

INVESTING IN AFFORDABLE HOUSING: A CONSULTATION



The Scottish
Government

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FOREWORD

Nicola Sturgeon MSP, Deputy First Minister and Cabinet Secretary for Health and Wellbeing



Improving the supply of new homes and increasing peoples' choices were at the heart of last year's discussion paper *Firm Foundations: The Future of Housing in Scotland*.

In *Firm Foundations*, we highlighted the continuing positive role for social housing and the registered social landlord (RSL) sector, while also making the case for change in the way we support investment by RSLs in new affordable housing.

If we are to meet our ambitious targets for increased supply and improved choice then new approaches are required so that our investment can go further and we can secure better value for tenants and taxpayers.

Since the publication of *Firm Foundations*, the financial and economic situation has changed considerably and the impact on Scotland's housing industry has been of major concern. However, our overall vision has not altered. The "credit crunch" and its impacts will not deflect us from our long-term goal of increasing the supply of new housing, nor from the vital task of promoting higher energy efficiency standards in new housing, in support of our targets for reducing emissions. In recent months we have taken steps to help alleviate some of the impacts of the downturn in the housing market through a package of measures which includes agreeing with our local authority partners to bring forward £100 million of our planned investment. We consider that our proposals for investment reform will place the social housing sector on the right footing for future recovery and enable it to secure maximum value and economic benefit from new developments.

Our proposals reflect and build on the maturity and experience of RSLs in Scotland. They offer considerable new freedoms in the delivery of investment programmes for those RSLs appointed as Lead Developers. And the proposals recognise the significant progress already made by a number of RSLs, and local authorities, who have been striving together to secure greater efficiencies and to improve investment and procurement processes in the delivery of new affordable housing.

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I promised that we would listen to stakeholders as we developed our proposals for investment reform.

Over the past several months, and in particular through a series of seminars in August and September, we have debated investment reform with stakeholders. This consultation document reflects these discussions and now sets out our considered proposals for radical and far-reaching reform, based on a commitment to long term funding for a number of Lead Developers through which we intend to channel the majority of our future investment. We will look to Lead Developers for a more specialist and skilled approach to managing assets, finances and development for the benefit of the sector as a whole.

In line with the Concordat, the detail of this consultation has been discussed with COSLA. Following the consultation we will have further discussions with COSLA, as well as with the Scottish Federation of Housing Associations.

I know I am not alone in my conviction that good housing, of all tenures, should be at the heart of Scotland's future and I hope that the proposals we have set out in this consultation will generate thought, and innovation, in meeting our shared challenge.



Nicola Sturgeon MSP
Deputy First Minister and Cabinet Secretary for Health and Wellbeing

EXECUTIVE SUMMARY

The principal themes of last year's discussion paper, *Firm Foundations: the Future of Housing in Scotland*, were to secure a long-term increase in the supply of housing; more choice of housing; the creation of sustainable, mixed communities; and better value for public expenditure. As part of this we promised to consult on reforms to the way in which we provide subsidy for new affordable housing. We made initial changes to the way in which Housing Association Grant is calculated earlier this year. This consultation paper sets out our considered proposals for more far-reaching changes.

The central proposal is the introduction of a more strategic approach to the allocation of subsidy through a network of Lead Developers across Scotland. We would channel the majority of our investment programme through these Lead Developers, which would be registered social landlords (RSLs) and which would take the lead in securing efficiencies in the delivery of new affordable housing. They would provide a specialist development and procurement function on behalf of other RSLs and the sector as a whole.

Much of the detail of the document is concerned with the mechanisms for the introduction of Lead Developers. Although our proposals reflect the original propositions for lead developers set out in *Firm Foundations*, they have been revised and considered carefully in light of discussions with stakeholders. Our proposals now take into account the existing strengths of the Scottish RSL sector and the progress made so far by many RSLs, and their local authority partners, in securing better value for money for their investment in new affordable homes.

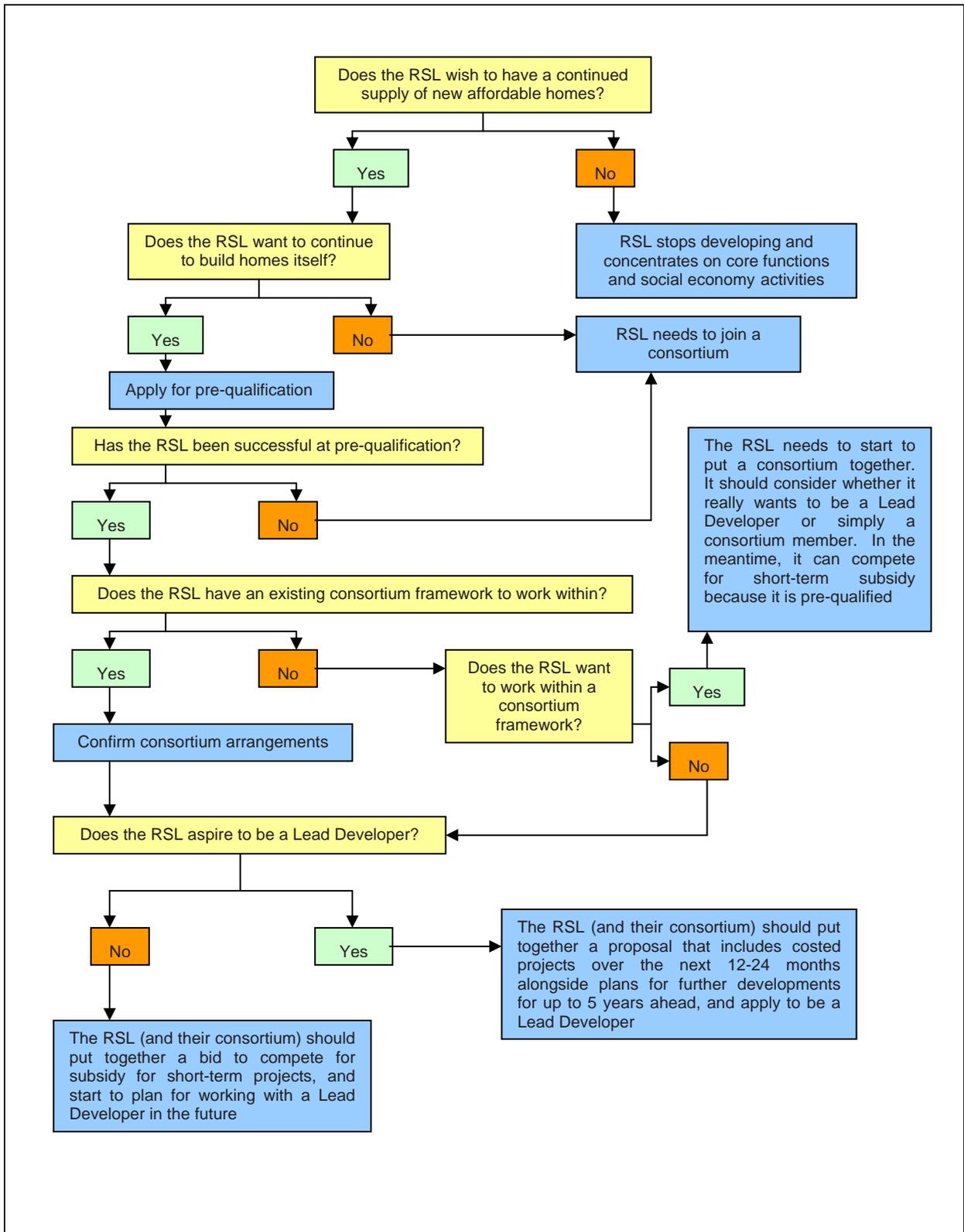
Implications for RSLs

The new approach we propose and outline here will trigger a number of important choices for each RSL. The flow chart at Figure 1 highlights the main decisions for RSLs that arise from our proposals.

Implications for local authorities

The proposals for investment reform set out here are intended both to recognise the role of local government in housing investment, and to strengthen the agreed strategic role of local authorities within the reformed housing and planning delivery framework which has been implemented over the past year.

Figure 1 - Decisions to be taken by RSLs when considering future investment



Structure of the paper

The key elements of the proposed reformed approach to investment are summarised in Table 1. The issues are considered in more detail in the chapters of the document, as follows:

Chapter 1 explains how our proposals for the reform of investment are designed to address the present fragmented approach to procurement of new affordable housing. In doing this, the proposals are intended to secure more value for the Government's investment whilst also continuing to ensure the quality of new homes.

Since *Firm Foundations* was published the financial and economic environment has changed considerably. Chapter 1 also considers the implications of the credit crunch for investment reform. We have assessed the situation and reached the view that it in fact strengthens the need for investment reform, but we are seeking comments from stakeholders on whether they share that conclusion (see Questions 1 and 2). The need for a more robust approach to asset management and financial planning in order to cope with a more challenging lending environment is reflected in our proposals for introducing Lead Developers.

