

APPENDIX 1 – CONSULTATION RESPONSES

Organisation	Summary of Comments	Council's Response
Hollins Strategic Land	<p><u>Consultation approach</u> We have significant concerns on the dearth of evidence provided as part of this consultation. In particular we are concerned that no evidence has been provided on whether this approach actually benefits suppliers and beneficiaries of housing, the impacts of such an approach more widely, nor how fixed transfer prices have been arrived at. No evidence to support the need for the RPPF has been provided to allow consultees to review as part of the consultation process. We would object to the RPPF being brought forward without evidence being provided to justify the approach taken and without being properly consulted on.</p> <p><u>Membership criteria</u> We consider that the membership criteria places unreasonable restrictions on the RSLs who can operate in the area as well as new RSLs who wish to enter the market. The only requirement for an affordable housing provider should be that they are on the Government's List of Registered Providers of Social Housing. To become a provider each organisation must follow the procedure set by Government. In that context we consider it unreasonable for the Council to introduce a further process in order to deliver affordable homes in Chorley. We believe the effects of the Council's proposal is to duly restrict the level of competition with RSLs operating in the area as well as potentially affecting the forward delivery of homes. More competition in the market is positive for housing delivery and consumers.</p> <p><u>Fixed transfer prices</u> This is a very different approach to other authorities where a percentage discount value is proposed which allows any transfer prices to change according to the market value at that time rather than on a fixed annual basis. We are very concerned about the lawfulness of this approach. No evidence, legal advice or a full analysis of risk factors was provided to the Executive Cabinet on 15th October 2020. We suspect that the Council is trying to artificially create a level playing field within a competitive market area so as it benefits the Council's ability to secure affordable units. We also consider the fixing of transfer prices could be perceived to be creating a dominant position for a limited number of RPs which would further reinforce an anti-competitive process. We consider that the LPA should take legal advice as to whether or not the RPPF would fall within and therefore be contrary to competition law before it is further consulted on. In addition we consider this single approach across the borough does not recognise that transfer values will differ across the Council area due to different Housing Market Areas and property values. The provider should be able to agree the price based on the market situation and the types of dwellings proposed. A practical concern is that the RPPF seeks to agree the transfer values at s106 agreement stage. For many developers the types and sizes of dwellings are not known at outline planning application stage when a s106 agreement is signed. It is good practice to define the mix/type at a later stage i.e. reserved matters so as the latest evidence on affordable need is used. The RPPF cannot respond quickly to changing affordable needs. Our initial assessment of the fixed transfer prices for apartments and houses are that they are significantly below what would be expected in a competitive scenario and below what housebuilders have achieved within Chorley and Central Lancashire. It is therefore important that the calculations behind the transfer values are published and form part of further transparent consultation as we consider that household income and affordability are only limited factors in determining the price of an affordable dwelling.</p>	<p>The purpose of the Framework is to ensure the delivery of high quality and well-managed affordable housing. This Framework allows careful selection of Registered Provider partners to ensure that is achieved. The evidence for the transfer values is being made available alongside the published Framework. However, these transfer values are now a guide rather than fixed.</p> <p>The Council has sought legal advice which states <i>"The proposed Framework conditions are to ensure that the local housing need is met by the right RPs. On the basis that the criteria for RPs to be members of the Framework are proportionate, non-discriminatory and objectively necessary to achieve a legitimate purpose they would not breach competition law in any event."</i> The 75 dwelling threshold has however been removed and RPs with any amount of existing stock can apply to be a member of the Framework.</p> <p>The fixed transfer prices were proposed in order to provide certainty for developers and RPs and ensure that affordable units were truly affordable, they were not introduced to benefit the Council. It has been decided that the transfer values will now be a guide rather than fixed to allow for a degree of flexibility and take into account varying house prices in different locations of the Borough.</p>

