provides additional support and training*

**Threshold - 3pts**

*Teachers are normally paid on the Main Pay Scale that runs from M1(lowest) -M6 (highest). Teachers can be at any point on the Scale depending on experience and qualifications. Teachers who have reached M6 can apply to cross the Threshold to the Upper Pay Scale and have to demonstrate excellence in their work.*

**Shortage subject - 2pts**

English (including drama), Maths, Modern Languages, Science, Design & Technology and ICT.

**Head Teachers (From 05/06) - 3 pts**

**Deputy/Assistant Head - 3pts**

**Management/leadership points –**

**First two management allowances – 1pt\***

**Next two management allowances – 2pts\***

**Top management allowance - 3pts\***

*\*Note: Post 1<sup>st</sup> January 2006 only applicable for those teachers who are subject to transitional arrangements and whose schools have opted to phase in the change over to TLRs*

**Teaching and Learning Responsibility points - From 1<sup>st</sup> January 2006**

1. **Bottom Band/TLR2 2 points**
2. **Top Band/TLR1 3 points**

**Working in schools with high levels of Free School Meals**

<b>11-20%</b>	<b>- 1pt</b>
<b>21-30%</b>	<b>- 2pts</b>
<b>31-40%</b>	<b>- 3pts</b>
<b>41-50%</b>	<b>- 4pts</b>
<b>51%+</b>	<b>- 5pts</b>

**Other teachers - assistance up to £50K**

## 1 All applicants must:

- be qualified teachers employed in maintained nursery (early years) primary or secondary schools including:
    - City Technology Colleges;
    - City Academies;
    - Schools for children with special needs;
    - Pupil referral units; or,
  - be hospital-based teachers or peripatetic teachers employed by a Local Education Authority or qualified teachers employed in the Ethnic Minority Advisory Service, Inclusion Support Services or similar services by a Local Education Authority, or be qualified teachers in a non-maintained school for children with special needs where the pupils are LEA funded (within the Greater London area).
2. All school teachers employed in the Greater London area must complete the teacher annex with the points criteria although reaching a minimum score of 4 points to qualify for Open Market Homebuy will only be implemented on the instructions of the DCLG. The same points apply as for London Challenge Teachers (see above).

**Further Education Colleges**

## 1 All applicants must:

- be a teacher
- be employed in an FE sector institution (general FE college; sixth form college; art, drama & performing arts college; agriculture and horticulture college; tertiary college) or a non-FE sector independent specialist college providing further education for persons with learning difficulties and/or disabilities; or employed in an FE teaching post in a Higher Education Institution (HEI) in England; and receiving funding from the Learning and Skills Council (LSC);

- qualified in line with, or at the time of application are attending, a course leading to an FE teaching qualification, as defined by the Further Education Teachers' Qualifications (England) Regulations 2001 – including Schools-based Qualified Teacher Status.

#### Notes

Teachers employed by private employment agencies and/or on a contract for service are not eligible.

Examples of institutions which do not fall within the scope of the programme are; adult and community learning providers; external institutions, non FE college prison education providers; dance and drama schools; work-based learning providers and Ufi hubs.

If an applicant is uncertain whether their teaching qualification meets the requirements of the Regulations advice should be sought from the Further Education National Training Organisation (FENTO). Contact details are [www.fento.org.uk](http://www.fento.org.uk)

#### Nursery Nurses

All applicants must:

- hold the Diploma in Nursery Nursing or an alternative level 3 qualification appropriate for the care or development of children. A full list of suitable level 3 qualifications is available on the Department for Education and Skills Children's Workforce: Qualifications website.
- be employed in a maintained early years school or nursery.