Chapter 2 describes how we propose to become more strategic in our approach to allocation of investment in affordable housing. This involves working with our local authority partners and RSLs to determine regions which would be used as the basis for investment and, with local authorities, developing regional Prospectuses which will be used to guide and inform investment decisions.

Chapter 3 explains the concept of Lead Developers. It sets out the role they will play in co-ordinating and leading on procurement and investment through development consortia, and how important housing management functions will remain in the hands of RSLs that do not opt for the Lead Developer role for themselves.

Chapter 4 explains how development consortia will be set up, and the types of bodies that we expect to be members of consortia. This chapter also focuses on the governance of consortia which we propose should be through a formal consortium agreement. Some of the risks and decisions that consortium members will face, and will need to manage, are highlighted and discussed.

Chapter 5 gives further detail of the proposed processes including "pre-qualification" for all RSLs that wish to apply to be Lead Developers or to receive subsidy from us. The route to becoming a Lead Developer is also explained, as is our commitment to longer-term funding for Lead Developers to enable them to programme investment more effectively and benefit from efficiencies. We also introduce our proposals for an outcome-focussed grant agreement for Lead Developers.

In **Chapter 6** we set out our intended timetable and our intention to develop a monitoring and evaluation framework for the new approach to investment in affordable housing.

Annex A gives details about how to respond to this consultation paper. The deadline for responses is **Tuesday 17 March 2009**.

Annex B summarises the themes which emerged from discussions during regional seminars with RSLs and local authorities held between August and September 2008.

Annex C sets out the proposed pre-qualification framework.

Table 1 - our approach to reform

The key aspects of the reformed approach to investment that we propose are:

- Investment priorities would be determined on a regional basis and agreed with our local authority partners;
- The regional priorities would be set out in the Prospectuses which would be based on Strategic Housing Investment Plans;
- Lead Developers would operate within the agreed regions, and there should be scope for there to be more than one Lead Developer in each of the regions;
- In order to become a Lead Developer, RSLs would be encouraged to form development consortia that are committed to securing greater efficiency and more value from the investment in affordable housing;
- Each consortium should be led by one RSL which would be the RSL that will bid for subsidy on behalf of the consortium as a whole and would be a prospective Lead Developer;
- There will be time for RSLs not currently working in existing consortia to organise themselves and either join a consortium or set one up;
- There would be two stages in the process: the first stage would be *pre-qualification* and only pre-qualified RSLs would be able to move on to the second stage, which is bidding for subsidy and for appointment as a Lead Developer;
- All pre-qualified RSLs, whether acting on their own behalf or as heads of a consortium, should be able to compete for subsidy for short-term costed projects; and, if they wish, seek appointment as a Lead Developer which would secure for them a conditional guarantee of programme funding for up to five years;
- Subsidy would only be awarded to those projects which offer the most competitive price and best match the funding criteria; and
- Future rounds of competition for subsidy would be conducted as and when necessary, bearing in mind that, where Lead Developers have been appointed, much of the Investment Programme may already have been committed to them.

Chapter 1 INTRODUCTION

Overview

1. Last year, *Firm Foundations*¹ set out a vision for the future of housing in Scotland based around four key elements: increasing the supply of housing; improving choice; creating sustainable and mixed communities; and securing better value from our investment in affordable housing. *Firm Foundations* set out our view that affordable housing has a vital and evolving role as part of the wider housing system. In order to maximise the contribution of affordable housing to meet the needs of current and future tenants, we proposed that there should be a more strategic and competitive approach for delivering our investment. We promised to consult in more detail about how this would work and our considered proposals are set out in this paper.
2. Currently, most individual registered social landlords (RSLs) develop for themselves the new affordable homes that they require. They are responsible for both the procurement of these new assets and for the eventual management of the homes once completed, and they have strong relationships amongst the local community. There are a number of strengths to this approach which reflect the local focus of RSLs, many of which were set up to address poor housing and to regenerate local communities. RSLs tend to be close to and understand their local areas and the housing needs of local people. RSLs also hold knowledge about what design and quality should be appropriate and should be specified for the new homes to be provided.
3. But there are also weaknesses in this approach. The average size of schemes is low, at around 14 homes, which limits the scope for process and cost efficiencies. Opportunities for specialisation in the development and procurement functions and for securing improvement in good practice are reduced. And there is an increased risk of duplication amongst RSLs because so many operate similar development and procurement functions. This situation has arisen, in part, because the incentives for RSLs to reduce costs were weak at a time when funding was readily available from both Government and private sector lenders. We have concluded that there is scope for many RSLs across Scotland to develop a more streamlined and efficient approach to procurement and management of their assets, and this underpins our approach to investment reform.

¹Firm Foundations, a Future for Scotland's Housing; The Scottish Government, October 2007; <http://www.scotland.gov.uk/Publications/2007/10/30153156/0>

Our objective is a network of Lead Developers across Scotland in order to strengthen the sector's approach to procurement and investment, and through which we will channel the majority of our Affordable Housing Investment Programme. This consultation document proposes how a Lead Developer model could be implemented across Scotland. It builds on the strengths of the RSL sector and the previous work undertaken to improve the procurement of new affordable housing², on the progress made so far this year in securing more value from Housing Association Grant, and on existing collaboration amongst a number of RSLs across the country which are seeking to deliver increased efficiencies and streamline their development and procurement processes. Our proposals are designed to accelerate and encourage these behaviours in order that the sector as a whole can increase the supply of new affordable homes and enable our investment to go further.

4. Local authorities have potential roles as house builders, land suppliers and assemblers, investors, strategists, landlords, advocates, co-ordinators and service providers. COSLA and the Scottish Government are agreed that Local Housing Strategies are at the heart of the new housing planning and investment framework. The new-style Housing Strategy will have a clearer focus on strategic outcomes, for housing and for related support needs. It is expected that the Local Housing Strategy will feed into and support the local authority's Single Outcome Agreement. Local authorities, as strategic housing leads, should drive the delivery of local housing priorities, and new housing supply must contribute to meeting these priorities. Both central and local government accept that the immediate need is to boost the supply of affordable housing across Scotland and are committed to working together to achieve this. The proposals for investment reform set out here are intended both to recognise the role of local government in housing investment, and to strengthen the agreed strategic role of local authorities within the reformed housing and planning delivery framework which has been implemented over the past year.

5. The Scottish Government and COSLA recognise that in the longer term there is merit in further devolution of investment responsibilities to local authorities, as the strategic housing authorities, and will jointly consider this subsequent to this consultation, but accept that the immediate need is to boost the supply of affordable housing across Scotland and commit to working together to achieve that. Following this consultation, we also intend to discuss the responses with the Scottish Federation of Housing Associations (SFHA) before deciding the way forward.

² Smalley et al (2007); Recommendations for a National Procurement Strategy for Social Housing in Scotland: A Report for Communities Scotland; The Collaborative Working Centre on behalf of Communities Scotland. http://www.communitiesscotland.gov.uk/stellent/groups/public/documents/webpages/otcs_017813.pdf
And Communities Scotland (2002), Building a Better Deal http://www.communitiesscotland.gov.uk/stellent/groups/public/documents/webpages/cs_008154.pdf

Relationship to the Government's Purpose and National Outcome

6. The structure, size and performance of social housing is not only a critical issue for the 610,000 households³ living in social housing, but for Scotland as a whole. Better quality and more efficient affordable housing will contribute towards the Government's purpose⁴ of higher sustainable economic growth and the targets which underpin it:

- by maximising the provision of good quality affordable housing to many lower income groups, the social housing sector contributes towards the Government's **solidarity** target of reduced income inequalities;
- by embedding higher standards of construction into future new build properties and continuing efforts to meet the 2015 Scottish Housing Quality Standard for existing stock, the sector not only contributes to tackling fuel poverty but also **sustainability** by reducing carbon emissions;
- through effective planning, innovative practices and a commitment to mixed communities, the sector has a key part to play in reducing spatial inequalities enabling progress against **cohesion** objectives;
- through wider role activities, RSLs are at the forefront of many innovative programmes to improve **participation** in employment;
- by working to improve the cost-effectiveness of new homes and working to limit management and maintenance costs, the sector has an important part to play in improving **productivity**; and
- by increasing the supply of affordable housing, the sector is also making a vital contribution towards attracting and increasing Scotland's future **population** and providing homes for its workforce.

7. As well as contributing directly to delivery of the Government's purpose, good quality and cost effective affordable housing also contributes to the set of national outcomes⁵ agreed with local government, in particular:

- ***Tackle the significant inequalities in Scottish society***

By taking a more strategic approach over Housing Market Areas, targeting resource where it is most needed and increasing the supply of affordable housing for households in relative poverty.