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Bolton at Home	<p><u>Membership criteria</u> We recognise the importance of ensuring that the RP's selected to be on the framework will deliver high quality and well managed homes, but wonder if the minimum 75 properties within the borough at present criteria is an indicator of that or whether other circumstances could also be considered? Is there any flexibility in the 75 figure specifically in Chorley given our circumstances? We have recently acquired via s106 10 units in the borough and have also recently bid for 53 units in the Borough. We've also recently added to our stock in Leyland with 16 units to-date via s106 and 36 in Preston and have growth ambitions around all these areas plus Chorley itself. In terms of our ability to manage properties effectively in the borough, we manage 18,000 properties in neighbouring Bolton including 200 in Blackrod right on the border with Chorley, with our own in-house repairs service. You may have another provider meeting the 75 unit threshold but without the geographical proximity to manage as effectively as we could. We are keen to increase the supply of affordable housing in your borough given our location and services we currently provide nearby that could be easily extended / accessed by Chorley based tenants.</p> <p><u>Fixed transfer prices</u> Could the fixed transfer prices allow developers to claim that due to viability they cannot deliver the required number of units?</p> <p><u>Allocation process</u> How will an RP will be selected if the price is fixed and therefore the offer is the same for each – would it be on a rotational basis?</p>	<p>The 75 dwelling threshold has been removed and RPs with any amount of existing stock can apply to be a member of the Framework. This includes stock secured through planning permission/s106 agreements but not yet developed.</p> <p>It has been decided that the transfer values will now be a guide rather than fixed to allow for a degree of flexibility and take into account varying house prices in different locations of the Borough.</p> <p>As fixed transfer values are not now being implemented, developers can select a RP the same way they would now but should take into account the guide transfer values and which RPs currently own stock in the surrounding areas of the development.</p>
Jigsaw Homes	<p><u>Allocation process</u> We would need much greater clarity on how units will be allocated to RP's so that we can review and perhaps feedback on any potential loopholes. We are part of other Council Frameworks and it is the Council who stipulate who the units are going to as otherwise you are perhaps left to who the developers prefer which could then potentially be open to foul play. I would recommend a rota system. The document states the Council will have first option on the affordable units, can it be made clear what the council's appetite is for increasing their stock?</p> <p><u>Number of partners</u> The document states you are looking for a minimum of 5 partners but if you get a substantial number who all meet the criteria there could potentially be tens of providers in Chorley, some of which operate in a good way, some which do not. I think this potentially does need limiting if the allocation process is going to be determined by Chorley as otherwise it could be a trusted and well established provider like ourselves isn't able to obtain any s106 units in Chorley as we perhaps find ourselves bottom of the queue.</p> <p><u>Fixed transfer prices</u> The fixed transfer prices seem reasonable. The shared ownership calculation is similar to what we can currently offer and the social rent one is less than we would offer. This perhaps needs looking at further as it may make it easier for housebuilders to go down the viability argument to not deliver any affordables.</p> <p><u>Fees</u></p>	<p>It has been decided that the transfer values will now be a guide rather than fixed to allow for a degree of flexibility and take into account varying house prices in different locations of the Borough. As fixed transfer values are not now being implemented, developers can select a RP the same way they would now but should take into account the guide transfer values and which RPs currently own stock in the surrounding areas of the development.</p> <p>The Housing Strategy sets out the Council's ambitions to ensure that everyone living in the borough has access to the high quality accommodation that they need. Key actions identified in relation to the Council delivering its own stock include examining options and the business case for expanding the offer of extra care accommodation in the borough and establishing a Chorley Housing Company. The Housing Company has not yet been established.</p> <p>It is not considered necessary to have a maximum limit on the number of partners as it is not expected that there will be a significant number of applications.</p> <p>The fees are for the administrative costs of setting up and managing the Framework and securing and maximising affordable</p>

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	<p>We are happy to pay the fees but would like it to be clear where this is going. For instance if there is an underspend, could it go into a s106 pot which RP's could apply to receive funding from to go towards grant funded delivery of affordable housing?</p>	<p>housing delivery in the Borough. The fees will not go into a s106 pot.</p>