#### **HEALTH (NHS Bodies)**

##### **Basic criteria to be met by all applicants**

- 1 All applicants must be employees of :
  - Health Protection Agency
  - NHS Primary Care Trusts;
  - NHS Trusts;
  - NHS Ambulance Trusts
  - NHS Mental Healthcare and Social care Trusts;
  - The National Blood Transfusion Service;
  - NHS Direct;
  - NHS Professionals Special Health Authorities;
  - NHS GP surgeries;

- NHS Dental practices that have been awarded NHS Body status. Where dental practices provide NHS services via a contract the NHS will provide a letter confirming their status as an NHS Body.
- **Priority groups for assistance**
- 2. Within these employer organisations eligible key workers will include:
  - All clinical staff employed by the NHS except doctors and dentists. The following are examples of included clinical roles (this is not an exhaustive list):
    - Nursing staff in general;
    - Cancer services staff;
    - Diagnostic support staff including diagnostic radiographers, microbiologists, rehabilitation engineers, phlebotomists and bio-medical scientists;
    - Health Care Assistants;
    - Mental health professionals e.g. mental health nurses and graduate workers in primary care;
    - Midwives;
    - Social workers;
    - Occupational therapists;
    - Nursery nurses (qualified to level 3);
    - Chiropodists;
    - Physiotherapists;
    - Clinical staff working within the Orthoptics field;
    - Clinical staff working within the Dietetics field;
    - Clinical staff working within the Prosthetics field;
    - Speech Therapists;
    - Arts Therapists;
    - Paramedics;
    - Ambulance staff with clinical skills including technicians;
    - Psychologists;
    - Psychotherapists;
    - Physiologists;
    - Radiographers;
    - Pharmacists and pharmacy technicians;
    - Post mortem officers;
    - Operating Department Practitioners;

Those staff performing administrative roles or functions where the core skills are not peculiar to clinical organisations (e.g. IT specialists, catering staff, cleaners, maintenance staff) are not entitled.

## **THE CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE**

Fully qualified social workers (also know as Guardians) and children's social workers, employed by CAFCASS and have attained the recognised professional social worker degree/diploma are eligible.

## **POLICE**

### **Bedfordshire Police**

All applicants must be:

- Serving Police Officers or Police Community Support Officers

### **Cambridgeshire Police**

All applicants must be:

- Serving Police Officers or Police Community Support Officers

### **Essex Police**

All applicants must be:

- Police Community Support Officers who have successfully competed the initial probationer training and have a minimum of five years to serve based within the Basildon, Harlow and Thurrock Divisional areas. This may be widened to cover other police community support officers in other Divisional areas within the force that are also suffering from recruitment and retention issues, or
- Serving police officers of federated ranks who have successfully competed 26 weeks initial probationer training and have a minimum of five years to serve based within the Basildon, Harlow and Thurrock Divisional areas. This may be widened to cover other police officers in other Divisional areas within the force that are also suffering from recruitment and retention issues,

### **Hampshire Police**

All applicants must be:

- Frontline Operational Staff - which includes police officers, police community support officers and civilian investigators
- Frontline Operational Support Staff - which includes station enquiry staff, detention officers, scientific services and scenes of crime staff, control room staff and intelligence analysts

These lists are not exhaustive.

**Hertfordshire Police**

All applicants must be:

- serving Police Officers up to and including the rank of Inspector who have completed initial training and who have a minimum of five years left to serve. This would include officers transferring from other forces
- serving Police Community Support Officers who have completed initial training and who have a minimum of five years left to serve. This would include officers transferring from other forces

Priority will also be given to officers in specialisms where there is a skills shortage.

**Kent Police**

All applicants must be:

- Serving Police Officers or Police Community Support Officers

**Norfolk Police**

All applicants must be:

- Serving Police Officers or Police Community Support Officers
- Anti-Social Behaviour Co-ordinator

**Suffolk Police**

All applicants must be:

- Serving Police Officers or Police Community Support Officers

**Sussex Police**

All applicants must be:

- Serving Police Officers or Police Community Support Officers who have completed their initial 18 weeks training.

**Civil Nuclear Constabulary**

All applicants must be:

- Serving Police Officers or Police Community Support Officers based in Kent, Suffolk or Oxfordshire
- have completed their initial training

### **Thames Valley Police**

#### **Basic criteria to be met by all applicants**

- Police Officers must have a minimum of 5 years service remaining to apply for the schemes;
- Police staff in the following posts who have successfully completed their six month probation period.