³ <http://www.scotland.gov.uk/Publications/2008/06/09080131/3>

⁴ The Scottish Government's purpose and strategic objectives:
<http://www.scotland.gov.uk/About/purposestratobjis>

⁵ <http://www.scotland.gov.uk/About/scotPerforms/outcomes>

- ***Live in well-designed sustainable places where we are able to access the amenities and services we need***

By remaining committed to the principle of supporting housing developments which contribute to the creation of sustainable, mixed communities and the regeneration of existing communities, whether urban or rural. The reformed approach to investment delivery should support a mix of tenures and tackle concentrations of poverty. New developments should take account of the changing demographics and should reflect the work and advice of Architecture & Design Scotland. Our investment must support well designed and constructed residential environments which relate to the patterns of development around them, which discourage unnecessary consumption of energy and resources and which promote healthy lifestyle choices.

- ***Provide public services that are high quality, continually improving, efficient and responsive to local people's needs***

By setting clear quality thresholds for new developments and incentivising efficient and customer-focussed behaviour on the part of RSLs through pre-qualification processes and increased competition. Our proposals for investment reform are consistent with the work and focus of The Scottish Futures Trust⁶. They have regard to McClelland's recommendations⁷ and the drive for shared provision of services to the public in order to aid efficiency and quality of service delivery.

8. In short, decisions about the quality, location, accessibility and affordability of our affordable housing stock will be critical in determining Scotland's future prospects and assisting with the regeneration of our communities. A more strategic and competitive approach to our investment in affordable housing has an important part to play in realising these ambitions.

The financial and economic situation

9. Since *Firm Foundations* was published the financial and economic environment has changed considerably for RSLs and other business sectors. The general supply of private finance and the terms on which lenders make funds available are of major concern. We have had to consider our immediate response to these rapidly-changing circumstances and to re-appraise our longer-term goals for affordable housing.

⁶ <http://www.scotland.gov.uk/Topics/Government/Finance/18232/scottish-futures-trust>

⁷ John F McClelland CBE, Review of Public Procurement in Scotland – Report and Recommendations, Scottish Executive, 2006 <http://www.scotland.gov.uk/Publications/2006/03/14105448/0>

10. Our immediate response to the emerging crisis was set out by the First Minister on 19 August 2008⁸ when he announced a package of economic actions in response to the changing economic climate. One of our actions for housing, in conjunction with our local authority partners, has been to accelerate £100 million of our planned investment in affordable housing to be spent this year and next. We remain vigilant about further developments and the potential impact on the supply of new affordable homes and the wider Scottish economy.

11. We have also considered whether now is the right time to proceed with investment reform. We remain committed to increasing the choice and supply of new affordable homes; and the requirement to address the general shortage of housing supply, including affordable housing, that was the backdrop to *Firm Foundations* has not receded. Since *Firm Foundations* was published the barriers for many households that aspire to home ownership have changed from high house prices and a lack of choice in the market, to reduced access to mortgage finance. While it is not yet possible to estimate the long-term consequences of the recent financial and economic turbulence it is likely that the need for affordable housing will be reinforced. This makes it even more imperative that we increase the number of quality homes that our existing programmes can deliver.

12. It is not just home-owners, or aspiring owners, who have been hit by the credit crunch. An eventual return to the easy access to private finance at competitive rates and on favourable terms, which previously characterised lending to the RSL sector, also looks increasingly less likely. This will have consequences for how the sector structures its funding of new affordable homes in the future and how it manages its relationships with lenders.

13. Although we are seeking comments from stakeholders as to whether they share our view, our conclusion is that the financial and economic situation strengthens, rather than reduces, the need for investment reform. A more robust and increasingly sophisticated approach to business planning and asset management by RSLs will be essential to cope with a more challenging lending environment and this aligns with our proposals for selecting Lead Developers. Finally, we anticipate a need for increasingly careful allocation of resources to reflect the strategic priorities of local and central Government and to demonstrate that we have secured the best possible value for the money we invest on behalf of tenants and taxpayers.

Question 1

To what extent does our assessment of the current economic situation reflect your assessment?

Question 2

Does the economic situation strengthen or weaken the case for investment reform at this time, and why?

⁸ <http://www.scotland.gov.uk/News/Releases/2008/08/19154002>

Chapter 2

A MORE STRATEGIC APPROACH TO AFFORDABLE HOUSING INVESTMENT

Introduction

14. If we are to ensure the best possible return for the available resources, it will be necessary to adopt a more strategic approach to determining how these resources are invested in affordable housing developments. Central and local government need to be clear about their priorities for new developments over the next three to five years. RSLs need to be clear about what these priorities will mean for their current and future tenants, and also need to be able to translate the priorities into plans for development activity and investment across a number of years. This chapter sets out how we propose to introduce a more strategic focus into the planning and allocation of investment in new affordable housing, and highlights the role of local authorities in bringing this about.

Reform of the housing and planning delivery framework

15. *Firm Foundations* set out a substantial programme of reform to the housing and planning delivery framework in order to strengthen the strategic role of local authorities, to enable more consistent assessments by them of housing need and demand, to enable more efficient identification of land for housing, and to enable all stakeholders involved in the supply of housing to take a longer term view. These reforms have to a large extent already been implemented and form the basis for a future approach to investment in affordable housing which is longer-term and better prioritised on need.

Introduction of Prospectuses for investment in new affordable homes

16. Central and local government have agreed that Local Housing Strategies are at the heart of the new arrangements for housing and planning, both through their links to development plans⁹ and in terms of the direction of local housing investment. The Strategic Housing Investment Plans (SHIPs)¹⁰ prepared by local authorities set out specifically how investment in affordable housing will be directed in terms of the type of housing needed, where it is needed and what priority should be given to developments.

⁹ As set out in the revised Scottish Planning Policy 3: Planning for Housing consultation Draft (SPP3), July 2008 - <http://www.scotland.gov.uk/Publications/2008/07/25092557/0>

¹⁰ <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/investment/guidancenotes/hign200803>

17. We propose the introduction of Prospectuses for the purpose of guiding investment in affordable housing. This approach will enable local authorities, RSLs and other partners and stakeholders to consider their approach to investment in affordable housing over the longer term.

18. The Prospectuses will draw on and complement, but not replace, the SHIPs prepared by local authorities. They will in effect represent a combination of individual SHIPs over a geographic region. The introduction of Prospectuses accords with our agreement with COSLA to work with local authorities to increase the consistency and transparency of decision-taking on projects funded by Housing Association Grant. Prospectuses are also consistent with our agreement to move away from annual allocation of investment towards allocation on a longer-term basis. We therefore intend Prospectuses to cover periods of up to five years.

Regional Structures – The Principles

19. We propose to base Prospectuses around regions comprising a number of local authority areas for the purposes of regional investment, rather than on the basis of separate local authorities. We propose the following principles as the basis for the regions to be used:

- Each region needs to be of sufficient size to enable RSLs investing there and other stakeholders involved in the construction of new affordable homes to take a broad view, in order to exploit potential economies of scale and secure increased value for money; in most parts of Scotland we envisage regions comprising at least three or four local authority areas;
- Each region should be capable of supporting a substantial programme of investment in affordable housing for periods up to five years;
- The regional boundaries should take account of the housing market areas recognised by local authorities for strategic assessment of housing need and priorities; and
- The regions should be consistent with local authority boundaries and not split up individual council areas.

Question 3

Do you agree that local authority Strategic Housing Investment Plans and related strategies should form the basis for identifying investment priorities for periods of up to five years?

Question 4

Do you agree with our proposed principles on which geographic regions for investment will be based?

The three island authorities

20. We believe that a reformed approach to affordable housing investment that includes three to five year planning could work in Orkney, Shetland and the Western Isles, but it would have to be applied in a different way compared with elsewhere in Scotland. Consequently, the investment decisions for each Island authority will be made separately and they will not be part of the new regional structure. This is in recognition of:

- their separate administration by the three Islands councils which is in contrast to other islands that are part of mainland local authorities;
- their unique geography which separates them physically and economically from the mainland; and
- the size of their combined investment programmes which are considerably smaller than that which is typical for other local authorities.

City of Edinburgh and Glasgow City Councils

21. There are current Transfer of Management of Development Funding arrangements in place with Glasgow City and City of Edinburgh Councils. Our proposals for a more competitive and strategic approach to award of subsidy takes these Councils' approaches to investment in affordable housing into account. We propose that at this stage, these two Councils should retain their responsibility for awarding subsidy within their own areas, adopting approaches which are in accordance with the agreed competitive arrangements.