<p>Emery Planning on behalf of Wainhomes</p>	<p><u>Membership criteria</u> We consider that the mandatory membership criteria places unreasonable restrictions on the RSLs who can operate in the area. The only requirement for an affordable housing provider should be that they are on the Government's List of Registered Providers of Social Housing. To become a provider, each organisation must follow the procedure set by Government. In that context we consider it is unreasonable for the Council to introduce a further process for registered providers in order to deliver affordable homes in Chorley. A developer should be free to use any Government Registered Provider.</p> <p><u>Fixed transfer prices</u> The RPPF sets out fixed transfer values will be applied to affordable units secured through Section 106 Agreements. However, we consider this single approach across the Borough does not recognise that transfer values will differ across the Council area due to different Housing Market Areas and property values. Therefore, if fixed Transfer Rates are to be introduced then there should be a greater refinement on the market price in that area. However the provider should be free to agree the price based on the market.</p> <p>From our perspective the proposed restriction on the RSLs and fixing transfer rates could be perceived to be creating a dominant position for a limited number of registered providers and introducing an anti-competitive process. We consider that the LPA should take legal advice as to whether or not the RPPF would fall within and therefore be contrary to competition law. By way of example, the Government states "You must avoid other activities that break competition law, e.g.:</p> <ul style="list-style-type: none"> • buying or selling jointly with your competitors • agreeing with your competitors to reduce production of something to raise its market value • restricting how much other businesses can sell your product for • agreeing with your competitors not to sell to certain customers or deal with certain suppliers • having long-term exclusive contracts with any customers or suppliers." 	<p>The Council has sought legal advice which states "<i>The proposed Framework conditions are to ensure that the local housing need is met by the right RPs. On the basis that the criteria for RPs to be members of the Framework are proportionate, non-discriminatory and objectively necessary to achieve a legitimate purpose they would not breach competition law in any event.</i>" The 75 dwelling threshold has however been removed and RPs with any amount of existing stock can apply to be a member of the Framework. This includes stock secured through planning permission/s106 agreements but not yet developed.</p> <p>It has been decided that the transfer values will now be a guide rather than fixed to allow for a degree of flexibility and take into account varying house prices in different locations of the Borough.</p>
<p>Homes England</p>	<p>We do not wish to make any representations on the Chorley Council Registered Provider Partnership Framework consultation. We will however continue to engage with you as appropriate.</p>	<p>Noted</p>
<p>Trafford Housing Trust</p>	<p><u>Fixed transfer prices</u> We welcome the aspiration to deliver high quality, well managed affordable housing and the desire to provide certainty to developers and ensure units remain truly affordable. However, we do not feel a fixed transfer price guarantees affordability for the end user, only the RP. It is also not clear why the transfer value would be informed by household income and affordability in Chorley Borough, as that does not fix the rental level of shared ownership price. The benchmark transfer value for shared ownership is below the costs per unit for our current development in the borough and to sell the s106 affordable units to the Council or another RP at those values would be loss making. For us that means we would have to cut costs elsewhere either through delivering less grant funded affordable or through challenging other contributions we have committed to making. Any other developing RP would face the same challenges. We therefore recommend that RP developers can deliver s106 units on their own sites. Moreover, we are concerned that a fixed transfer price may not be an effective means of championing quality as high-quality standards are generally more costly to deliver. If a price cap is introduced, developers will be incentivised to deliver using the cheapest of materials and finishes to minimise their losses. If the objective is to ensure units remain affordable for the Council, a</p>	<p>It has been decided that the transfer values will now be a guide rather than fixed to allow for a degree of flexibility and take into account varying house prices in different locations of the Borough. The preference is for all affordable units on a development to be managed by the same RP.</p> <p>The 75 dwelling threshold has been removed and RPs with any amount of existing stock can apply to be a member of the Framework. This includes stock secured through planning permission/s106 agreement but not yet developed.</p> <p>As stated in Appendix 1 of the Framework applications from Registered Providers must include a written submission confirming and setting out how they meet the mandatory membership criteria. Applications should be accompanied by relevant documentation. If</p>

