



First Homes:

The known knowns and the known unknowns

The Government took many by surprise by announcing a new affordable housing product, called First Homes, at the end of last week. Whilst its announcement was accompanied by the opening of a formal consultation exercise, it is clear that that process is aimed only at finessing some of the finer details of the product. The broad outlines are pretty much fixed, and the Government is committed to launching First Homes as soon as possible.

It's a home ownership product

The product is a home ownership product (rather than one for rent). The Government claims its priority is to fulfil the dream of 'everyone' to become a homeowner. A number in the sector are already voicing their concern that rental products will be side-lined.

A discount in perpetuity

Those eligible for a First Home will be able to buy it, direct from the developer, at a discount of at least 30%. The Government will leave it to Local Authorities to decide whether to set discounts in their area above 30%. Lower than 30% will not be allowed.

When the initial purchaser comes to sell, they will have to do so at the same discount that benefitted them. The intention is that, with limited exceptions, the discount will be passed down the chain of ownership, in perpetuity. So, once a home is a First Home, it will always be a First Home. Forever.

Surprisingly, the Government does not intend to make allowance for any improvement works a First Home homeowner may make during their period of ownership. So, if someone builds an extension to their home, whilst they will be paying 100% of the cost of that extension – they will still need to apply the First Home discount on the whole of their subsequent sale. This contrasts with most shared ownership products which ignore home improvement works when valuing the home for onward sale purposes.

The Enforcers

The Government says that the requirement to maintain the discount down the ages will be protected by a restrictive covenant. As a matter of law that's not going to work (unless they change the law). Restrictive covenants just don't work like that. It would, however, be quite easy to make the provisions enforceable by using planning legislation – so this isn't an insurmountable problem.

The Government has not yet fully fixed on who will police the regime. But it is clear that they are leaning towards Local Authorities having that honour. They have also suggested that it will be up to Local Authorities to decide on the finer details

of the administration of the product in their areas. Authorities may subcontract the administration to a third party, such as a Registered Provider.

Eligibility

There will be a number of aspects to eligibility and it is not yet clear how prospective purchasers would be ranked if a number of eligible candidates were chasing the same First Home. The eligibility criteria will be relevant every time a First Home is sold and re-sold.

The Eligibility criteria will be based on the following factors.

Local homes for Local People: People with a local connection to the area within which a First Home is situated will be given priority. It will be up to the Local Authority to define what that connection has to be. It could be based on where people live or where people work – or both. A special relaxation of this rule will be applied to members of the Armed Forces. They will be 'deemed' to have satisfied any locality test that any Local Authority sets – regardless of where they actually live or work.

First timers: Priority will be given to first time buyers. It is clear that the Government is concerned that to prohibit anyone other than a first-time buyer taking up a First Home may be too restrictive and so they are looking at whether (and if so which) non first-time buyers should also be eligible.

Key workers: With characteristic understatement the consultation document states that the Government "understand that sometimes [key workers] are unable to afford to buy property in the local areas they serve". The Government have, therefore, indicated that Local Authorities should consider whether key workers, such as police officers, nurses and teachers, should be given priority. It is interesting to note that the Government states that priority **will** be given to local people and first time buyers but, in relation to key workers, it will be up to Local Authorities whether or not to give priority.

Income cap: As might be expected for an affordable housing product, all indications are that there will be an income cap on those eligible – so the product can be targeted to those more in need of assistance. What this income cap would be and how it would reflect local variations is yet to be decided. The income cap could simply be a pass/ fail test – if you earn too much you aren't eligible. In addition, however, the Government is looking at whether, if there were more than one eligible person chasing the same First Home, both of whom earn under the income cap, should account be taken of how far under the income cap they are relative to each other?

It is clear that the Government is concerned that, if the eligibility criteria is too focused, people with First Homes may have difficulty selling them. So the intention will be that some of the eligibility criteria will be relaxed in relation to a First Home, which is on the market, after a certain time, if a sale is proving difficult. What that 'certain time' is has not yet been decided. It's likely we are looking at a few months.

Cost no limit?

The Government do not intend that what they describe as 'exceptionally expensive properties' will be included within the First Homes product. As with Help to Buy, there will be a cut off in the value of homes above which the First Homes policy will not apply. The Help to Buy Equity Loan cap is currently £600,000. The Government may just adopt that. Alternatively, they are considering whether to adopt a variable cap depending on which part of the country the First Home is located in. It's not clear whether it has occurred to the Government that house prices often rise. If someone buys a First Home which sits just under the chosen cap what would happen if, 5 years later when they come to sell, prices have risen such that it exceeds the cap?

Don't worry, the banks will be protected. Phew!

As referred to above, the intention is that once a home is a First Home it will always be a First Home – and, each time it is re-sold, the discount will need to be applied. There is one exception. If the owner of a First Home defaults on their mortgage, and the lender takes possession, the lender will be entitled to sell free of the First Home restrictions and, in particular, free to sell at 100% of the market price – giving them a greater chance of being able to secure recovery of the debt.

Homes for homes

Generally, First Home homeowners will be restricted to using them as their sole or primary residence. That is not intended to prevent people from letting out rooms if they continue to live there as well. And it won't prevent the odd Airbnb weekend.

The Government acknowledges that people's circumstances may change. They may be called away for work or to look after relatives. It is, therefore, proposed that letting out a First Home for up to two years will be permitted (or longer with Local Authority approval). An additional relaxation will be given for Armed Forces personnel. They will be permitted to let out their First Home, for any duration, whilst they are on assignment more than 50 miles away.

The big HOW

It is clear the Government propose to procure delivery of First Homes via the planning system. They identify two planning routes.

The first, and most obvious, is to use s106 (Planning) Agreements. These can require developers to deliver a number of units on each new development as First Homes. These First Home requirements may (and almost certainly will) replace, in whole or in part, the currently common requirements to transfer a proportion of the new homes on a development to an RP for shared ownership, intermediate or social/ affordable rent.

The second less obvious route relates to what are known as exception sites. The current planning policy framework encourages what are called entry-level exception sites and rural exception sites.

Entry-level exception sites are relatively small sites which exist next to existing development. Planners are currently encouraged to grant small scale development permissions for new housing aimed at first time buyers. The Government is considering ways to extend and further encourage the use of this mechanism and to tailor it to First Homes.

Rural exception sites, within the current policy framework, are small sites in rural areas that can be used to deliver housing

aimed at locals. The Government doesn't intend to open up this area of policy.

Community Infrastructure Levy

The Government will almost certainly change the CIL Regulations to exempt the development of First Homes from the requirement to pay CIL. Much like the current state of play for other affordable sale and rental products.

The future for other products?

As referred to above, a number in the sector have voiced concerns that the new First Homes product will crowd out affordable rental products. If developers are required to deliver a number of First Homes on their sites, that will inevitably mean that they will provide fewer of the current tenures. And that will squeeze both rent and shared ownership. That squeeze could be offset by the Government increasing grant for rental products. But with the Government's fixation on home ownership, combined with the black hole opening up in the Government's finances, one has to question how likely that is.

What it will do is make shared ownership more of a difficult sell. If someone is faced with the choice of either owning a share of their house whilst paying rent on the balance or owning all of their house (bought at a sizeable discount) and paying no rent, the latter will be a much more attractive proposition – even if they have to pass the discount on to the next buyer.

Have your say

As referred to above, the Government has launched a consultation. This can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864265/First_Homes_consultation_document.pdf

Responses to the consultation have to be in by the oddly specific time of 11:45pm on 3 April 2020.

If you have any views, good or bad, on this new product let us know. We will be submitting our response to the consultation by the end of March.

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