Question 5

- a) Do you agree with our proposed treatment for Orkney, Shetland and the Western Isles Councils?
- b) Do you agree with our proposed approach for Glasgow City and City of Edinburgh Councils?

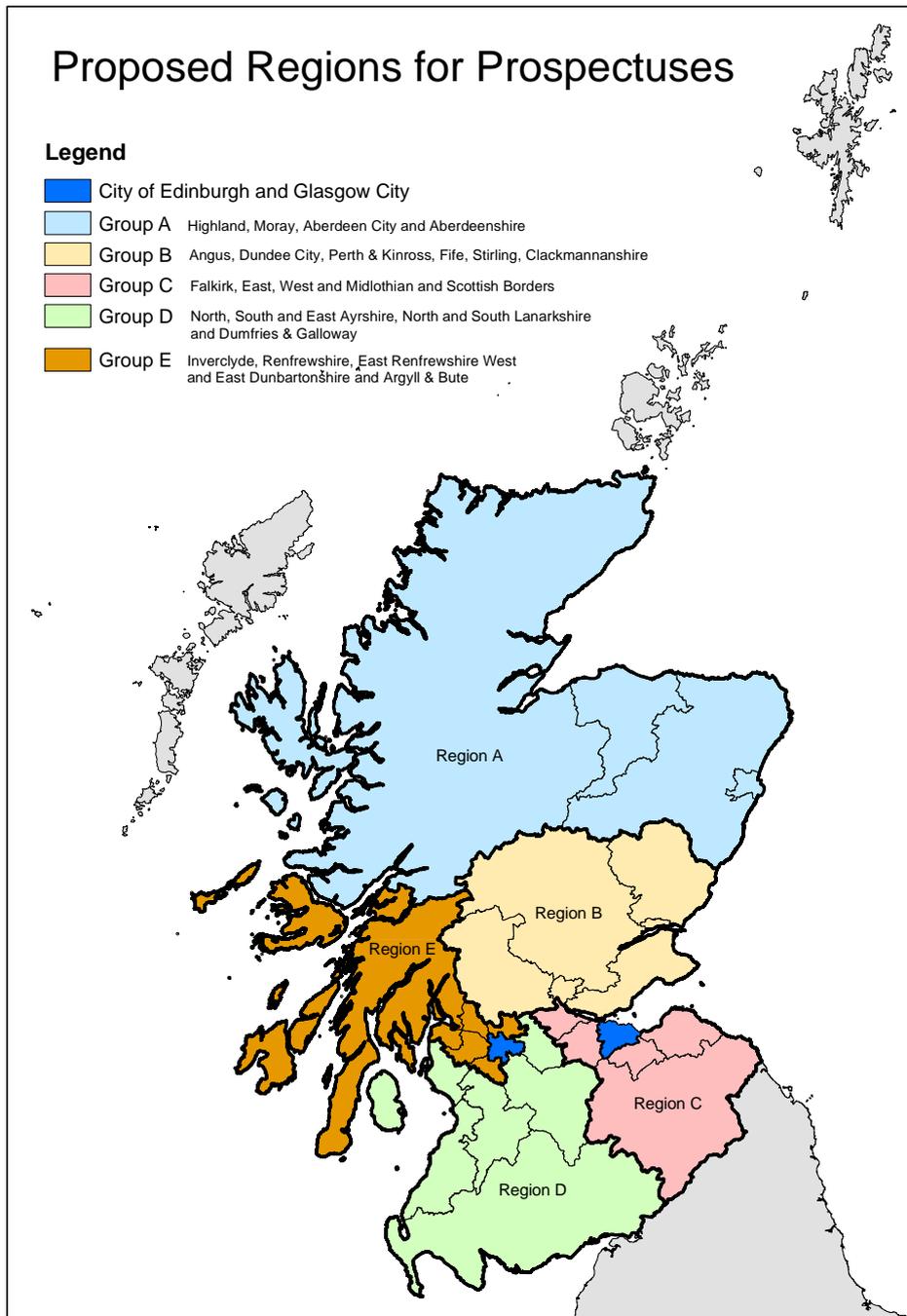
Deciding on the regions

22. Local authorities will have a strong interest in the specification of the regions since authorities within a region will need to adopt a shared approach to assessing priorities for development. Many RSLs will also have a strong interest in this, especially those which already develop in a number of local authority areas, or which have aspirations to be Lead Developers. We are therefore inviting authorities, working with RSLs locally, to agree proposals for a regional split in line with the principles set out above. Purely for illustrative purposes we have provided an example of the possible regional geography at Figure 2. However, no decision will be made until after receipt of advice from COSLA and the SFHA and further consultation with these stakeholders.

Question 6

Do you agree that Councils, as the strategic planning and housing authorities, and in collaboration with RSLs, should advise on the regions to be adopted as the basis for Prospectuses?

Figure 2¹¹



¹¹ Local Authority Boundaries, Ordnance Survey Boundary Line 2008 Affordable Housing Data, Scottish Government 2008
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The content of Prospectuses

23. The Prospectuses will set out the opportunities and priorities for development in specific locations. Each Prospectus will need to reflect the combined SHIPs and available resources for each of the authorities concerned. In effect, the Prospectuses will act as invitations to RSLs to bid for subsidy. The proposed content of the Prospectuses, set out in Table 2 below, will be subject to discussion and agreement with our local authority partners.

Table 2 – Content proposed for Prospectuses

Number of new homes

The target number of all new affordable homes over the period covered by the Prospectus will be set out.

Size and type of new homes

The Prospectus will detail the different sizes of affordable housing, both for rent and low cost home ownership, that will be required, reflecting the needs of families, couples and single people as assessed by each local authority. Careful consideration about the housing needs of older people, people with disabilities and other equality groups in terms of the future investment will be expected, and will be covered in the Prospectus.

Location and sites

The identification of land and specific sites as well as the broad specification of the preferred location of new affordable homes will be set out. This will need to reflect the priority to be given to supported or specialist accommodation, and to remote and rural areas. It should also take account of surplus public sector land and the requirements of SPP3.

Quality

This will set out matters such as the quality standards required for individual new homes – including building standards as updated from time to time (eg to reflect new standards in respect of energy efficiency) and the requirements of SPP6. This part of the Prospectus will also set out the importance of planning for well-designed places and housing developments which contribute to the creation of sustainable, mixed communities - through building houses and neighbourhoods which relate to their surroundings, support healthy lifestyles and allow for reasonable access to employment, amenities and services.

Allocation of funding

Each Prospectus will outline the funding that will be allocated in line with the resources available and the affordable housing investment priorities for the region.

Regeneration

The priorities for regeneration and the contribution which the required investment will make to regenerating an area, revitalising communities, and links to other projects (such as Urban Regeneration Companies) will be highlighted.

Timescales and priorities

The timing and priority for bringing forward development and completing new homes will be set out. This will, of course, have a strong relationship with the housing need as assessed by each local authority, local Development Plans, the availability of land, and public funding over the period covered by each Prospectus.

24. Prospectuses will also set out the indicative budget available, which will be specified at local authority level and for up to three years ahead. We have agreed with COSLA to set up a joint group of officials to look at the Strategic Housing Investment Framework which is the basis on which these allocations are determined. However, the final allocation of resources to be spent in each area will depend on the proposals from RSLs in response to the Prospectuses, and on how successfully the investment and new homes are delivered in each area by the RSLs.

Question 7

- a) Do you agree the scope of the content proposed for Prospectuses set out in Table 2?
- b) How can we ensure that the housing need of people with specialist requirements or in more remote or rural areas are fully reflected in Prospectuses?

Rent levels

25. Some stakeholders have indicated to us that it would be beneficial if other information is provided within Prospectuses, for example on maximum permissible rent levels.

26. The issue arises from concern that the award of grant on the basis of the lowest requirement for subsidy could put pressure on rents. Affordable rents are an essential characteristic of social housing in Scotland and nothing in these proposals for investment reform is intended to detract from this, not least given the pressure on household incomes emerging as a consequence of the present economic climate.

27. We have concluded from this that it might be appropriate to provide guidance on maximum rent levels in Prospectuses. We therefore propose that:

- The Prospectuses should set out maximum rent levels (which will take account of affordability to households in low paid employment and will assume future rent increases will be no more than inflation plus 1%) and each RSL will have discretion to propose rent levels below these maxima;
- Rents proposed below the maxima would be accepted for the purposes of assessing proposals; and
- Rents that are within 5% of the maximum would be accepted, if supported by a case that justified affordability for the tenants.

Question 8

- a) Do you agree that there is a need to provide guidance within Prospectuses on maximum rent levels and is the proposed framework acceptable?

Question 9

- a) Are there other issues which would similarly benefit from guidance?
- b) What are these and what is the case for including them?