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	<p>fixed price transfer together with a 'first refusal' option would meet this requirement, but the affordable units could then be opened up to a competitive tender basis. As many units secured through legal agreements include a mix of different tenures the Framework should allow for the Council to offer in part, for example purchase social rented units not shared ownership. We therefore recommend that the objective is altered to "To provide certainty to developers and Registered Providers and ensure affordable units are truly affordable" and that the mechanisms for this are set out later in the Framework document.</p> <p><u>Objectives</u> Another potential objective could be to give confidence to RPs by creating a long term partnership with the Council which may open up opportunities to collaborate in developing sites particularly where RPs and the Council are adjoining land owners.</p> <p><u>Membership criteria</u> In respect of the membership criteria, we are of the view that a requirement to have existing stock of at least 75 units is counter intuitive as it excludes RPs that are actively developing stock. Other Councils that have adopted a Framework arrangement have included a requirement to have existing stock and/or land interests only and have not sought to include a threshold. We do not feel this would dilute the objective of the membership criteria as it would still ensure that RP partners have a local presence in Chorley. In relation to local management arrangement, it would be useful to clarify whether this means local to Chorley or local in scale as, again, the former would preclude RPs without local stock from applying. We would appreciate it if could be clarified whether the Council expects a written submission with evidence-based documents in respect of the performance criteria and specifically set out the strategic objectives the RPs will need to support.</p> <p><u>Application process</u> As an RP with several existing Panels, we have found it beneficial to have lay persons and tenants on our panels.</p> <p><u>Allocation process</u> When allocating units the Council could choose to either operate a rota system with a RP given first refusal or a point scoring system for competitive tenders for the affordable units, with the Council being front and centre in the selection process. We think that the Council should be given more control regarding the RP chosen to deliver the affordable units than the Framework currently suggests. The successful tender should be based on qualitative as well as quantitative criteria. The RPs should also be able to unilaterally withdraw should due diligence identify that the scheme does not meet their own requirements such as NDSS or where specification uplift is not available. We consider that there should be an exception to the allocation process whereby a developing RP is proposing to deliver additionality and therefore should be allowed to also deliver/manage the affordable stock secured via planning obligation/condition on their own sites.</p> <p>There are a number of different operating models for delivering affordable housing such as 'golden brick' i.e. lump sum upon the damp course being constructed, or staged payments dependent upon build levels i.e. up to the property being water tight or fist fix electrics or 'turn key' i.e. completion. These approaches allow the RP to tailor their package and price to the developer i.e. an RP might secure a more competitive price if it is handing over monies early on as this improves the developer's liquidity position. Alternatively a developer may prefer a higher return on a turnkey basis. The terms of the transfer will depend upon the individual circumstances and therefore the Framework should be</p>	<p>a RP has secured affordable units in the borough but has not yet developed any then information on management arrangements for developments outside of the borough should be provided along with clarification of whether the same arrangements will apply to units developed in the borough. The Council's strategic objectives relating to affordable housing are set out in the Corporate Strategy, Housing Strategy, Central Lancashire Core Strategy and Chorley Local Plan. All of these documents are available on the Council's website.</p> <p>It is not considered necessary for the Council to allocate units to RPs. As fixed transfer values are not now being implemented, developers can select a RP the same way they would now but should take into account the guide transfer values and which RPs currently own stock in the surrounding areas of the development.</p> <p>Agree that developers and RPs may wish to have staged payments therefore the Framework has been amended to state that the agreed transfer value should be paid prior to or upon completion of the affordable units.</p> <p>The recycling of shared ownership staircasing receipts in the Borough is already a requirement of all s106 agreements including shared ownership units in the borough and has not been introduced through the Framework.</p>

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	<p data-bbox="304 158 510 180">silent on this issue.</p> <p data-bbox="304 212 1368 424">We understand the need for a fee being set as we recognise the benefits of a Framework and the need to ensure this does not become a further financial burden on the Council. RPs operate under strict requirements to recycle shared ownership staircasing and the existing investment we have made in Chorley has been funded by other projects outside of the North West. We see this as a cyclical process benefitting all areas that we invest in. It is in our interests to build upon our existing portfolio in Chorley but specifically restricting recycling of shared ownership staircasing receipts to Chorley could be very difficult to manage internally and potentially outside of the RP's control unless RPs with existing capital to recycle are prioritised in the s106 unit selection process.</p>	