



Homes
England

Help to Buy: Equity Loan

House builder participation and registration guidance

Homes England

<https://www.gov.uk/government/collections/help-to-buy-equity-loan-guidance-and-application-forms>

November 2019



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March 2017

ISBN: 978-1-4098-5028-1

Republished February 2018

Republished July 2019

Republished August 2019

Republished November 2019

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Help to Buy: Equity Loan programme overview

1. Government Help to Buy: Equity Loan funding is available to assist eligible buyers purchase a new home by end March 2021.
2. The maximum property price for Help to Buy is £600,000, this limit includes the amount paid by the Help to Buy Buyer for any linked transactions such as when the Provider sells or leases a parking space or garage separately to the Help to Buy Buyer.
3. The assistance is offered to purchasers via house builders registered for the programme on development sites all over England (referred to below as “Providers”). This registration document applies for England until March 2021. For details of Help to Buy options in Wales and Scotland please visit: <https://www.helptobuy.gov.uk/>
4. Help to Buy: Equity Loan funding demand is consumer-led (within available funding). All Providers will be expected to offer Help to Buy on all their new build homes which have a value up to the maximum purchase price permitted by the programme.
5. This document sets out the registration process for the Homes England Help to Buy: Equity Loan programme for England. It also includes the arrangements that are in place for London. Homes England will administer the Help to Buy scheme on behalf of the Greater London Authority until March 2021.
6. Help to Buy: Equity Loan was started in 2013 by the Homes and Communities Agency. Homes England was launched by the Secretary of State on 11 January 2018. Homes England is the trading name of the Homes and Communities Agency (which remains the legal entity). Therefore all Help to Buy mortgages and all Help to Buy Funding Administration Agreements continue to have the Homes and Communities Agency as the party to the agreement.

Help to Buy: Equity Loan product overview

7. New home purchasers can access an equity loan of up to 20% of the full purchase price outside of London and up to 40% in London subject to a maximum full purchase price of £600,000. The equity loan will be funded by Homes England. There is no cap on the buyer’s household income.
8. Help to Buy home purchasers will be required to raise funding, (a mortgage plus a deposit) of at least 80% (60% in London) of the full purchase price. The home buyer’s mortgage loan is secured as a first charge on the property in the usual way and will rank ahead of Homes England’s charge in relation to the equity loan provided by Homes

England. Help to Buy home buyers must always contribute a minimum 5% cash deposit (5% of the full purchase price) to their purchase.

9. The form of equity mortgage is prescribed by Homes England from time to time. Each equity loan term is 25 years subject to extension to match the First Charge or earlier repayment on any sale of the property. Voluntary repayment may also be made at any time.
10. Providers will receive the sale price for the purchased properties through a combination of the purchaser's own funds (including mortgage finance) and the Help to Buy assistance to the purchaser. Homes England's contribution will be made available to the Provider at legal completion of the purchase. Payments from Homes England will be made through the Homes England Investment Management System (IMS).
11. Providers with fewer than 40 forecast sales, and who are not already registered to use IMS, will be offered alternative arrangements for administering IMS and further information will be issued as part of the contracting process.

Providers are reminded that in order to qualify for Help to Buy in:

- (a) Homes England's current financial year (1st April 2019 to 31st March 2020):
 - (i) All Plots must be build complete by 31st December 2019;
and
 - (ii) The Buyer must have legally completed their purchase of the Help to Buy property on or before 31 March 2020.
- (b) Homes England's next financial year (1st April 2020 to 31st March 2021):
 - (i) All Plots must be build complete by 31st December 2020; and
 - (ii) The Buyer must have legally completed their purchase of the Help to Buy property on or before 31 March 2021.

Failure by the Provider to comply with these conditions will result in Help to Buy funding being immediately withdrawn.

Leasehold reform and Help to Buy: Equity Loan

12. In December 2017, the Government announced that too many new houses are being built and sold on unnecessary leasehold terms and the Government wants this practice to stop.
13. At the same time, the Secretary of State also wrote to all Help to Buy Providers setting out that it was not appropriate for the Help to Buy: Equity Loan scheme to support the sale of leasehold houses. The full text of the letter is included in the Annex to this guidance.
14. In June 2019 the Government provided its response to its subsequent Consultation; ["Implementing reforms to the leasehold system in England"](#).

As a result of the Government's response Leasehold houses will no longer qualify for Help to Buy unless they meet one of the following limited exceptional circumstances:

(a) **EXEMPTION A**

The house was constructed or adapted on land which the Provider:

- (i) does not own the freehold title;
- (ii) acquired a long leasehold title **on or before 21 December 2017**; and
- (iii) The Provider's long leasehold title to the house is registered at HM Land Registry; or

(b) **EXEMPTION B**

The house was constructed on land disposed on a long leasehold basis to the Provider from:

- (i) the Crown Estate;
- (ii) the National Trust; or
- (iii) any other public body specified in writing by Homes England (at its discretion) on a Leasehold basis.

