

COMMUNITY-LED DEVELOPMENT

Eligibility criteria

November 2011



CRITERIA FOR COMMUNITY-LED ELIGIBILITY

Background

Earlier in 2011 the Homes and Communities Agency (HCA) set out how it would allocate funding under the 2011-15 Affordable Homes Programme (AHP). The frequently asked questions that accompanied the AHP Framework stated that *“there will be small community led organisations such as community land trusts or small rural groups and others, who may not be in a position to bring forward proposals at the outset of the programme... If a community led group wishes to apply in its own right, but does not have enough detail available or a scheme proposal in time for the contract negotiations in Spring 2011, they can contact the Agency when they are ready and we anticipate that there will be resources available to fund such schemes that meet the required value for money and other considerations.”*

In order to ensure that this HCA support is targeted at truly community-led projects and groups some initial criteria have been developed. These criteria have been consulted on widely with the community-led housing sector and have been issued to HCA staff as guidelines. The criteria cover all the initial issues that the HCA will wish to explore with community-led groups and organisations seeking HCA funding, particularly those seeking their own funding directly rather than working with a partner who already has an allocation.

These criteria will be used to determine whether a community is eligible to seek 2011-15 AHP grant directly. The criteria may in future be used for other forms of HCA support and investment.

The criteria

The community-led development sector is a broad one encompassing a range of models and approaches with varying aims and aspirations. This includes Community Land Trusts (CLTs), mutual and co-operatives, co-housing, self-build and others. Community-led groups may also engage with the HCA at varying points in their development – not all will be finalised and fully incorporated bodies at the time. The criteria have therefore been formed in consultation with the sector to ensure they:

- do not place undue burden on community groups at an early stage,
- do not exclude or promote particular models, and
- create the flexibility for communities and groups to meet the criteria in a variety of ways.

This is not a tick box exercise and there will be discretion as to how a group or organisation demonstrates how it meets each criterion. Discretion will be with the local HCA team to agree that the project or group demonstrates its commitment to the principles and is demonstrably community-led - ensuring that we are supporting truly community-led groups and projects.

Early discussions will be as important as paperwork in these early stages. These criteria will be used to inform discussions and conversations between the HCA and community groups¹ about a group's purpose and aims, how it will deliver those purposes for the benefit of its community² and appropriate and effective governance of any group.

The criteria are likely to be the focus for the first discussions between local HCA teams and community-led groups seeking AHP funding. These discussions will take place before a decision is taken over whether a group needs to obtain HCA Investment Partner status³ and before discussions around funding and contracts. Early engagement and conversations with local HCA teams will ensure that schemes and groups are eligible, preventing wasted effort and clarifying what is needed before funding is agreed.

AHP funding is available for affordable rent, shared ownership and equity loan products as set out in the AHP Framework document, for affordable, mixed-tenure or mixed-use schemes. Other criteria set out in the AHP Framework still apply (eg design standards, and completion by March 2015).

More information at www.homesandcommunities.co.uk/affordable-homes.

Guidance on the HCA's Investment Partner Qualification Questionnaire (PQQ) and funding application ('offer') procedures is available separately and will be provided if necessary once the project has been fully discussed with local HCA teams. Should it be required, guidance on the registration requirements of affordable housing providers via the Regulator (Tenant Services Authority) is available separately.

The HCA will review these criteria six months from introduction and no later than April 2012, and feedback and initial lessons learned will be provided to the sector.

See www.homesandcommunities.co.uk/community-led-development for more details.

¹ A 'group' may be informally or formally constituted at this stage, and is assumed to be leading the project on behalf of the 'community', and we use the term 'organisation' to mean a legally constituted group.

