Housing White Paper - Changes to planning policy and legislation

Response by the Council of Mortgage Lenders
to the Department of Communities and Local Government

Introduction
1. The CML is the representative trade body for the residential mortgage lender industry which includes banks, building societies and specialist lenders. Our 136 members currently hold around 97% of the assets of the UK mortgage market. In addition to lending for home-ownership, the CML members also lend to support the social housing and private rental markets.

2. We welcome the opportunity to respond to the planning proposals set out in the Housing White Paper (‘the paper’). Our response is limited to points of relevance to the residential mortgage lending industry. Any queries can be directed to jennifer.bourne@cml.org.uk.

Executive Summary
3. The CML welcomed the publication of the paper, and looks forward to working with the government on measures seeking to increase the availability, affordability and choice of homes across different tenures. Lenders already contribute to the funding of private and social rented housing, as well as owner-occupation, so we particularly welcome the cross-tenure approach in the paper. We want to play our part in developing a coherent, long term plan to deliver more housing and help ensure that it is durable, affordable and in the locations and tenures that people want.

4. The lending industry has a supporting, rather than central role in the policy vision of the White Paper, which is primarily focused on increasing the supply of homes. However, that role is crucial in underpinning supply. For completeness, we have noted below, our views on aspects of the paper that have relevance to mortgage lenders, but are not addressed in this consultation.

5. We are already engaged closely with government officials on the Starter Homes scheme (SHS), and we welcome the proposed changes as addressing some of the concerns we had in relation to the potential market distortion of the scheme, in part due to its proposed scale. We have noted, in relation to the proposals for higher density living, that there are practical considerations from a lenders’ perspective, which link to the quality, sustainability of value, and general lender policies around new-build properties. Finally, we welcome increased clarity around planning policies associated with flood risk.

The Housing White Paper and the mortgage lending industry
6. Aside from the various aspects of the paper which form part of this consultation, there are wider areas of interest for mortgage lenders which are addressed in the paper. These are, briefly:

- Custom build, where we have already begun a dialogue with government, noting some of the challenges and opportunities for the growth of this market from our members’ perspective. CML will continue to engage with government as they develop policy in this area.
- “Methods of modern construction” (MMC) and the plan to set up a stakeholder working group, comprising government, lenders, valuers and the industry, with the aim of improving data around MMC. CML will continue to engage with government and other stakeholders.
- Leasehold; and the government’s plans to consult on a range of measures to tackle unfair and unreasonable abuses of leasehold, with a particular focus on onerous ground rents and freehold purchase costs; leasehold houses; and a review of commonhold and leasehold law in conjunction with the Law Commission. We welcome the governmental and wider political focus on this issue.
- Identifying what more can be done to reduce delays and fees resulting from conveyancing, “to help ensure the market works better for home buyers.” Lenders already work hard to ensure their...
processes are streamlined, and welcome further discussion around opportunities to enhance the conveyancing process.

- The government will also consider the future of the Help to Buy Equity Loan scheme post 2021. CML will be engaging with government to avoid any market distortion, such as creating a cliff edge dynamic as a result of changes to, or the ending of the scheme.
- How the Land Registry can better reflect all forms of land ownership and interests; and consider how to improve the availability of such data, including data sharing across government. Lenders welcome transparency, but with recognition that data can be mis-appropriated if safeguards are not in place.
- Meeting the needs of an ageing population through appropriate housing provision, “helping older people to move at the right time and in the right way”. The paper states the government’s commitment to drawing on the expertise of stakeholders including mortgage lenders; looking at a range of ideas for incentives and other innovations for the government to consider around improved information and advice for older people about housing choices and supporting custom build for this cohort.

Starter Homes

7. We broadly welcome the proposed changes to the SHS. We believe the changes can, in principle, address some of the concerns we had in relation to the potential market distortion of the scheme, linked to its proposed scale. The changes will, in our view, allow the scheme to complement, rather than potentially challenge, the government’s other housing initiatives, such as increasing the shared ownership tenure and providing more custom-built homes.

8. The changes may also allow more lenders to feel comfortable to lend mortgages on properties under the scheme. However, significant details about the scheme are yet to be confirmed, including the regulations which will set out the detail of the scheme, and lenders will not be in a position to consider whether they are able to lend on the scheme until full details are available.

Affordable housing definition

9. In principle we are supportive of widening the definition of ‘affordable housing’ in order to allow a wider range of products, enabling increased access to home ownership. Within this, we are supportive of a change to allow new models such as SHS, to exist alongside traditional affordable housing tenures. We also welcome the more tenure-neutral approach, given our members offer financing on a range of tenures. We also welcome the introduction of a definition of ‘affordable private rented housing’.

10. We recognise that part of the intention of widening the definition of ‘affordable housing’ is to introduce models which are not subject to in-perpetuity, SHS being a key example. Some lenders feel able to support existing affordable housing models on the basis that they are affordable ‘in perpetuity’ or that the subsidy is recycled, which helps to preserve the housing stock which remains affordable. This approach also provides a ‘constant’ against which to value the security property from the lenders’ perspective.