Chapter 3

LEAD DEVELOPERS: A MORE SPECIALIST ROLE FOR DEVELOPMENT

Lead Developers

28. *Firm Foundations* proposed to address the current fragmented approach to investment in affordable new homes through introduction of regional Lead Developers. This envisaged all subsidy being channelled to a small number of RSLs which would take the lead in providing new affordable homes in a small number of regions across Scotland, building homes on behalf of other RSLs which would ultimately own and manage the properties. We have received a number of comments on these proposals - in the responses to *Firm Foundations*, in the responses to the subsequent consultation on changes to HAG and at regional seminars on investment reform held in August and September 2008. Our proposals have been refined in the light of this debate.

29. Our objective is a network of Lead Developers across Scotland in order to strengthen the sector's approach to procurement and investment, and through which we will channel the majority of our Investment Programme. This chapter sets out proposals for a Lead Developer model that builds on existing strengths and initiatives. It should be considered in tandem with chapter 4 which describes how RSLs would be able to establish development consortia, and how consortia would relate to stakeholders and to other RSLs which would no longer be directly involved in managing development.

30. In some areas it may take time before Lead Developers emerge which have the capacity to deliver a substantial regional programme. While our reforms remain radical and our objective of better value remains clear, we are proposing a transitional approach to investment reform which allows time for the sector to respond to the new opportunities and for new structures to emerge from within the sector.

Summary of the proposed process

31. We are proposing a two-stage process for the identification of RSLs to receive subsidy and to be appointed as Lead Developers. The process is described in detail in chapter 5 but is also outlined here to help in understanding the Lead Developer role.

- The first stage of the process is **pre-qualification**, which will take place on a national basis. At this stage a number of RSLs will be identified as pre-qualified; they will be eligible to apply for subsidy and will be invited to set up consortia.

- The second stage is the **competition for subsidy and for appointment as a Lead Developer**. This stage takes place separately in each region. At this stage all the pre-qualified RSLs will be invited to submit proposals (based on the Prospectuses outlined in chapter 2) and some of their number may be appointed as Lead Developers within the region.

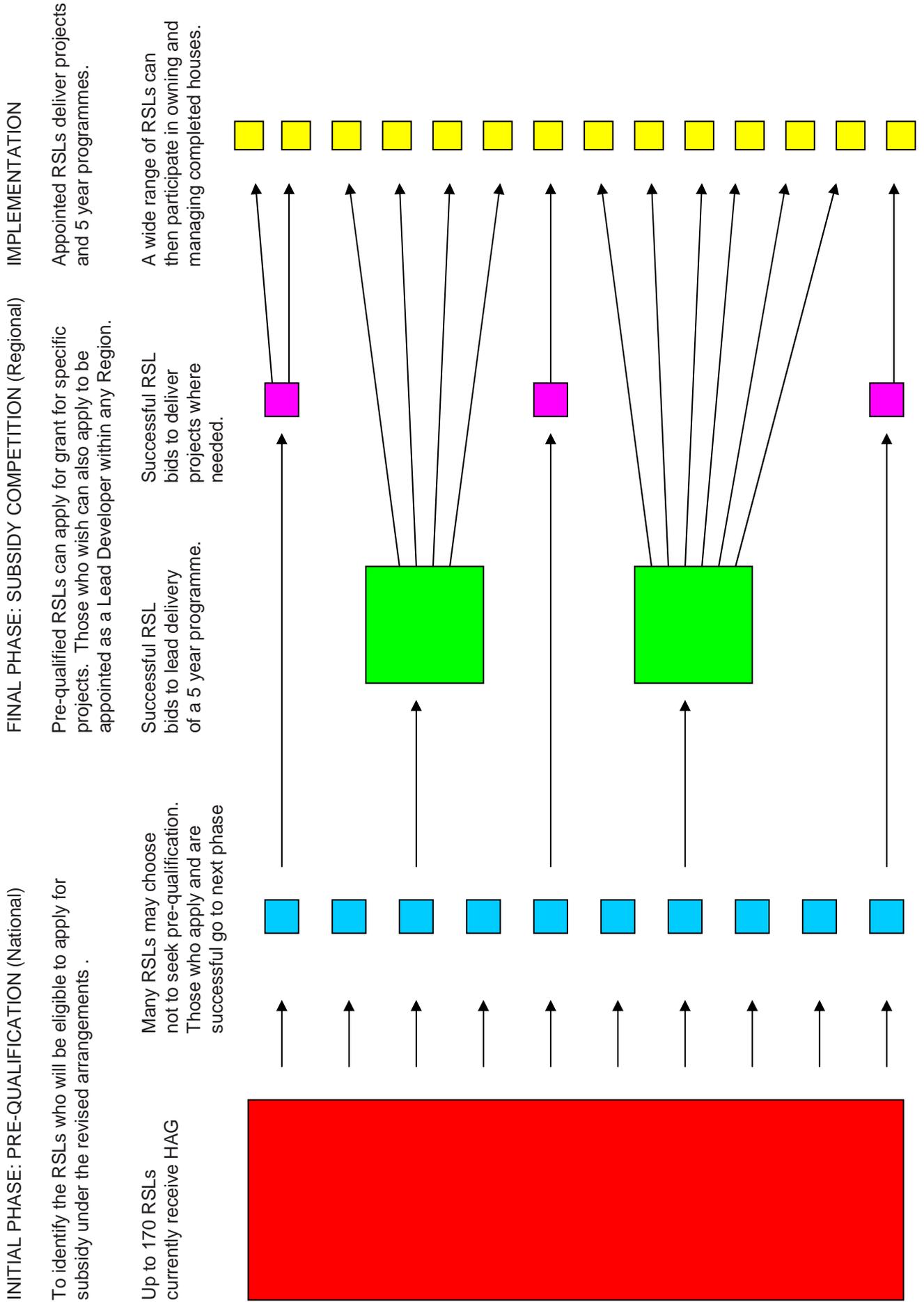
32. This two stage process is illustrated in Figure 3. Only those which pass pre-qualification will be eligible to apply for subsidy to develop, either on their own behalf, or on behalf of others in their consortium. It is possible that some RSLs will see this as a satisfactory end-point and will choose not to seek appointment as a Lead Developer. However, appointment as a Lead Developer would **guarantee the RSL/consortium a significant share of subsidy for up to five years**, provided that their performance remained satisfactory. Therefore, we expect that many RSLs which pass pre-qualification will aspire to become a Lead Developer in one or more regions.

33. Three further key features of the proposed new system are:

- **Multiple Lead Developers:** The system should allow for there to be more than one Lead Developer appointed in a given region. This will ensure that we are not over-dependent on one organisation and that competitive challenge is maintained.
- **Flexibility:** The appointment of Lead Developers will be at the discretion of the Government in consultation with the local authorities which comprise the region. It is envisaged that there will be early appointments of one or more Lead Developers in some regions, while in others it may take longer to reach that point. And there will need to be a mixed economy within each region so that, whilst most of the available subsidy should be directed to Lead Developers, some will also be directed to other pre-qualified RSLs (as described in chapter 5), at least for the time being.
- **Integration:** All RSLs with intentions to acquire new housing stock would be encouraged¹² to link together in development consortia with a recognised consortium head (see chapter 4). Provided that the consortium head satisfies the pre-qualification criteria described in chapter 5, it would be eligible to apply for subsidy on behalf of the whole group, and would be the consortium's potential candidate for appointment as a Lead Developer.

¹² Joining a consortium will not be mandatory. However, any RSL wishing to remain as a stand-alone organisation for development purposes would need to first satisfy the requirements for pre-qualification that are set out in chapter 5 in its own right, and it would then have to compete to secure subsidy. Unless it was able to secure appointment as a stand-alone Lead Developer, it would find it harder to obtain funding with the passage of time, because the great majority of subsidy will increasingly be awarded to the Lead Developers and their consortia.

INVESTMENT REFORM: PROPOSED STRUCTURE



34. This flexible approach should benefit RSLs that have a sound track record and can deliver new investment in affordable homes in the short term. It enables RSLs that are ready for the Lead Developer role and are already working in a consortium to be recognised quickly. And it provides a route for other RSLs with the ambition and ability to become Lead Developers but which need more time to prepare for this.

The role of Lead Developers

35. We want Lead Developers to be industry leaders. Lead Developers will be established strong performers and exemplars of good practice in procurement and investment in affordable homes. They will have strong connections and relationships with local authorities and other major stakeholders. Appointment as a Lead Developer would offer RSLs opportunities for increased control over the planning and management of investment and for developing stronger relationships with central and local Government as well as with contractors, developers and other private sector partners. And Lead Developers will further develop good practice in investment and procurement, acting as beacons for further improvement for the benefit of the sector as a whole.