<b>Post Title</b>
Airwave Systems Officer/Manager/Radio Comms/Tetra
Burglary Investigator
Case Investigator
Case Worker (Complaints and Discipline)
CIMU (Crime and Incident Management Unit) Operator
Community/Race relations Co-ordinator
Computer Forensic Support Technician
Control Room Operators
Coroners Officer
Crime Analyst/Officers
Crime Intelligence Analyst/Officers
Crime Partnership Co-ordinator
Crime Reduction Adviser
Drugs Co-ordinators
EOD Srch/Adv Dog Handler
FIB Intelligence Officer / Researcher
File Quality Manager/Officer
Financial Investigator (Fraud Squad)
Fingerprint/Photographic Officer
Firearms Enquiry Officer
Football Liaison Officer
Force Armourer
Forensic and Investigations Manager/Officers
Justice Administrator Manager / Identification Procedures Manager
Licensing Officer
Mutual Aid and Operations Co-ordinator
Operational & Investigative Skills Trainer
PEC Operators/Managers
Police Community Support Officers
Police Driving Trainers
Restorative Justice Advisor & Youth Intervention Officer
Retail theft initiative Co-ordinator
Scenes of Crime Officers

Sex Offender Officers/Managers
Statement Taker/Case Worker, CID
Station Duty Officers (SDO)
Vehicle Examiner
Volume Crime Scene Examiner
Warrants Officer

- Permanent civilian staff employed by Thames Valley Police Force as Operators, Team Leaders or Bureaux Supervisors working within the Police National Computer, Phoenix or Disclosures Bureaus, providing they have successfully passed their probationary period.

### **Surrey Police**

#### Basic criteria to be met by all applicants

- Serving Surrey Police Officers and Police Community Support Officers
- **Metropolitan Police**

#### Basic criteria to be met by all applicants

- a serving Police Officer who has been in post for six months or more i.e. once they have completed the initial training at Hendon, or a Police Officer transferring from another constabulary who cannot be housed in police quarters
- A member of police staff who is directly employed and has been in post for six months and is in one of the following priority posts

Communications Officers

Scientific Support Team

Crime Analysts

Station Reception Officers (staff undertaking this role and based at Lewisham, Bromley and Sutton Station are excluded as they are employed by a private sector organisation)

Civilian Gaolers

- Police Community Support Officers

### **BRITISH TRANSPORT POLICE**

#### Basic criteria to be met by all applicants

Staff must have at least five years left of service and be based at stations in:

- Norwich
- Peterborough
- Cambridge
- Ipswich
- Milton Keynes
- Southend

- Reading
- London
- Guildford
- Southampton
- Portsmouth
- Brighton
- Gatwick
- Croydon
- Chatham
- Ashford

Applicants must be:

- Police Officers or Community Support Officers who have successfully completed initial training i.e 32 weeks service
- Crime Analysts or Senior Crime Analysts
- Communications Officer
- Civilian Scene of Crime Officer
- Community Race Relations Analyst

### **PRISON SERVICE**

1.- Applicants from the Prison Service must work in one of the following establishments.

Brixton Belmarsh Wandsworth Wormwood Scrubs Feltham Latchmere House Pentonville Holloway Huntercombe Send High Down Downview Coldingley Aylesbury Reading Woodhill Bullingdon Grendon/Springhill Winchester Lewes The Mount
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Chelmsford Bullwood Hall Littlehey Bedford
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2. In addition to working in one of these establishments applicants must also be from one of the following disciplines:

Prison Officers and related grades;  
Nursing and other clinical Staff;  
Operational Support Grades (OSGs);  
Industrials;  
Instructional Officers  
LEA Employed FE Teachers.

Full list of qualifying posts and roles are:

<b>Grade</b>	<b>Short descriptor</b>
Industrial Grades 1, 2, 3, 4, 5	Craft grades
Instructional Officer	Prisoner workshop instructor
Nursing Grades A, B, C, D, E, F, G & other clinical staff	Clinical NHS grades
Operational Support Grade	Uniformed support grade
Principal Officer	Uniformed prison officer management grade
Prison Officer	Basic uniformed officer grade
Psychologist	Working on prisoner programmes
Psychological Assistant	Prisoner programmes support grade
Senior Officer	Uniformed prison officer management grade

Within this group, the highest priority should be given to first line and other managers with experience elsewhere. This will assist the recruitment of prison officers from elsewhere in the country to jails in London and the South East. The next highest priority should be the direct recruitment of staff in the grades listed above to the prisons in the table above

### **PROBATION SERVICE**

Within the Probation Service: Senior Probation Officers, Probation Officers, Probation Service Officers and other operational staff (except Assistant Chief Officers) who work directly with offenders.