11. Therefore, changing the definition of affordable housing away from primarily in-perpetuity models is a significant step. Moving to models without in-perpetuity or longer-term restrictions will present valuation challenges, which we continue to discuss with our members, government and valuers. It is important to note that lenders will, from a credit risk perspective, consider their approach to lending on affordable housing generally, rather than on a scheme by scheme basis.

Income cap

12. We support the income cap requirement for those seeking to purchase a Starter Home. This should help ensure that the scheme is targeted at those who need it most. We agree that the cap should be consistent with the cap used for shared ownership products. We also support the move to prevent cash-buyers accessing the scheme, as this will also better target the scheme at those who need it most.

13. There are other aspects of the scheme that still require clarity. The aspects include whether a scheme agent will be in place; how the various restrictions will work in practice, such as the resale.
and letting restriction; and addressing valuation challenges. Our views on these are set out in more detail below.

**Scheme agent**

14. We see having a scheme agent, in the vein of Help to Buy Equity Loan agents, as being crucial for the success of the scheme. The SHS offering is complex for a first time buyer and it is important that they are guided through the implications of purchasing a property which has restrictions on use and resale. Evidence that the buyer has complied with all the eligibility requirements must be collected, over a significant period of time. For clarity, lenders will not want or expect to have a role in scheme administration, such as checking the eligibility of the borrower for the scheme.

**Resale restriction - repayment of discount**

15. We broadly welcome the decision to have a resale restriction period of 15 years, within which the owner will have to repay some or all of the discount received on initial purchase. We also welcome the decision to introduce a tapering mechanism, although note that the exact details of the split between static and taper, and the calculations for repayment, are still under discussion.

16. However the ‘split’ in terms of time operates, it will be crucial to have clarity over the calculation method so that owners, valuers, conveyancers, lenders and scheme agents can easily work out the equity which needs to be repaid. It will also be important to have certainty around the equity which the owner has at any one point in time.

**Lettings restriction**

17. We support the principle of a lettings restriction to prevent speculative purchasers seeking to use a starter home as an investment property. We also recognise that there are some instances where a temporary letting may be required because of personal circumstances such as a job secondment. There is a balance to be struck between dis-incentivising any gaming of the scheme in this way, and minimising the potential for any unintended consequences, for example unfairly penalising owners who fail a high evidential hurdle; or creating uncertainty about the equity share that they hold in the property.

**Valuation**

18. The reduction in proposed scale of the scheme, chiefly from the proposal to reduce the minimum site requirement, has mitigated the potential for significant market distortion. However, the existing challenge of valuing new build property and judging the market value (factoring in the ‘new build premium’, for example) may still be impacted by seller and buyer behaviours under the scheme, with demand for starter homes influencing the market price for other properties, making it harder to judge the true value of a starter home.

19. We are supportive of RICS-led guidance for valuers. As we have previously noted, lenders will continue to use their existing valuation processes should they choose to offer mortgages under the scheme, but would not want to have the role of ‘policing’ valuations under the scheme.

20. Valuing a property over a taper period is an acknowledged challenge. At the least, within the existing valuation process some rules or guidance will be required as to the point at which the remaining discount is calculated and hence how to determine the valuation. RICS guidance should assist with this; as will complete clarity over the calculation method.

**Minimum of 10% of all homes on individual sites for affordable home ownership products**

21. In our response to the DCLG’s 2016 technical consultation on SHS, we stated we would prefer to see the percentage requirement set lower than the 20% proposed in the consultation. We did not have a preference as to whether the requirement was centrally or locally set. We therefore support the new proposal that local authorities should seek to ensure that a minimum of 10% of all homes on individual sites are affordable home ownership products, which would include not only SHS, but any other affordable housing tenure types, such as shared ownership. This will better
enable a mix of affordable housing tenures to exist on sites. It would also lessen potential market
distortionary effects.

22. In order to avoid protracted debates about what is required to be built out, we suggest that a
clear process for developers and local authorities is developed. This could include incentives or
penalties to ensure that the process of agreeing the affordable home provision is conducted
efficiently.

Minimum threshold for residential developments subject to the affordable home ownership products
requirement

23. The percentage requirement has an impact on the minimum threshold of site size – ideally the
minimum threshold is set to allow for a whole number calculation. If the minimum percentage
requirement for affordable homes is 10%, then the minimum site size of 10 units allows for a whole
number calculation (i.e. 10% of 10 is 1 unit). We therefore agree that a site size minimum of 10 units
or 0.5 h is sensible.

24. As we stated in our response to the DCLG technical consultation on SHS, we feel that
exemptions from the minimum site requirement should include specialist housing developments such
as dedicated support housing and student housing, as these types of developments serve different
segments of the population than those targeted by the SHS scheme.

25. For custom-build, viability issues may arise. For example, the different development funding
models that exist for custom build as compared with standard new build is such that imposing a
minimum affordable housing requirement on these types of developments may create challenges and
unintended consequences, such as custom-build developments being deemed financially unviable.
For this reason it may be justifiable to exempt group custom build developments, especially as there
is a separate aim to increase the custom-build market.