For the purposes of Paragraph 14(b)(iii), Homes England confirm that it will treat a house constructed on land disposed to the Provider by a Local Authority on a long leasehold basis, as complying with the exemption set out with Exemption 14(b)(iii).

(c) **EXEMPTION C**

The house was:

- (i) constructed directly above another structure (such as an underground car park);
- (ii) the existence of the other structure would prohibit the independent structural redevelopment of the house; and
- (iii) Homes England have provided you with their prior written approval to this structural arrangement.

If any leasehold house does not meet any of the above exemptions it will not qualify as an “Eligible Dwelling” for Help to Buy.

The process to apply for a leasehold house exemption is set out within the Second Annex.

Help to Buy Provider Registration

15. All housebuilders (including Registered Providers) are eligible to register to participate in the Help to Buy: Equity Loan programme. Organisations do not have to be qualified as Homes England Investment Partners.
16. Help to Buy registration is simple and Providers are required to follow the steps below. If you would like more detailed guidance please follow this https://www.youtube.com/watch?v=DpVqvfwW4Ss&index=2&list=PLGw_Zy-F2yTu-GRJBxcKLgQ9fB9Yh1Lzq to the Homes England video library and click on the guidance video called Help to Buy: Registration for new Providers.
 - a. Register for a Help to Buy: Equity Loan account using the on line registration form here: <https://ims.homesengland.org.uk/Register/HelpToBuy>.
 - b. This records your Provider details, company name, registered office and number etc. This must be done in one session so make sure you have enough time to populate the form.
 - c. You then confirm your acceptance of contractual terms to make Help to Buy sales and press “Submit”.
 - d. You then activate your account using the automated email response (please check your junk email if not received).

- e. Once activated house builders can log in and submit forecast submissions for applicable years.
 - f. Submit your proposed forecast Help to Buy sales by local authority area with estimated equity loan value for the year April to March.
 - g. The link to the Help to Buy: Equity Loan Forecast Management and Registration system can be found here <https://ims.homesengland.org.uk/Register/HelpToBuy>
 - h. When you login you will see your unique Developer Code (e.g. NP0123) in front of your company name. This code must always be used when contacting Homes England and the Help to Buy Agents to verify your organisation's identity.
17. Potential Providers will be asked to provide confirmation that the proposed sites they are putting forward are within the legal ownership of the applicant and that they are in a position to comply with the terms of Homes England's standard form Funding Administration Agreement for the provision of the Help to Buy funding to purchasers.
18. Potential Providers who are unable to give these confirmations will always have their registration application rejected.
19. Homes England will review the applicant's proposed forecasts for achieving purchaser legal completions with Help to Buy and will determine an agreed sales forecast for the Provider. Homes England will use estimates of Help to Buy demand nationally and availability of funding to agree these forecasts. Agreed sales forecast may be fewer than submitted by the Provider in its registration application in accordance with the terms of the Help to Buy Funding Administration Agreement.
20. Given the scale of the Help to Buy: Equity Loan programme and to ensure appropriate governance and management of taxpayer investment, Homes England will collate new registrations received over a period of time (usually monthly) for review and approval.
21. All Provider registration applications are checked for compliance before receiving a programme forecast budget approval. At this point, Providers with Homes England approved registrations will be issued with a Funding Administration Agreement and they will need to then complete the contractual formalities.
22. Because of the size of the Help to Buy: Equity Loan programme, the need to ensure efficient administration of public money and appropriate due diligence, oversight and governance, and to minimise the risks of fraud, it can take up to 10-12 weeks for a Provider registration to be checked, approved and a Funding Administration Agreement issued. For avoidance

of doubt, individual registration applications cannot be considered outside of this process or given separate priority under any circumstances.

23. By ticking the online declaration box, Providers acknowledge that they must not take reservations for Help to Buy: Equity Loan purchaser legal completions until fully in contract with the Help to Buy: Equity Loan programme.
24. The agreed annual Provider forecasts for Help to Buy: Equity Loan purchaser legal completions will be appended to the Help to Buy Funding Administration Agreement “Schedule 1” and is a contractually binding delivery obligation on the Provider (subject always to consumer demand).
25. Homes England will not approve any forecasts for sales which are to legally complete after 31 March 2021. For the avoidance of doubt, all purchaser legal completions must be achieved by 31 March 2021.
26. Providers will receive an agreed forecast for a single year (April to March). Homes England will then subsequently invite Providers to submit forecasts for further years. Once approved by Homes England, a new Schedule will be issued each year to confirm participation in the Help to Buy: Equity Loan programme.
27. Before Providers register for the programme they must note these key requirements that are non-negotiable:
 - Homes which have been previously occupied either by an owner-occupier or a tenant before sale may not be purchased with Help to Buy assistance.
 - Help to Buy Homes must benefit from an NHBC or equivalent new home warranty schemes from a reputable insurance company. Such Insurance Company must be acceptable by at least 75% of First Charge Mortgage Lenders which qualify to lend on Help to Buy. For further guidance please refer to the Q&A Section.
 - Architects or Professional Consultants Certificates will not be accepted by Homes England in lieu of a qualifying new home warranty scheme.
 - Help to Buy homes must meet current Building Regulations and be in possession of a Building Regulations Completion Certificate and other applicable Regulatory consents.