### **LOCAL AUTHORITY PLANNERS**

All applicants must:

- be employed in a Local Planning Authority (LPA) (including National Parks Authority) as a Planning Officer delivering statutory planning services,

whether that is in the area of development control or development plan production. This includes the following grades:

- Level 1 Basic Professional
- Level 2 Experienced/Senior Professional
- Level 3 Principal Professional – manage a single function or small team
- Level 4 Divisional Head.

Terms like Conservation Officer, Enforcement Officer or and Tree Preservation Officer fall within the categories of Level 1 to Level 3.

### **OTHER LOCAL AUTHORITY STAFF**

Other eligible key workers employed by local authorities are:

- Nurses and other clinical staff directly employed by Local Authorities to provide nursing/clinical care can be assisted in the same way as equivalent staff employed in the National Health Service.
- Fully qualified Social Workers and Children's Social Workers who have attained the recognised professional Social Worker degree/diploma
- Qualified nursery nurses
- Qualified Therapists including but not exclusively Occupational Therapists, Speech and Language Therapists, Rehabilitation Officers for the Visually Impaired
- Qualified Educational Psychologists

### **CONNEXIONS PERSONAL ADVISORS**

Connections Personal Advisors can be accepted as eligible key workers provided they are employed by a local authority or a Connexions Partnership. CPAs employed by a private or voluntary sector organisation ARE NOT eligible.

### **FIRE AND RESCUE SERVICES**

Uniformed staff below principal level in the following Fire and Rescue Services are eligible once they have successfully completed their initial training. Length of training may vary dependant on Service:

- Bedfordshire & Luton
- Buckinghamshire
- Cambridgeshire

- East Sussex
- Essex
- Hampshire
- Hertfordshire Fire and Rescue Service
- Isle of Wight
- Kent
- London
- Norfolk
- Oxfordshire
- Royal Berkshire
- Suffolk
- Surrey
- West Sussex

Control Room Staff in the following Fire and Rescue Services are eligible once they have successfully completed their initial training. Length of training may vary dependant on Service:

- Buckinghamshire
- Oxfordshire
- Royal Berkshire
- London
- Hertfordshire Fire and Rescue Service
- West Sussex

## ANNEX C

### TAX GUIDANCE NOTE: KEY WORKER HOUSING SCHEMES

#### Introduction

1. This note, which has been agreed with HM Revenue and Customs, sets out the main tax and National Insurance contributions (NICs) issues which need to be taken into account for the different types of housing assistance which may be provided to key workers.
2. Benefits received by reason of a person's employment are generally taxable and liable for NICs, but the precise treatment can vary according to the form of the benefit and the arrangements for its provision.
3. Guidance on the treatment of assistance provided by rental and home ownership schemes is set out below.

#### Rented Housing

##### *Cash assistance*

4. Where an employer or anyone else pays a contribution towards the key worker's rent, the contribution would be treated as income and taxed at the rate applying in the worker's circumstances (e.g. at the basic rate of 22% or higher rate of 40% - 2003-04 rates). The contribution would also be liable for Class 1 (employer and employee) NICs.

##### *Indirect financial assistance – e.g. land or building cost subsidies*

5. Where the assistance for key worker rented housing takes the form, not of a cash rental subsidy, but of land provided free or at a discounted price to (usually) a registered social landlord (RSL), or a subsidy for the land purchase or towards the building costs, tax and NICs liability can also arise, because the accommodation assistance is provided by reason of the employment. The employee will therefore be liable to tax and, where the key worker earns more than £8,500 a year (including benefits), a Class 1A NICs liability will arise. Class 1A does not apply to employees, but is payable by the employer or - if exceptionally the employer has played no part in securing the benefit for its employees - by the person providing the benefit.
6. The liability is calculated as set out below.
  - (I) First, the basic charge on employment-provided accommodation. Here the amount of the benefit is, under long-established practice, based upon the gross rating value (GRV) of the property. The GRV system is now defunct, but continues to be used as a measure of the benefit for

this tax purpose. For new properties (or other properties for which a GRV does not exist), the provider of the benefit (usually the RSL) will need to estimate what the GRV would be, by reference for example to broadly comparable properties where GRV has been established.