² The 'community' is as defined in point 1 below

³ It is HCA policy that any organisation receiving grant directly from the HCA has to become an Investment Partner with the Agency. This is a straightforward process and more detail on what this means is available in the accompany document on HCA Application and TSA Registration

COMMUNITY BENEFIT/PURPOSE (RETROSPECTIVE CRITERIA):

1. How clear is the group regarding its definition of the community it aims to serve and the beneficiaries of the project? (geographically or in terms of a community of interest – see [note f](#) for equalities implications).
2. What are the intended community benefits of the project and how do they meet local requirements ([see note e](#))?
3. How is the project going to work in the general interest of all the individuals and organisations that form the community defined in point 1? (ie not unreasonably excluding individuals or groups, including hard to reach parts of the community).
4. Is the community clear about the project and benefits and how were these decisions arrived at?
 - Was the whole community given the opportunity to be involved, and how⁴?
 - How were conflicts or differing views managed in this process? (eg between individual and community benefits)
 - What feedback has been provided on any decisions, and to whom?
5. For this funding, the HCA has a presumption in favour of groups that are taking a long term formal role in ownership or stewardship of homes. Are benefits going to be provided and protected for the long term or in perpetuity through a CLT, cooperative management model or other body, and how will financial surpluses and profits be used to deliver future benefit for the community?⁵ If they will not, has this been made clear and how has community agreement been reached? What are the timescales and deadlines for any handover of responsibilities?

STRUCTURE AND GOVERNANCE (FORWARD LOOKING CRITERIA):

6. How is membership of, and access to, the group or organisation open to all members of the community defined in point 1? This may include individuals, businesses and local elected members.
7. How does the structure of the group or constituted organisation represent the community defined in point 1, and how does it advance the community's interests?^{6 7}
8. What arrangements are in place to provide feedback to the community defined in point 1, as to when and how decisions are being made?
9. Is the community, group or organisation clear how it will manage conflicts of interest such as on decisions around allocation of resources (eg. nominations to housing)?
10. How does the community, group or organisation control and influence key decisions, such as the design of what will be delivered, the way decisions will be made, and how management and maintenance arrangements and charging mechanisms will be carried out? Has the community agreed to this approach, and how?
11. If a delivery or management partner is involved, how will the community, group or organisation be able to influence the actions of this partner? This could be a legally binding (contractual) or informal mechanism⁸. What roles and responsibilities are being assigned to each party? Has the community agreed to this approach, and how has agreement been reached?

⁴ This may include hard-to-reach elements of the community. Evidence may include a local survey or events.

⁵ Note that HCA rules on the use of Recycled [Capital Grant Funding](#) still apply – see the FAQ

⁶ 'Evidence' may include a Memorandum of Association & Articles of Association, meeting minutes, governance and decision-making structures (or see guidance such as the [TMO Common Assessment Framework](#) for other suggested criteria)

⁷ Approaches include [CCH Accreditation Framework for Housing Co-operatives](#), [NCVO Trustee & Management Committee Members National Occupational Standards Toolkit](#) or [Charity Commission's Hallmarks](#) of an Effective Charity

⁸ See [Somerset, Devon and Dorset Framework and Partnership agreements](#) for examples

ADDITIONAL QUESTIONS TO CONSIDER (THESE ARE NOT CRITERIA):

- a) If a community or group is to retain a long-term role (ie owning assets or managing stock), or if it intends to receive HCA funding directly, how does it plan to become an English body constituted in law⁹ and what good-practice processes and governance mechanisms will support long-term viability and succession?¹⁰
- b) If incorporating as an English body, in considering the purposes of the organisation, how have relevant regulatory requirements been taken into account? (eg. [Charities Commission](#), [FSA](#), [Tenant Services Authority](#), [CIC Regulator](#)).
- c) If a group or organisation is to become the landlord or receive grant direct, how does it plan to become a provider of social housing registered with the TSA (or successor body) by the time the housing is available for letting (see accompanying guidance on registration)? If registering as a provider of social housing with the TSA, will the group register as non-profit or profit-making¹¹ and why?
- d) **How is the scheme delivering value for money?** Where a community-led organisation is seeking AHP funding in its own right and it doesn't have re-let capacity HCA will take that into account in any value-for-money (VFM) assessment, along with other factors such as need, complexity, location etc. However, the scheme should deliver reasonable and broadly comparable VFM to similar schemes. Every scheme will have to be considered on its own merits. The HCA is not operating a system whereby initial offers will receive rejection or acceptance - there will be a process of negotiation to better understand the offer. For community-led schemes these discussions should be held at an early stage to prevent any risk of misinterpretation or unnecessary work.
- e) **How is the scheme meeting local need and requirements?** Local strategies and plans (Housing Strategies, Needs Assessments and Local Plans) may be used to demonstrate this. Parish plans, neighbourhood or community plans are also likely to include a clear evidence for investment and/or intervention, setting out the community and desired benefits and outcomes from development. These plans should inform initial conversations around demonstrating community benefit and meeting local need. It is anticipated that schemes will be developed in response to a locally identified housing need but other benefits are likely to include issues of community engagement, ownership and the added value of a community-led approach. If a scheme is progressing Community Right to Build (CRtB) a successful referendum is considered as sufficient demonstration of meeting local requirements.
- f) **Does the scheme have local authority support?** Decisions on HCA funding require that a project has local authority support and nomination arrangements are agreed with the council. HCA does not require local authority support at an early stage but it can be beneficial in demonstrating deliverability and fit with local priorities. CRtB proposals do not need council support if the scheme is successful at referendum.
- g) **Have equalities issues been considered?** HCA is subject to equalities duties with regards the use of public finance (ie the homes and their occupation not the makeup of organisations receiving funding). Discussions should therefore cover allocations policies, local lettings arrangements and nominations. Where the local authority supports the project and nomination arrangements HCA equality duties are likely to be met. Council equality priorities should be available publicly and included in Local Investment Plans and strategies. Nomination arrangements can be restricted in certain circumstances (ie where design features or associated services meet demonstrable need) but clarity should be sought from the HCA.