- Homes developed to fulfil S106 affordable housing obligations are **not** eligible for Help to Buy: Equity Loan assistance. Help to Buy homes must be market sale homes.
- Providers cannot offer part-exchange to Help to Buy: Equity Loan purchasers.
- Providers cannot exchange contracts with a Help to Buy purchaser if the forecast date for purchaser legal completion is more than six months from the date of exchange; and
- All legal completions for Help to Buy homes **MUST** take place on or before 31st March within Homes England's financial year (1st April to 31st March) (Financial Year) that they are forecast.
- All Eligible Dwellings **MUST** reach Practical Completion (as defined within the Funding Administration Agreement) on or before 31st December of the Financial Year that they are forecast. .

Eligible Dwellings cannot be carried forward over into the next Financial Year.

- All Provider incentives must be disclosed on the standard UK Finance (formerly CML) disclosure of incentives form.
- The full purchase price cannot exceed the value stated in the First Charge mortgage lender's valuation report.

28. There is no minimum number of homes for participation by Providers in the Help to Buy: Equity Loan programme. Providers with fewer than 40 forecast Help to Buy purchaser legal completions in a year, and who are not already registered to use the Homes England Investment Management System will be offered alternative arrangements for receiving payment and administering the System via the Help to Buy Agents.

29. Because Help to Buy assistance is offered to the buyer all new build market sale units up to £600,000 purchase price are eligible. This applies if the Provider is in receipt of other Homes England funding support e.g. the Home Builders Fund.

Provider Help to Buy forecast performance management

30. Providers will be required to enter into a Funding Administration Agreement with Homes England covering the terms on which equity loans will be made available for individual purchases and for the administration of payment. The Agreement includes the ability for Homes England to vary Provider forecasts. Homes England will utilise this provision to ensure consumer demand is met and to enable full delivery of the programme in a timely fashion.
31. Homes England will require Providers to provide monthly transaction data to enable cash management this will be gathered via Homes England's online IMS system. Providers will be contractually obliged to update IMS in a timely fashion with accurate completion data. For smaller Providers (40 or less anticipated sales) they must update the Help to Buy Agent on sales progress.
32. Provider performance will be reviewed monthly. Providers failing to meet their forecast sales due to lack of consumer participation will have their sales forecasts reduced.
33. Providers that expect to exceed their forecasts as a result of high consumer interest in their properties will have the opportunity to agree increased forecasts (subject always to future purchaser demand and funding being available). This should be done via the online Help to Buy Forecast Management and Registration system as a 'change request'.
34. Providers should be aware that confirmation of any requested increase via a change request can take between 6-8 weeks. This is to ensure efficient administration of public money and appropriate due diligence, oversight and governance, and to minimise the risks of fraud. For avoidance of doubt, individual forecast change request applications cannot be considered outside of this process or given separate priority under any circumstances.
35. In submitting a registration application for Help to Buy based on this document, potential Providers will be deemed to accept the requirements contained within the standard form agreement.

Consumer Credit Act compliance

36. Potential Providers should note that their role in administering the Help to Buy: Equity Loans in conjunction with Homes England is not classed as “credit brokerage” for the purposes of the Financial Conduct Authority's regulatory requirements.
37. This means that Providers do not need to apply to obtain authorisation from the FCA in order to participate in the programme.
38. The FCA took over the regulatory role for Consumer Credit related activities from the Office of Fair Trading on 1 April 2014 and as a result the OFT also no longer has a role in regulating the Help to Buy product for the purposes of the Consumer Credit Act).
39. Providers are reminded that in any event they are required to comply with the Advertising Regulations issued under the Consumer Credit Act and Homes England's Advertising rules. Providers are encouraged to take their own legal advice in relation to these regulations and the promotion of the Help to Buy: Equity Loan product.

Marketing

40. Homes England recognises that Providers will have considerable expertise in the area of sales and marketing of new homes. However, Homes England must ensure that the customer receives a consistent message about Help to Buy from all Providers.
41. Homes England will not seek to agree individual marketing strategies, but Providers will need to meet all the following fundamental parameters:
 - Logo guidelines from Homes England must be applied as applicable.
 - Marketing material must include accurate descriptions of Help to Buy (including any text prescribed by Homes England).
 - Prospective purchasers must be provided with a Help to Buy Buyers' Guide, which is available to download here: <https://www.helptobuy.gov.uk/wp-content/uploads/Help-to-Buy-Buyers-Guide-Feb-2018-FINAL.pdf>
 - Promotional material must not be misleading for the customer.
 - Homes England expects Providers to actively market Help to Buy to meet their forecast sales.
 - Developers are required to comply with the Consumer Code for Homebuilders and reimburse reservation fees if the Reservation agreement is cancelled.