- (II) In addition, a further charge can arise on a property where the employer or any other person who is providing the accommodation (or anyone connected with them) incurs costs of more than £75,000 per home. Here the benefit is calculated by reference to an `official` rate of interest (currently 5%) on the excess cost over £75,000.

The amount of rent paid by the employee is then deducted from the benefit calculated under (I) and - where relevant - (II). Tax and Class 1A NICs are payable on this net benefit figure. Where the rent is equal to or exceeds the total, no tax or NICs liability would arise.

N.B. For the calculation under (II), where there is more than one person incurring costs in providing the accommodation, only the highest contribution is taken into account: and, as noted, an additional charge only arises on any excess over £75,000.

### Example

- A local authority sells land (which it has owned for a number of years) to a RSL for a 40-home key worker rented housing development. At date of sale, the land has a market value of £3m but, since key workers include employees of the local authority, the authority sells it for £2m.
- Building costs to the RSL are £4m, but the RSL receives £400,000 grant from Central Government to assist the scheme.
- Notional GRV for each home is £1200 pa. Each employee pays £100 per week rent (£5,200 pa).

#### Tax and NICs consequences:

##### *Basic Charge*

- The basic charge is on £1200 GRV; but this is fully offset by the rent paid, so no basic charge arises.

##### *Additional Charge*

- An additional charge arises by reference to the highest cost contribution on any excess over £75,000.
- Here there are three contributors to the housing provision:
  - (i) the local authority, providing land worth £3m,\*
  - (ii) Central Government with a building cost subsidy of £400,000,

(iii) the RSL with total costs (land and buildings) of £6m.

- (i) Local authority provision of £3m works out at £75,000 per employee; so no tax or NICs additional liability arises.
- (ii) Central Government subsidy of £400,000, i.e. £10,000 per employee; again no additional tax or NICs charge.
- (iii) RSL costs of £6m, which works out at £150,000 per employee. The tax and NICs charge is 5% of £75,000 (excess cost over £75,000) which is £3,750 pa.

So the total benefit is:

- (i) £1200 basic charge
- (ii) £3750 additional charge

**Total:** £4,950 benefit.

But this is fully offset by the rent paid of £5,200 pa, so no tax or NICs liability arises.

N.B. Even if there had been more than one chargeable contributor whose cost exceeded £75,000 only one contributor's cost would count for the additional charge. For example, if the market value of the land at (i) had been £4m instead of £3m, this would have involved a cost per employee of £100,000. But this remains less than the cost provision at (iii), so would still be ignored in calculating the additional charge.

**It is expected that the levels of rent paid will generally be equal to or above the chargeable benefit; on this basis little or no tax and NICs liability is likely to arise.**

\*Where the provider (here the local authority) of the land acquired it less than 6 years before the sale, the cost to the provider of acquiring that land – and not market value – is used to measure the cost contribution.

### *Rental guarantee schemes*

- 7. A tax charge would arise on rental guarantee schemes only if the guarantee was actually called upon to make a payment. The treatment would then be in line with the treatment of cash assistance as set out at Paragraph 4 above.

### **Home ownership schemes**

#### *Indirect financial assistance - e.g. land or building cost subsidies*

- 8. As with the guidance above on indirect financial assistance for rented housing, a tax liability may arise on shared ownership and shared equity schemes. For

instance if the GRV of the property is £1200, and half of the property is owned by the key worker and half by a third party e.g. RSL or employer, tax and NICs would be chargeable on £600. If the key worker pays rent of £600 or more per year on the half share of the property they do not own, this extinguishes the benefit and no tax or NICs would be payable subject to the further condition in Paragraph 9 below.