26. We also agree in principle that Build to Rent schemes should be exempt, given they will serve
a different segment of the housing market.

Housing density

27. We understand the aim of supporting higher density living by changing national planning
policy to promote more efficient land use. However, there are practical considerations connected with
higher density developments which are worth highlighting from a lender’s perspective. We would
suggest, therefore, that rather than create presumptions around low or high density, each application
is considered on its own individual merits.

28. Potential impacts of proposed higher density building (particularly when building upwards
extensions) include loss of amenity; the need to monitor building quality and space standards, and the
method of construction. All of these could have an impact on both the value of the new property (and
the sustainability of that value) but also on the value of any existing properties beneath, which is
particularly relevant where those properties are mortgaged.

29. Lenders tend to have general policies with regard to new build lending, and with regard to
lending on properties in high rise developments. These policies are designed to minimise the lenders’
exposure to risk. For example, lenders may lend at lower loans to value or in some instances may not
lend above certain floor levels, especially where there is not evidence of a suitable communal
maintenance provision. Lenders typically also ensure that their exposure on any one site is managed
to avoid concentration risk. These policies came about following the credit crunch and resulting
property market re-adjustment, which exposed lenders to losses, most significantly in the new build
apartment market. This was partly exacerbated by multiple properties being developed in a relatively
small geographical area around the same time, contributing to oversupply and the related
consequences in terms of reducing market value.

30. In general, lenders will want to be reassured that the development is of suitable quality and
that there are adequate funds for the maintenance of the building. The local authorities may need to
consider this practical issue when considering high-density development. Local authorities should
also take care to ensure that appropriate infrastructure such as education and healthcare exists to
support increased residential density; and that a London-centric approach to address England-wide variances in commuter behaviour is not applied.

31. We have previously advised, in our response to the DCLG/London Mayor consultation on upwards extensions, of some concerning practices seen by lenders in developments which would appear to be the target of this policy. For example, service charges in some commercial to residential conversion developments, appeared to be kept artificially low in early years to encourage investment, but then rise exponentially and create affordability issues later on. It will therefore be important to avoid creating unintended consequences, by ensuring that new developments have reasonable service charge structures. Otherwise, in the worst case, there could be impacts for purchasers, and their lenders, who find that the value of the property is not sustainable over time; and also for those who own or live in surrounding properties, if the development is not sensitive to the surrounding area.

**Flood risk**

32. The CML has an interest in policies which seek to mitigate flood risk, given the potential risk to lenders' security by flooding damage or destruction. We therefore welcome increased clarity in relation to the Exception Test, and the requirements in relation to planning applications for minor developments and changes of use. We think the proposed clarifications are sensible.

**Response to consultation questions**

We have responded to relevant consultation questions below.

**Q 13** Do you agree with the proposals to amend national policy to make clear that plans and individual development proposals should:

a) make efficient use of land and avoid building homes at low densities where there is a shortage of land for meeting identified housing needs?

High-density building can bring about its own challenges and considerations for lenders. We would suggest therefore that rather than create presumptions around low or high density, each application is looked at on its own individual benefits.

b) address the particular scope for higher-density housing in urban locations that are well served by public transport, that provide opportunities to replace low-density uses in areas of high housing demand, or which offer scope to extend buildings upwards in urban areas?

We would suggest therefore that rather than create presumptions around low or high density, each application is looked at on its own individual benefits.

Care needs to be taken that higher-density developments are of good quality, that there is clear demand and that there is appropriate infrastructure (including, but not limited to public transport), to ensure that the properties retain a sustainable value and are marketable

b) ensure that in doing so the density and form of development reflect the character, accessibility and infrastructure capacity of an area, and the nature of local housing needs?

See our response to Q13(b)

d) take a flexible approach in adopting and applying policy and guidance that could inhibit these objectives in particular circumstances, such as open space provision in areas with good access to facilities nearby?

See our response to Q13(b)

**Q 31** Do you agree with our proposals to:

a) amend national policy to revise the definition of affordable housing as set out in Box 4?

Yes – see paras 9-11 above

b) introduce an income cap for SHS?
Yes – see para 12 above

c) incorporate a definition of affordable private rented housing?

Yes - see para 9 above

d) allow for a transitional period that aligns with other proposals in the White Paper (April 2018)?

No comment.

Q 32 Do you agree that:

a) national planning policy should expect local planning authorities to seek a minimum of 10% of all homes on individual sites for affordable home ownership products?

Yes – see paras 21-22 above

b) that this policy should only apply to developments of over 10 units or 0.5ha?

Yes – see paras 23-26 above

Q 33 Should any particular types of residential development be excluded from this policy?

Yes; we suggest that specialist residential developments such as student and dedicated support housing should be excluded because of the nature of the population segment they seek to serve.

Q 36 Do you agree with these proposals to clarify flood risk policy in the National Planning Policy Framework?

Yes - see para 32. We think the proposed clarifications are sensible.