- House builder Help to Buy advertising must always include clear, prominent reference to the home's FULL market purchase price. For the avoidance of doubt Homes England always considers the use of a net or Help to Buy price or similar, in advertising or other communications with prospective purchasers e.g. (but not confined to) advertising, plot price lists or reservation forms, as misleading and a Provider Default of the Agreement. "Net" process must not be used.

42. Advertising that presents a "net" or Help to Buy purchase price is misleading to customers and may:

- Be a source of complaints to builders, Homes England and Government;
- Cause reputational damage to house builders and Homes England; and consequently undermine consumer confidence in the initiative;
- Deter potential buyers from considering the scheme; and
Be a source of future challenge from home owners as Homes England seeks to enforce the terms of its equity mortgage.

43. Therefore, Providers must ensure their advertising is compliant and not use a "net" or Help to Buy purchase price in their advertising.

London arrangements

44. This document sets out the registration process for Homes England's Help to Buy scheme for England. The Greater London Authority has delegated the management of Help to Buy in London to the Homes England until the end of March 2021. Providers wishing to make sales in London must submit their forecast sales for London to Homes England using the online Help to Buy Forecast Management and Registration system.

Help to Buy: Equity Loan details

Valuations and the purchase price

45. To ensure properties are sold at market value, the selling price must match the main mortgage lender's independent valuation. It is a requirement of the Help to Buy product that purchasers take out and maintain a first charge loan with a qualifying lender. The first charge mortgage must be a minimum of 25% of the value of the property.
46. Incentives are excluded from the assessment of the market value for the purposes of calculating the amount of equity Homes England will invest (i.e. the investment equity calculation is undertaken on the purchase price after incentives have been discounted).
47. Incentives could include the payment of fees or provision of white goods. Incentives will need to comply with UK Finance (formerly CML) guidance and not exceed 5% of the purchase price and therefore impact on the valuation of the property. Providers will also be required to use the UK Finance disclosure of incentives form which is available to download at <https://www.cml.org.uk/lenders-handbook/disclosure-of-incentives-form/> For avoidance of doubt, "assisted move" packages, or equivalent, offered to purchasers are always deemed to be incentives and must be disclosed on the UK Finance form.

Charges on the equity loan

48. Help to Buy purchasers will not pay a fee on the Homes England equity loan for the first five years. From the beginning of year six an annual fee of 1.75% will be levied on the equity loan payable in monthly instalments. The annual fee of 1.75% of the market value of the property at the time of sale will be uplifted by RPI + 1% p.a.

Future sales or equity loan redemptions

49. If a buyer opts to sell the property prior to the redemption date (of 25 years), or redeems their main mortgage prior to that period (without immediately refinancing) the equity loan is to be repaid. The amount payable is based on the relevant percentage share of the market value of the property at the time the loan is repaid. Owners may redeem the equity loans ("staircase out") at any time in full or in part, earlier, if they wish. The minimum amount for equity loan redemption will be 10%. An example of how Help to Buy will work is as follows:

- Initial purchase
 - Purchase price: £200,000
 - Mortgage: £150,000 (75%)
 - Deposit: £10,000 (5%)

equity loan: £40,000 (20%)

For the first five years the equity loan is charge free.

At the start of year 6 an equity charge is levied of 1.75% rising at RPI + 1% per year.

- Sale after 5 years
OMV: £210,000 (a 5% uplift in value).
Mortgage repayment: £150,000.
equity loan: 20% of OMV = £42,000

Remainder available to the purchaser to use as a deposit = £18,000 for their next purchase.

50. Homes England recognises that the value of homes can also fall. It is intended that Homes England will accept the equity depreciation as well as the benefit from any appreciation. Therefore, as long as an owner has otherwise complied with the terms of the mortgage, the Homes England will not pursue the owner for payment if there is a shortfall when the mortgage is redeemed.

51. As the equity loan is a second charge, the first lender will always recover up to the full amount due under its loan before the second charge holder has any rights to the proceeds of the sale. All Providers should note that the above is for illustration purposes only and the maximum loan available in the London area is up to 40%.

Applicant affordability criteria

52. Help to Buy is targeted at providing support for first time buyers and those selling to move up the property ladder.

53. Applicants for Help to Buy will be required to undergo a sustainability check with a Help to Buy Agent, to ensure they can afford to sustain home ownership.

54. The maximum equity loan which a purchaser will be able to access is 20% (40% inside London). However, the purchaser may wish to maximise the amount of their contribution (mortgage plus deposit) which they can reasonably afford. Where this is the case, the minimum (total) equity loan allowable will be 10% combined with 90% finance (mortgage plus deposit) to fund the purchase.

55. Main lender mortgage deposit requirements will vary but as a minimum, buyers must contribute at least 5% deposit of the full purchase price. Main

lender mortgages must always be on a repayment basis. Purchasers are not permitted to take out an interest-only mortgage.