36. There are a number of benefits of having Lead Developers compared with the current approach to housing investment:

- There would be better identification of available resources – whether land, cash or skills – and better coordination and application of these resources in addressing housing need;
- There would be increased specialisation in the development and procurement functions; core skills and knowledge would be concentrated in the hands of a specialist team and processes would be streamlined;
- Lead Developers would be in a stronger position to take a more sophisticated approach to land acquisition; they would be better placed to engage with local authorities about securing land supply and should be in a stronger position to engage with the private sector about access to land banks or purchase of sites or options over sites.
- Lead Developers will be better able to engage with funders and to develop more sophisticated and robust approaches to funding projects and managing development cash flow;
- There would be increased opportunities to join up projects to create larger programmes over a longer period of time, and by doing so to benefit from increased economies in the investment and procurement functions; and
- This would support longer-term business planning, stronger asset management and more innovative procurement arrangements by the sector.

37. Lead Developers will have a strong role to play in working with stakeholders, in planning and in promoting quality of developments. The likely scope of these responsibilities is set out in Table 3 (Lead Developers will also have the general responsibilities expected from all those that head a development consortium, which are set out in Table 5 in chapter 4).

Table 3 – Responsibilities of Lead Developers

- **Planning:** Lead Developers will identify investment opportunities that can meet housing need and turn the strategic investment priorities identified by local authorities and set out in Prospectuses into a reality (see chapter 2). This will include identification and confirmation of available land, funding and skills, and plans for the co-ordination and application of these resources. The Lead Developer will have the ability to negotiate and work closely with local and central Government and will lead on this.
- **Quality:** Promoting the highest quality standards for developments whilst also securing more value for the Government's investment will require new thinking by the Lead Developer and its consortium partners around current development and procurement processes. The Lead Developer will promote greater standardisation in process and product whilst at the same time ensuring the quality of the new homes provided. They will be well-placed to work with bodies such as Architecture & Design Scotland to ensure a high quality in design and place-making.

Implications for RSLs

38. The introduction of Lead Developers will have implications for all RSLs. A decision not to continue to develop does not mean the end to a supply of new affordable homes for an RSL. They will still be able to secure this by joining a consortium and working with the head of the consortium or Lead Developer to provide the new houses on their behalf. Obtaining new homes through a Lead Developer and consortium structure will not affect the legal status, nor core responsibilities of the board or committee of an RSL.

39. The roles and responsibilities that will remain in the hands of an RSL, even if they source new homes through a Lead Developer and consortium, are outlined in Table 4.

Table 4 – Roles and responsibilities that will remain in the hands of non-developing RSLs

- **Core housing services and wider role:** The local provision of core housing services, any wider role activities and engagement or consultation with tenants will remain the responsibility of local RSL partners. Their boards or committees will remain accountable for this just as they are now. They will be very well placed to keep their Lead Developer in touch with local concerns and issues and to identify any scope for enhanced or improved delivery of services.
- **Planning:** local RSLs, using their local knowledge and connections, should be in a position to help inform the Lead Developer's plans and timescales which will form the basis of any proposal and grant agreement.
- **Build and quality specifications:** The local RSLs will be able to advise their Lead Developer partner about what is required and what will work in terms of design and specification of new homes in relation to national and local standards. They will be able to ensure that the views of tenants and the community are appropriately reflected in the places and communities where the new homes will be located.
- **Contracting and procurement:** The local RSLs will be able to input to the consortium's overall contracting and procurement strategies. They may well be able to contribute and make use of existing local connections for the benefit of the consortium as a whole and could be in a position to influence the inclusion of skills and employment initiatives, for the benefit of their communities.

Question 10

- a) Is the Lead Developer role proposed here sufficient to deliver a more streamlined and effective approach to investment in and procurement of new affordable housing?
- b) Does it adequately balance and recognise the needs and roles of non-developing RSL partners?

Question 11

What are your views on the routes we propose for establishing Lead Developers?

Chapter 4: DEVELOPMENT CONSORTIA

Introduction

40. This chapter outlines our proposals for development consortia. It explains the role of the head of a consortium, formation of consortia, the importance of consortium agreements and the bodies we consider should be able to join a consortium. It complements the discussion of Lead Developers in chapter 3.

Principles

41. In recent years, many Scottish RSLs have sought ways to work more closely together, especially on procurement and development issues. We consider that, in order to secure the required increase in efficiency in procurement and investment, most RSLs will need to operate with the backing and support of a number of other RSLs. After pre-qualification, the first step for any RSL seeking to become a Lead Developer will therefore be to establish relationships with other RSLs in order to form a consortium.

42. There should be flexibility in how consortia are structured, so that any RSL wishing to add to its stock is free to apply to join any consortium, or indeed more than one consortium¹³.

43. Of course, RSLs will work out for themselves what suits them best and a successful consortium will depend on strong and positive relationships amongst all consortium members. Previous experience and good practice suggests that these relationships must be formalised in an agreement which is clear about responsibilities and where accountability for decision making lies. We propose **not to prescribe either which consortia RSLs should join, nor how a formal agreement between consortium members is structured**. But we do propose that each consortium head and members should **put a formal agreement in place** and that this will be a requirement for any consortium that bids for subsidy.

Responsibilities of a consortium head

44. We propose that an RSL in the role of consortium head will be responsible for the investment programme and development processes for themselves, and on behalf of the other members of their consortium. The expected scope of these responsibilities are set out in Table 5:

¹³ It is also possible that a *pre-qualified* RSL may wish to join another consortium led by another pre-qualified RSL in another part of Scotland. This could happen, for example, where they wished to lead developments in one area but also take ownership of assets developed by another pre-qualified RSL elsewhere.

Table 5 – Expected roles for consortium heads

- **Leadership** - It is anticipated that consortium members will contribute resources (which may be land, or local knowledge, or appropriately experienced staff) to the overall development activities of the consortium, so that maximum value can be secured from new investment. Consortium heads will agree with the other consortium members what the nature of their contribution will be, how relationships within the consortium will work and which organisation will eventually pay for, own and manage the new homes. They will also agree with consortium members how to manage contracting and procurement in order to secure the most value from the process, and how completion and transfer of new homes to the eventual owners and managers will work.
- **Contracting and procurement** - With the consent and support of other consortium members, the consortium head will negotiate and contract as necessary with private sector and public sector organisations. They will use the opportunities available from longer-term planning to put in place Framework Agreements for the development of new homes and will take advantage of opportunities for more efficient and effective procurement.
- **Quality** - The consortium head will be expected to ensure that the quality of the new homes to be delivered will continue to be of a good standard. This starts with meeting new higher Building Standards consistent with the Sullivan report¹⁴ which aims to reduce carbon emissions from new build by 30% in 2010, and extends to ensuring a high quality of design, ensuring that the new homes have a positive impact on the local neighbourhood.
- **Grant agreements** -The consortium head will be the body that receives and manages subsidy and will be accountable for spend to Government and to other RSL partners. The consortium head will be expected to affirm progress during the course of the development period and this progress will be judged against targets and milestones set out in the grant agreement. Should there be slippage in the programme or other difficulties, the consortium head will be expected to take corrective action. To do this successfully it will be very important that the other consortium members recognise the consortium head's role in this and allow it sufficient authority.

Formation of consortia

45. We wish to encourage formation of RSL consortia as early as possible. It is preferable, though not essential, for consortia to be formed *before* a pre-qualification application is made by the prospective consortium head. It is also possible that some RSLs that already operate in a grouping with like-minded RSLs can quickly form consortia. They will then be well-placed to seek pre-qualification and to begin work on a long-term proposal that is intended to lead to appointment as a Lead Developer.

46. We propose that an RSL does not have to be pre-qualified in order to **join** a consortium. But they do have to be pre-qualified in order to **lead** a consortium. RSLs which aspire to lead a consortium but need more time to formalise arrangements can still apply to be pre-qualified. If successful at pre-qualification,

¹⁴ The Scottish Government and L Sullivan (2007), A Low Carbon Building Standards Strategy for Scotland, http://www.sbsa.gov.uk/pdfs/Low_Carbon_Building_Standards_Strategy_For_Scotland.pdf

they will have the opportunity to form a consortium and to work towards future appointment as a Lead Developer.

47. There will need to be flexibility for the membership of consortia to change from time to time, as RSLs' priorities and plans evolve. However, there also needs to be clarity over the structure of the consortia at the point when applications are made for subsidy from the Government. A key principle is that awards of subsidy are made to the **consortium head**.

Consortium Agreements

48. The success of consortia will depend on constructive collaboration between the various RSL members and with other stakeholders. As indicated earlier the relationships between the head and members of a consortium, and the risks they will face and require to manage, will need to be worked through and reflected in a formal agreement.