⁹ There are no restrictions over the form of that body (for example a Registered Charity, I&PS, Community Interest Company, Limited Liability Company etc) subject to other criteria being met.

¹⁰ see note 3

¹¹ [Section 115 of the Housing and Regeneration Act 2008](#) requires that entries on the Register designate the provider as either a non-profit, or a profit-making organisation as set out in TSA [guidance on applying for registration](#) (p10-12, p22)

NOTES ON STRUCTURE (THESE ARE NOT CRITERIA):

- h) HCA may consider funding umbrella organisations where they demonstrate that individual projects are community-led. An umbrella model can bring benefits such as cost efficiencies and capacity. Where this moves away from individual project funding toward a programme approach this may increase the complexity of delivery and therefore a Framework Delivery Agreement may become necessary¹². The arrangements for owning and managing the completed homes would also need to be considered in detail.
- i) Charities are required to meet public benefit criteria. These may not be the same as community benefit. Many [charities](#)¹³ are structured to have open, inclusive and representative membership, it is not a requirement of charity law. As such, a group which is already a registered charity cannot *de facto* be assumed to have satisfied the HCA's criteria for Community-led recognition. A charity will have defined the community it serves and the public benefit expected. The delivery of housing alone may not qualify as a charitable public benefit, but the delivery of housing to meet other aims may do. Contact: Nick.Mott@charitycommission.gsi.gov.uk
- j) [Community benefit societies](#)¹⁴ (BenCom) are incorporated industrial and provident societies (I&PS) that conduct business for the benefit of their community, and use an asset lock to prevent specified assets being used for unintended purposes. The I&PS registration will set out the community that the society will benefit, how any surplus will be applied, and how the society's activities benefit the community. Registration may demonstrate community benefit. IPS community benefit societies (Bencom) may also be registered charities, in which case they become Charitable IPS community benefit societies (Bencom).
- k) A [Community Interest Company](#)¹⁵ is designed specifically for those wishing to operate for the benefit of the community rather than for the benefit of the owners of the company. An asset lock is always in place. Registration may demonstrate community benefit.
- l) If a group is registered as a [Charity, I&PS, CIC or Limited Company](#)¹⁶, it will have agreed governance mechanisms in place, many of which will ensure that members of the community have ultimate control of decisions. These should be considered when reviewing the structure and governance criteria.

¹² These agreements will be similar to those agreed with mainstream Registered Housing Providers and are available on the HCA website [here](#).

¹³ http://www.charitycommission.gov.uk/Charity_requirements_guidance/Charity_essentials/Public_benefit/pbsummary.aspx

¹⁴ <http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1077475850&type=RESOURCES>

¹⁵ <http://www.bis.gov.uk/cicregulator/guidance>

¹⁶ <http://www.getlegal.org.uk/the-legal-journey/legal-forms-in-detail/introduction.html>

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