Role of the Help to Buy Agents

56. Help to Buy Agents will review applications from potential buyers and determine whether applicants meet the minimum sustainability criteria for assistance through Help to Buy.
57. Help to Buy Agents undertake a sustainability check designed to ensure that an applicant can afford their financial contribution to the purchase in the long term. This is based on a maximum of 45% for housing costs as a proportion of net available income. Homes England believes this approach provides a robust assessment of an applicant's ability to afford and sustain home ownership in the long term and protects tax payer assistance to purchasers.
58. Help to Buy Agents will issue their approval for a Help to Buy purchase to proceed to the applicant and the registered house builder Provider.
59. Potential purchasers will be strongly encouraged to seek independent financial and legal advice before they purchase. Help to Buy Agents and Providers will often be able to 'signpost' purchasers to potential advisors although potential purchasers are not restricted in their choice of advisors. However, Help to Buy Agents will have the final say in determining whether a buyer is deemed to be able to satisfy the affordability and eligibility criteria for the Help to Buy product.
60. The Help to Buy Agent network is contracted to the Homes England to the end of September 2019. Delivery decisions will be made prior to this date.
61. A mortgage administrator is engaged by the Homes England to collect the interest charges for each of the equity loans once those become due, and to deliver all mortgage administration services after purchaser legal completion.

Submitting a registration application

62. House builders and developers should use the Forecast Management and Registration system to create an account – once builders have activated their accounts they can submit forecasts for financial years.
63. The registration form can be found here
<https://ims.homesengland.org.uk/Register/HelpToBuy>
64. There is no closing date for registration but Homes England will not consider applications if the forecast sales cannot be met (legally completed) by March 31st 2021 or if funding is no longer available.
65. All Providers should note that forecasts are only agreed on the basis of a single year running April to March. Therefore builders cannot take reservations for sales if they do not have an agreed forecast for the relevant applicable year. During the course of a year, Homes England, acting at its absolute discretion, may invite builders to submit forecasts for the following year. The timetable for this will always be determined by Homes England.

Key contacts

66. The first point of contact for registration applicants, contract enquiries or forecasting is Homes England's central Help to Buy team who can be contacted on HTBContracts@homesengland.gov.uk
67. For policy questions about the operation of the scheme, builders can email Homes England at HelptoBuy@homesengland.gov.uk.
68. We advise all builders to view our Help to Buy video tutorials which can be found here: https://www.youtube.com/playlist?list=PLGw_Zy-F2yTu-GRJBxcKLqQ9fB9Yh1Lzg and to read all this guidance before making contact.

Questions and answers

Q Is there a minimum number of homes requirement to participate?

There is no minimum number of homes requirement.

Q Is there guidance available to help me complete the registration form?

Please use this link https://www.youtube.com/playlist?list=PLGw_Zy-F2yTu-GRJBxcKLqQ9fB9Yh1Lzg to the IMS video library and click on the guidance video called Help to Buy: Registration for new providers.

Q I have submitted my Help to Buy registration and forecast via the Forecast Management and Registration system – what happens now?

Once you have submitted your forecasts it can take up to 10-12 weeks for your submitted forecast to be agreed and a Draft Contract to be issued.

Q Do I need separate agreements for all companies in my group?

Yes, each Company planning on selling properties using the Help to Buy: Equity Loan scheme needs to register separately, we no longer offer Group Registration.

Providers

Q Do I need a separate agreement if the land is owned by SPVs?

Yes each Company will need to be registered separately (and therein comply with the consumer licencing requirements).

Q If I already have a Help to Buy contract in place, can I add a new organisation within my Group Structure?

No, with effect from 1st April 2019 each Company must have their own registration, so even if you previously sold under a Group Structure you now need to register each Company Individually.

Q What is IMS?

IMS is the Homes England grant payment and programme management system. Payments from the Homes England for Help to Buy will be made through the Homes England Investment Management System (IMS).

Q How do I register to use Homes England Investment Management System IMS?

If Homes England agrees a forecast in excess of 40 units an application form to register to use IMS will be issued as part of the contracting process.

You do NOT need to contact our Service Desk to request an application pack.

Providers with fewer than 40 forecast sales, and who are not already registered to use IMS, will be offered alternative arrangements for administering IMS and further information will be issued as part of the contracting process.

Q How do I reset my system password or I don't know my password?

Please follow this link https://www.youtube.com/playlist?list=PLGw_Zy-F2yTu-GRJBxcKLqQ9fB9Yh1Lzg to the Help to Buy video library and click on the guidance video called 'Resetting your own password in IMS.'

Q I'm getting a message that I don't have "Web Services". What does this mean?

The systems administrator for your organisation needs to grant you the relevant permissions to allow access to the Homes England system. These are:

- Help to Buy Web Forecast Management (full access for large provider user to enable them to submit forecasts for open years, view approved forecasts, and update contact details); and
- Help to Buy Web View Only.

For all other IT based enquiries please contact the Homes England Service Desk on Tel: 01908-353604.

Q Are part exchange sales allowed in Help to Buy?

Part-exchange cannot be used by Help to Buy purchasers.

Q I want my company to build the house and then to buy it in a personal capacity is this allowed?

The Help to Buy funding administration agreement states that an eligible purchaser is a person who is not connected with the provider, therefore you cannot sell to friends and family.

Q Where do I find the Developer Code and what is it for?