49. RSLs are advised to seek appropriate professional advice as there are a range of risks and issues which will need local solutions that reflect the circumstances of the individual RSLs concerned. We have identified some of these risks and issues and they are discussed in Table 6.

50. There is a considerable body of advice and good practice available on partnership working and identifying and managing risk. However, we believe that the sector and individual RSLs could find specific guidance and support helpful when working out whether to seek pre-qualification or deciding whether to join or set up a consortium. We propose to work with the SFHA and local authorities to develop principles and guidance on these issues as appropriate.

Question 12

a) Do you agree with the proposed principles of consortia and responsibilities for consortium heads?

Question 13

a) Do you agree with the proposals on formation of consortia, including the requirement of a formal agreement to govern relationships within consortia?

b) What guidance would be helpful to support the sector in setting up consortia and Lead Developer arrangements?

c) What guidance would be helpful to ensure tenant and community engagement in decision-making?

Table 6 – Issues likely to be considered when setting up development consortia

- **The size of consortia** – We consider this is a decision that is best left to the sector and individual RSLs. RSLs should think this through carefully as the number of consortium members will impact on decision-making as well as determine the skills and financial capacity that may be brought to bear, through the consortium head, on the projects for which it bids.
- **How funding might work** - The combined financial strength of all consortium members will influence the size of programme the consortium head will be willing and able to bid for, and will affect its capacity to be appointed as a Lead Developer. This will also determine the minimum amount of subsidy that will be acceptable to consortium members. However, there will also need to be a trade-off amongst consortium members about the level of subsidy they can work with and the extent to which existing resources in the possession of some partners (whether land or finance) can be brought to bear to help fund new developments.
- **Borrowing and finance** – the consortium will need to adopt a consistent approach to raising and managing finance, whether the Lead Developer or individual consortium members are responsible for arranging private finance.
- **Access to resources** – Consortium members need to be clear what resources – including land and skills and experience of staff members – can be brought to bear on new investment. How these are then made available and applied to the investment programme will also need careful evaluation. Employment law, VAT rules, other taxation implications and EU procurement regulations will also need to be considered.
- **Targets and indicators** - establishing these will be very important as the consortia will need to demonstrate improved efficiency and improved performance throughout the development process. They will require careful negotiation between all the parties and will form the basis of grant agreements for Lead Developers (see paragraphs 85-87).
- **Development process** – This is connected to performance and targets as a more efficient and streamlined process should aid improved delivery and management of costs. Care will be needed in order to secure efficiencies in the development process whilst also protecting quality and keeping costs under control. The consortium head should be in a position to control costs and process, and report on performance to other consortium members. But the other consortium members will also need to be confident that the consortium head will deliver the new homes on time and to the required standards.
- **Ownership and management of the new homes** - All consortium members will need to agree up front where the homes are to be built and which members of the consortium will own and/or manage them. These decisions must be informed by a combination of the priorities set out in Prospectuses, the financial strength of each of the consortium members and the type of new housing that is required. There must also be clear agreement about how completed homes which the Lead Developer is not intending to retain would be transferred to another consortium member. Crucially, all parties need to be clear what will happen to the new homes if the intended owner or manager is no longer in a position to take them on. This will require careful long-term business planning and evaluation of the financial capacity of all consortium members.
- **Tenant and community involvement** - The consortium will need to work out how the views and concerns of local tenants and the community are taken into account in the investment in new affordable homes. In progressing the objectives of increased efficiency it will be important to ensure that the local connection and understanding of local need is not lost. There will also need to be agreement about how the views and concerns of tenants are used to continuously improve the processes.

Organisations other than RSLs

51. *Firm Foundations* envisaged that Lead Developers and all the members of consortia would be landlords on the Register of Social Landlords in Scotland. This includes RSLs that are subsidiaries of social landlords registered in other parts of the UK. We do not propose that RSLs registered in other parts of the UK would be able to become consortium members in their own right. This is because, should they wish to be involved in consortium, the option of seeking registration of a Scottish subsidiary should be an adequate mechanism.

52. However, we would be interested in views on whether bodies other than RSLs should be eligible to join consortia or to become either consortium heads or Lead Developers. We have not ruled this out, but consider that different and additional risks and potential conflicts of interest could arise as a consequence. These would need to be properly understood and evaluated. If and when such arrangements were permitted these issues would also need to be addressed within the formal agreement between the consortium members.

Local authorities

53. The Government supports the increased development of affordable housing by those local authorities in a position to do this. One option for the future would be to allow local authorities to become members of RSL-led consortia in order to pool development expertise and participate in joint procurement.

Non-registered bodies set up by RSLs

54. We propose that consortium leadership should not be open to non-registered bodies which have been set up by groups of Scottish-registered RSLs for the purposes of more efficient and effective development of new homes. Instead, we propose that all parties will need to agree that one RSL (ie the consortium head) is in overall control of the development function. This is in order to ensure that all recipients of subsidy are subject to regulation and the Government's investment is protected. We accept that this means that some bodies that are operating existing models may need to reform their structure. Nonetheless, we would be interested in receiving views about the risks and benefits of including bodies set up by RSLs *within* consortia.

Other private sector bodies

55. *Firm Foundations* suggested that, over time, it might make sense for private developers or house builders to become heads of consortia and recipients of subsidy. We believe this remains a possibility for the future although this could bring with it additional risks and issues as these are not regulated bodies and there would need to be processes introduced to protect the Government's investment. At this point, we consider that the costs of doing this outweigh the possible benefits this might bring.

56. A separate question is whether consortium *membership* could be widened to other private sector bodies, for example where there are existing commercial relationships between some RSLs and some private sector organisations. However, this might be incompatible with EU procurement regulations and the requirement for fair and equal competition between contractors. We therefore propose that consortium membership should only be open to those which procure new developments.

Question 14

- a) Do you consider that there may be circumstances in which consortium membership should include local authorities or other non-RSL bodies?
- b) In what circumstances would you see this as appropriate?

Question 15

Are there circumstances in which bodies other than RSLs might be eligible to become heads of consortia and Lead Developers?

Chapter 5: PROPOSED COMPETITIVE MECHANISMS FOR AWARDING SUBSIDY AND APPOINTING LEAD DEVELOPERS

Introduction

57. The role and purpose of Prospectuses to define the investment priorities for affordable housing were discussed in chapter 2. The concepts of pre-qualification, formation of consortia and appointment of Lead Developers were introduced in chapter 3, and chapter 4 explained the set-up and benefits of working in development consortia.

58. This chapter describes the underlying processes behind this in more detail. This includes how RSLs can be pre-qualified, how pre-qualified RSLs will be able to bid for subsidy and how Lead Developers will be appointed.

59. The role for local authorities and proposals for their involvement in the process are also discussed. The Scottish Government and COSLA have agreed that in the short term, the Scottish Government will work with local authorities to increase the consistency and transparency of decision-making on projects funded by Housing Association Grant (HAG). A systematic and coordinated approach to pre-qualification, awards of HAG and appointment of Lead Developers will be part of this.

Pre-qualification

Overview

60. The first stage of the reformed investment system will be to identify suitable RSLs through a process of pre-qualification. Pre-qualification will be on a national basis. Any RSL that wishes to apply for subsidy to invest in new affordable homes must first be pre-qualified. Only pre-qualified RSLs will be eligible to bid for subsidy to develop new homes in any part of the country¹⁵.

61. The purpose of introducing pre-qualification is to focus the future development of new homes in the hands of the most able and strongest-performing RSLs. This is also intended to reduce the administrative burden of the subsequent process for award of subsidy. One of the consequences of introducing pre-qualification will be that the total number of RSLs that will be eligible for subsidy will be fewer than the number of RSLs that currently receive HAG.

¹⁵ RSLs working in the island authorities may be exempt from the formal requirement to pre-qualify, but will be expected to pursue the pre-qualification standards.

Eligibility for subsidy

62. All pre-qualified RSLs will be eligible to bid for subsidy, but they will not have an automatic right to receive subsidy. Subsidy will only be awarded on the basis of an acceptable proposal in a competitive process. However, recognition as a pre-qualified RSL is a significant step as it indicates the Government's willingness in principle to invest in developments led by this RSL.

Development consortia

63. Pre-qualified RSLs will be encouraged to set up development consortia with other RSLs. This way, RSLs that either choose not to develop new homes themselves, or do not meet the pre-qualification criteria, can still have access to a supply of new affordable homes in the future by being a consortium member. Although pre-qualified RSLs can bid for subsidy to develop new affordable homes anywhere in Scotland it is likely that most will have an interest only in one region or a small number of regions, depending on the geographic focus of their own organisation and of the other organisations within their consortium.