9. Where the share of the property owned by the RSL, employer etc cost one of the bodies more than £75K to provide, an additional tax charge arises as set out at Paragraph 6 above in relation to the share of the property that the key worker does not own.

***Interest free and low interest loans including equity loans***

10. Loans made on beneficial terms to employees are taxable benefits if they are made, or arranged, guaranteed or facilitated in any way, by the employer. In addition, Class 1A NICs (employer only, not employee) are also payable on the taxable benefit.
11. No tax or NICs are chargeable on loans where:
  - an interest-free or low-interest loan (including equity loans) of any amount is advanced by someone with no connection with the employer, and it is not arranged, guaranteed or facilitated by the employer; or
  - an interest -free or low-interest loan (including equity loans) not exceeding £5,000 (or, if there is more than one loan, the total outstanding amount does not exceed £5,000) is advanced or arranged by the employer.

For example, if an RSL made an interest free loan (including equity loans) to a key worker using grant funding and the key worker's employer had not been involved in arranging, guaranteeing or facilitating the loan, no tax or NICs charge would arise. In addition, the employer could separately advance an employee up to £5,000 as an interest free or low interest loan towards the house purchase (assuming the employee had no other beneficial loans from the employer) without a tax or NICs charge arising.

Situations where an employer is regarded as facilitating a loan will depend on the precise circumstances. Clearly however to avoid an employer connection it is necessary for independent third parties, such as RSLs, to select applicants for key worker housing, advance the loan and run the scheme independently of the employers whose employees stand to benefit. If an employer nominates its employees to receive assistance or has a say in the selection of individual applicants for assistance, this would be viewed as the employer arranging/facilitating the loan and tax/NICs would be chargeable. However, employers would not be regarded as facilitating loans where:

- a scheme was run for a particular occupational group or groups,

such as teachers or nurses, in a particular area;

- employers provided information to scheme administrators about the skill groups in which they faced particular shortages, such as maths teachers, and this information was used by scheme administrators to prioritise applications;
  - employers provided information to their employees about the scheme, and provided any information required by scheme administrators to verify the information contained in applications from key workers, but had no influence on the selection or certification of individual applicants or the granting of loans.
12. If a tax charge does arise in connection with loans made on beneficial terms, the tax is calculated by reference to the difference between the interest payable on the loan and the 'official rate' (which is currently 5%). For example, an interest free taxable loan of £30K would give rise to an employee tax benefit of £1500 (£30,000 x 5%) on which tax at the basic rate (currently 22%) would be £330. Class 1A NICs is payable on £1500 at the rate applicable when the benefit was provided. So for benefits provided in 2003-04, when the Class1A rate is 12.8%, the NICs would be £192. If the employee's total income were sufficiently high, tax at the higher rate of 40% would become chargeable. Tax and Class 1A NICs would continue to be chargeable each year on the yearly average loan balance outstanding.
13. If the employee left that employment and the loan continued on the same terms (irrespective of whether the employee took any new employment), the beneficial loans tax charge would continue to apply only if and when the cumulative annual benefit of the loan, together with any other sum of money or benefit provided on account of leaving that employment (excluding arrears of pay or a pension or otherwise taxable amount) exceeded £30,000. It would be the responsibility of the previous employer/maker of the loan to keep track of these amounts and report them to the Revenue if tax appeared to become due. In respect of NICs where an employee has left the employment with the employer providing the loan, no Class1A NICs will be due.
14. The amount repaid in respect of an equity loan when the property is sold will be that proportion of the sale proceeds, which the loan advanced, bore to the original cost of the property. In these circumstances changes in the amount repayable compared with the amount of the original loan would have no impact on any amount of the tax and NICs liability which will have become due while the loan was outstanding.
15. Further guidance about the tax and NICs implications of a particular key worker housing scheme can be obtained from HM Revenue and Customs on 0207 438 7764/7843 or at email addresses [tony.gray@ir.gsi.gov.uk](mailto:tony.gray@ir.gsi.gov.uk); or [maria.davies@ir.gsi.gov.uk](mailto:maria.davies@ir.gsi.gov.uk)