The Developer Code can be found in the Forecast Management and Registration system and when you log on it will appear in front of your Company name (it will be prefixed NP and 4 numbers e.g. NP1234).

This is how Homes England identifies Providers and the code must be included in all correspondence to both the Homes England and the Help to Buy Agents. It is used to minimise the risks of e.g. fraud and misrepresentation.

Q What is the Help to Buy definition of new build?

New build properties are newly completed dwellings including converted commercial premises and any conversions which have not been used as residential dwellings immediately before conversion. Houses split into flats are therefore not included in the definition.

Homes which have been previously occupied either by an owner occupier or a tenant before sale may not be purchased with Help to Buy assistance.

Q I am not an NHBC registered developer does this matter and what does Homes England consider to be “equivalent” or “similar” warranty/insurance policy protection?

Homes England is not limiting builders to just use the NHBC scheme. The Help to Buy: Equity Loan Funding Administration Agreement’s definition of “Eligible Dwelling,” includes a requirement that the Help to Buy home is built in accordance with “NHBC or equivalent requirements” and “has the benefit of an NHBC guarantee or similar warranty by a reputable insurance company as agreed by the Agency (which includes inter alia the protection of purchaser’s deposits between exchange and completion).”

The references to “equivalent” and “similar products” means that the alternative new home warranty scheme provided must be:

- (a) From a reputable Insurance Company;
- (b) Acceptable to 75% of First Charge Mortgage Lenders that provide finance on Help to Buy: Equity Loans; and
- (c) Protect the Buyers deposit between exchange and completion.

The new home warranty scheme must also:

- Require the Provider to be subject to site inspection during construction to comply with insurance policy/warranty requirements;
- Cover includes loss of purchaser deposit (through builder fraud/insolvency);
- Cover is for ten years from purchaser legal completion;
- Cover includes costs of remedying all defects during policy/warranty period including all professional fees; and
- Provide Contaminated land cover.

If the Provider’s insurance policy, guarantee or warranty provider does not offer loss of purchaser deposit cover, it can still meet the Help to Buy agreement’s requirements if its solicitor holds purchaser deposit monies until purchaser legal completion. To comply, the builder’s solicitor must provide the Homes England with a legal undertaking.

The form of undertaking is available from the Homes England on request. A further briefing note is available at <https://www.gov.uk/government/publications/help-to-buy-equity-loan-funding-administration-agreement>

Q I am not registered with the Consumer Code for Home Builders, does this matter?

A builder can fully comply with Homes England’s requirements without formal registration with the Code.

The Help to Buy: Equity Loan Funding Administration Agreement’s includes a warranty that the builder, “has adopted and complied with (and shall continue to adopt and comply with) the Consumer Code for Home Builders in respect of each Eligible Dwelling.”

The Code's aim is to set standards that builders must meet in their marketing and selling of homes and in their after-sales customer service. Homes England’s intention is that Help to Buy builders comply with the spirit of the Code, adopting, the good-practice principles in sections 1 to 5 of the Code comprising:

- Adopting the Code
- Information – pre-contract
- Information – exchange of contracts
- Information – during occupation
- Complaints and disputes

The Code makes reference to specific guarantee and warranty products. Homes England does not require builders to be registered with any insurance, warranty or guarantee provider defined in the Code. See question above regarding Homes England requirements for new build insurance, guarantee or warranty requirements. A further briefing note is available at <https://www.gov.uk/government/publications/help-to-buy-equity-loan-funding-administration-agreement>

Q What is a Help to Buy Agent?

Help to Buy Agents are appointed by Homes England to make the sustainability and eligibility checks on prospective Help to Buy purchasers and issue the key transaction approvals to house builders, e.g. Authority to Proceed and Authority to Exchange. Help to Buy Agents also have websites to highlight Help to Buy schemes and builders can include their property details free of charge.

The Help to Buy Agents are also responsible for the initial sustainability and eligibility assessment for applicants for purchasers of grant funded affordable home ownership products such as shared ownership. Help to Buy Agent contact details including London can be found at <https://www.helptobuy.gov.uk/equity-loan/find-helptobuy-agent/>.

Q Can builders sell Help to Buy homes in London?

The Greater London Authority has delegated the management of Help to Buy in London to Homes England until the end of March 2021. Builders wishing to make Help to Buy sales in London must submit their forecast sales for London to

Homes England on the standard registration form (see registration guidance above).

First Annex: Letter from the Secretary of State to Help to Buy house builders regarding leasehold practices

The Rt Hon Sajid Javid MP

Secretary of State for Communities and Local Government

Department for Communities and Local Government

4th Floor, Fry Building

2 Marsham Street

London SW1P 4DF

Tel: 0303 444 3450

Fax: 0303 444 3289

E-Mail: sajid.javid@communities.gsi.gov.uk

www.gov.uk/dclg

21 December 2017

I have been very clear about my concerns with some of the practices in the leasehold market and my intention to act. My Department recently consulted on tackling some of the most unfair and unreasonable abuses including the sale of leasehold houses and ground rents. We received an overwhelming response, with the vast majority in favour of widespread reform.

As you will have heard me say before, other than in exceptional circumstances I cannot see any good reason for houses to be built and sold on a leasehold basis. It is clear that many consumers had not made an active or informed choice to buy a leasehold house with far too many distressed and surprised to learn that they owned a depreciating asset. In many cases the cost to purchase the freehold had risen considerably, sometimes running into tens of thousands of pounds.

I am also concerned that ground rents have risen considerably from small sums to, in some cases, hundreds of pounds per year. Ground rents offer institutions clear benefits, and allow developers to maximise their profit. But, unlike service charges, consumers see little clear benefit. Where these terms are onerous, consumers can find their future liabilities will stretch to many thousands of pounds and they will end up effectively trapped in their own homes, unable to find a new buyer.

This has got to stop. I will be seeking to bring forward legislation as soon as Parliamentary time allows to prohibit new long leases from being granted on houses, other than where there is a clear case for exception. Legislation will also ensure that in future ground rents on newly established leases are set at a peppercorn (zero financial value).

For these reasons I do not think it is appropriate for the Help to Buy: Equity Loan scheme to support the sale of leasehold houses. I also want to see industry taking action to limit ground rents ahead of legislation, and to see developers and investors going further to redress problems for consumers with onerous ground rents. Some schemes have come forward, and this is welcome. But I want to see this support extended to all those with onerous ground rents, including second hand buyers, and for customers to be proactively contacted.

I will be keeping a close eye on this situation and will consider further action if progress is not achieved. To that end, I would welcome an update on the steps you are taking to address unfair practices in the leasehold market. Please do send your updates to LEASEHOLD.Reform@communities.gsi.gov.uk. I hope that I can rely on your support in this.

You can read full response here:
<https://www.gov.uk/government/consultations/tackling-unfair-practices-in-the-leasehold-market>

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THE RT HON SAJID JAVID MP

Second Annex: How to apply for a Leasehold House Exemption

All applications for leasehold house exemptions must be applied for, in writing, to Homes England by the **Provider's Solicitors** and initially sent by e-mail to HTBContracts@homesengland.gov.uk.

This must be completed by the Solicitors whom are instructed by the Provider in respect of the disposal of the plots within the application development.

Applications made by the Provider directly to Homes England will not be considered, unless this is made from their in-house legal team and the Provider has not instructed external Solicitors to act on the plot sales within the development.

EXEMPTION A

To commence the application, the Provider's Solicitors (either external or internal) acting on the plot sales within the development must provide Homes England with a certificate in the form set out within the Third Appendix (Exemption A Certificate).

The certificate must be signed either by:

- (a) the Provider's Solicitor's on its headed paper. Whilst the certificate must be signed in the name of the Solicitors Firm, the signatory signing in the Firms name, **must be a Partner**, who needs to state their name at the bottom of the certificate; or
- (b) In the case where the Provider's in-house legal team are acting on the plot sales, the certificate must be signed by the Provider's Head of Legal/General Counsel.

No amendments to the certificate will be accepted (other than to populate the relevant details) within the certificate.

Once Homes England have received the relevant certificate from the Provider's Solicitors in the required form, Homes England will rely upon this that the exemption is met, as long as the Help to Buy Plots are granted out of the Head Leases detailed within the certificate.

EXEMPTION B

To commence the application, the Provider's Solicitors (either external or internal) acting on the plot sales within the development must provide Homes England with a certificate in the form set out within the Fourth Appendix (Exemption B Certificate).

The certificate must be signed either by:

- (a) the Provider's Solicitor's on its headed paper. Whilst the certificate must be signed in the name of the Solicitors Firm, the signatory signing in the Firms name, **must be a Partner**, who needs to state their name at the bottom of the certificate; or
- (b) In the case where the Provider's in-house legal team are acting on the plot sales, the certificate must be signed by the Provider's Head of Legal/General Counsel.

No amendments to the certificate will be accepted (other than to populate the relevant details) within the certificate.

Once Homes England have received the relevant certificate from the Provider's Solicitors in the required form, Homes England will rely upon this that the exemption is met, as long as the Help to Buy Plots are granted out of the Head Leases detailed within the certificate.

For the purposes of Exemption (b)(iii), if the public authority landlord is not a Local Authority the Provider's legal representatives will need to notify Homes England with the details of the public authority landlord.

Homes England will then confirm in writing whether, in principle, a disposal by the public authority would meet Exemption B. If it confirms that it would, the Provider's Solicitors will then need to provide an Exemption B certificate.

EXEMPTION C

The application must be made by the Provider's Solicitors on its headed paper or by the Provider's In-house legal team (as appropriate) and:

(a) confirm the following:

- (i) The reason why the Provider meets the Exemption C with reference to the documents submitted in support;
- (ii) The structure that the house is constructed on prohibits the independent structural redevelopment of the house; and
- (iii) The terms of any Head Lease do not prohibit the granting of the Help to Buy plot underlease; and

(b) Enclose:

- (i) A copy of the Official Copy Entries of the Register of the Provider's Leasehold Title and Title Plan;
- (ii) A plan evidencing what structure the house is constructed on;
- (iii) Floor layout plans;
- (iv) A copy of the Head Lease (or final form Plot Lease) evidencing the exclusion of the structural parts of the Plot from the demise, which would be necessary for the independent structural redevelopment of the Plot (e.g. the exclusion of the foundations, roof, joists, external walls, other structural parts of the house)

Once the Provider's Solicitors have provided Homes England with the required letter and supporting documents, Homes England will then consider the application and confirm whether or not the house(s) meet the exemption criteria and whether it is willing to provide its consent.

Please note Homes England do reserve the right to request further supporting information from the Provider's Solicitors should Homes England consider this necessary.

THIRD APPENDIX

EXEMPTION A – SOLICITORS CERTIFICATE

TO BE SIGNED BY A PARTNER ON BEHALF OF THE DEVELOPERS SOLICITORS

To:

Homes England
50 Victoria Street
Westminster
London
SW1H 0TL

Developer: means [enter name of Developer] (Company Registration Number []) whose registered office is at [].

Development: means the development known as [Enter address of Development] registered at HM Land Registry under the Title Number.

Head Lease: means the Head Lease dated [Enter date of Head Lease] made between [Enter name of Head Landlord] (1) and the Developer (2) relating to the Development

Help to Buy Plots: means any plots within the Development which the Developer has/will forecast to Homes England for Help to Buy funding

Participation Guidance: means the Help to Buy: Equity Loan House builder participation and registration guidance

Title Number: [Enter Title Number]

We confirm that we act for the Developer in respect of the plot sales within the Development and as the Developers Solicitors certify the following:

1. The Developer acquired the Head Lease on or before 21st December 2017;
2. The Developer does not own the freehold title to the Development;
3. The Head Lease comprises the entirety of the Development;
4. The Head Lease is registered at HM Land Registry under the Title Number with Title Absolute and the Developer is the sole registered proprietor;
5. The Help to Buy Plots under leases will be granted out of the Head Lease in its entirety;
6. The Lease does not prohibit the granting of the individual Help to Buy Plots under leases;

7. The Development fully complies with the exemption set out within Paragraph 14 (a) of the Participation Guidance.

We acknowledge that Homes England will not review the Head Lease or the Developer's title to the Development and have taken a full reliance of the contents of this certificate that the Development complies with the exemption set out Paragraph 14(a) of the Participation Guidance.

We further undertake not to proceed with the disposal of any Help to Buy Plots which are leasehold houses and outside the demise of the Head Lease unless we have immediately notified Homes England of this and provided it with a certificate in identical form to this certificate.

Signed

[Name of Solicitors Firm]

Name of signatory Partner(Partner)

Dated:

Drafting Notes:

If the Development comprises more than one Head Lease or Title state all Head Leases and Title Numbers within the definitions of Head Leases and Title Number.

FOURTH APPENDIX

EXEMPTION B – SOLICITORS CERTIFICATE

TO BE SIGNED BY A PARTNER ON BEHALF OF THE DEVELOPERS SOLICITORS

To:

Homes England
50 Victoria Street
Westminster
London
SW1H 0TL

Developer: means [enter name of Developer] (Company Registration Number []) whose registered office is at [].

Development: means the development known as [Enter address of Development] registered at HM Land Registry under the Title Number.

Head Lease: means the Head Lease dated [Enter date of Head Lease] made between [Enter name of Head Landlord] (1) and the Developer (2) relating to the Development

Help to Buy Plots: means any plots within the Development which the Developer has/will forecast to Homes England for Help to Buy funding

Participation Guidance: means the Help to Buy: Equity Loan House builder participation and registration guidance

Title Number: [Enter Title Number]

We confirm that we act for the Developer in respect of the plot sales within the Development and as the Developers Solicitors certify the following:

1. The Developer does not own the freehold title to the Development;
2. The Developer acquired the Head Lease from [the Crown Estate]/[the National Trust] or [Enter name of other Public Body]
3. The Head Lease comprises the entirety of the Development;
4. The Head Lease is registered at HM Land Registry under the Title Number with Title Absolute and the Developer is the sole registered proprietor;
5. The Help to Buy Plots under leases will be granted out of the Head Lease in its entirety;
6. The Lease does not prohibit the granting of the individual Help to Buy Plots under leases;

7. The Development fully complies with the exemption set out within Paragraph 14 (b) [(i)/(ii)/(iii)] of the Participation Guidance.

We acknowledge that Homes England will not review the Head Lease or the Developer's title to the Development and have taken a full reliance of the contents of this certificate that the Development complies with the exemption set out Paragraph 14(b) [(i)/(ii)/(iii)] of the Participation Guidance. [Enter Solicitors Firm Name]

Signed

[Name of Solicitors Firm]

Name of signatory Partner (Partner)

Drafting Notes:

If the Development comprises more than one Head Lease or Title, state all Head Leases and Title Numbers within the definitions of Head Leases and Title Number.