Pre-qualification: the process

64. We will issue an invitation to all RSLs to apply for pre-qualification and propose to do this in the form of a questionnaire. As far as reasonably possible the information required will come from existing information either held by RSLs or already provided by them to the Scottish Housing Regulator. In this way the burden on an RSL applying for pre-qualification should be minimised.

Pre-qualification criteria

65. An application for pre-qualification should not be too onerous for well managed RSLs with a sound governing body and a track record in providing both quality services and quality new homes. The overall approach and the criteria we propose for pre-qualification are described in detail in Annex C; this may be summarised as:

- sound governance;
- financial capacity and ability to plan and effectiveness in managing finances;
- quality of service delivery; and
- the capacity to manage the development of larger projects, adoption of best practice in procurement and development processes and track record in the delivery of high quality homes.

66. The intention will be to develop a process for assessment of pre-qualification applications which is transparent and objective and which also minimises bureaucracy. We expect to make use of information from other partners such as the Scottish Housing Regulator and local authorities in reaching a decision about whether to accept or reject an application from an RSL.

67. In order to retain their pre-qualified status RSLs will need to maintain satisfactory performance and there may need to be a process to re-affirm the RSLs' pre-qualified status from time to time. And, in the interests of tenants and taxpayers, if an RSL's governance or financial management or overall performance fall below the level expected then it would risk losing its pre-qualified status and any further access to subsidy.

68. It should also be possible for additional RSLs to be pre-qualified in the future through re-running the process from time to time.

69. We propose to work with the Scottish Housing Regulator, the SFHA and COSLA in order to refine and agree the pre-qualification process.

Question 16

Do you agree that a pre-qualification process should be included in the new arrangements?

Question 17

Are the pre-qualification criteria and information requirements set out at Annex C a reasonable basis on which to work with the Regulator, the SFHA and COSLA to refine the pre-qualification process?

Bidding for subsidy by pre-qualified RSLs

70. We intend that awards of subsidy under the reformed investment system will be determined on a competitive basis, with all pre-qualified RSLs eligible to take part and submit proposals. Pre-qualified RSLs can submit proposals on their own behalf, or on behalf of other consortium members if they have a formal agreement in place. Their proposals will also need to satisfy the funding criteria.

71. In the initial round of the new competitive systems, it is intended that all subsidy will be awarded through this competitive process, with all pre-qualified RSLs able to compete for subsidy on an equal footing. However, in future rounds, a proportion of the available subsidy would have been committed in advance to Lead Developers, and the scope for other RSLs' individual projects to gain subsidy will therefore be reduced. As explained in Chapter 1, our aim is to allocate a majority of the Investment Programme to Lead Developers.

Funding criteria

72. The amount of subsidy required will be one criterion against which proposals will be assessed. However, this will also need to be balanced against additional criteria in order to ensure that a rounded assessment of value for money can be carried out. We propose that all bids should require to meet four further standard criteria:

- **Deliverability** - The pre-qualified RSL or other consortium member must have ownership or be able to secure ownership of the land; there should be a clear and timetabled plan for developing the units; and the RSL must be in a position to confirm the total amount of subsidy required.
- **Quality** - The proposal must meet the quality requirements set out in the Prospectus.
- **Local authority endorsement** - The proposal must contribute to the local authority's strategic plans for the region and reflect the investment priorities as set out in the Prospectus.
- **Ownership and management** - The eventual owner and manager of the new homes must be specified. Where this is another consortium member and not the pre-qualified RSL, then the arrangements for handover or transfer of the completed properties must be part of a formal agreement between the parties.

73. Only those proposals that satisfy all of the above criteria can be considered. Following this assessment, there will need to be a further transparent framework, based around the price and other criteria, to select those proposals which will receive subsidy. Our aim is to have as objective a framework as possible but we recognise that some elements of assessment will require the exercise of judgement, especially if minimum requirements in terms of quality or subsidy levels are exceeded. There are also opportunities for local authorities to contribute to the assessment, such as in the strategic fit of proposals against the priorities set out in the Prospectuses. As part of our agreement to work with local authorities to increase the transparency and consistency of decision-making on projects, we propose working with the SFHA and COSLA to develop the assessment framework and to clarify roles and responsibilities in the assessment process.

74. The assessment of proposals will also need to take account of the investment priorities set out in the regional prospectus, including the priority given to supported or specialist accommodation, and to remote and rural areas.

75. It will be in the interest of pre-qualified RSLs to submit proposals that satisfy the funding criteria the first time round because, depending on the number and quality of other proposals received, the opportunity to re-submit a rejected proposal and receive funding that year may be limited.

Question 18

Do you agree with the proposed funding criteria for bids for specific projects?

Question 19

Do you agree with our proposed approach to development of an assessment framework?

Question 20

How might we enhance the involvement of local authorities, RSLs and other stakeholders in the assessment of proposals?

Lead Developers

The principles

76. Our goal, as explained earlier, is for the majority of the Investment Programme to be delivered through Lead Developers. Only pre-qualified RSLs will be eligible to become Lead Developers and our objective is to see an increasing number of pre-qualified RSLs setting up consortia and seeking appointment as Lead Developers.

77. Lead Developers will be appointed for periods of up to five years. They will use all the resources at their disposal to plan and develop longer-term programmes of investment and will have access to subsidy over longer periods of time instead of having to rely on annual funding allocations, as most RSLs do at present. And Lead Developers will benefit from greater freedom in how they manage and deliver their agreed investment programme compared with other pre-qualified RSLs.

78. When considering a regional Prospectus, if a pre-qualified RSL is in a position to put together a proposal that involves delivery of a substantial proportion of the investment required for a number of years, then we would look to them to apply to be a Lead Developer for that area when they submit their funding proposal.

Application to be a Lead Developer

79. The process for applying to be a Lead Developer will be set out as part of the regional Prospectuses. RSLs that seek to be a Lead Developer will need to:

- Confirm that if a consortium is in place it is governed by a formal agreement between the parties about how the development process will work and which RSLs will own and manage the homes to be built;
- Specify an initial set of firm projects that can be commenced within the next twelve to twenty four months and which meet the funding criteria (see paragraph 72);

- Include a further programme of investment for up to five years ahead which will continue to reflect the priorities set out in the Prospectus and fit with the local authorities' plans; and
- Specify how clear targets, indicators and milestones will be used to track delivery of the programme.

Our assessment of a Lead Developer application

80. In deciding whether or not to appoint a pre-qualified RSL to be a Lead Developer in an area we will have regard to:

- Its commitment to develop housing appropriate to the area;
- Its financial capacity and governance (which may need to be re-visited if an RSL applies to be a Lead Developer some time after it was pre-qualified);
- Its assurance that the development process has been agreed with all consortium members;
- Its proposals for projects that are expected to commence within the first twelve to twenty four months, which will have to be fully costed, be properly scheduled and reflect access to a secure supply of land (projects scheduled to commence later on in the five years will not be expected to be fully costed at this point, but the initial costings and timescales used for the initial projects will form the basis for future negotiations);
- Clarity over eventual ownership and management of the new homes; and
- Proposed performance indicators (which will include timescales and milestones for completing projects) against which efficiency, effectiveness, and value for money will be demonstrated and which will form the basis for grant agreements.

81. In addition to this we propose to seek the advice of the relevant local authorities about the scope of the investment planned in affordable housing and their advice on the suitability of the RSL concerned to be appointed as Lead Developer.

Funding commitment

82. When we appoint a pre-qualified RSL as a Lead Developer this will include a commitment to make a significant proportion of the subsidy for that area available only to the Lead Developer during that period. In this way access to subsidy beyond the initial projects set out in the proposal should be straightforward. It will not require submission of further bids for subsidy in competition with other bidders, but it will be conditional on performance and delivery of new homes by the Lead Developer and its consortium over the period for which funding is agreed.

83. In consultation with the relevant local authorities we will have discretion over how many Lead Developers to recognise, and what proportion of the total investment programme would conditionally be committed to each. In due course it is intended to commit to more than one Lead Developer in each region in order to retain maximum scope for efficient development. However, it is also possible that there might not be any Lead Developers appointed initially in some regions, if proposals were judged not to be satisfactory or not to offer sufficient value for tenants and taxpayers.

84. Lead Developers will need to seek re-appointment at the end of their term, in competition with other candidates. It will also be possible for an RSL to have its Lead Developer position withdrawn in the event that it fails to perform in line with agreed targets and milestones, if the Scottish Housing Regulator has significant concerns about the RSL's regulatory profile or if it is subject to statutory intervention. This sanction is an important element in ensuring continued value for money and delivery of quality new homes.

Question 21

Do you agree with our proposed approach to the appointment and management of Lead Developers?

Grant agreements

85. Offers of grant agreements will only be provided to Lead Developers or those RSLs that have pre-qualified and have successfully bid for grant.

86. As is evident from the longer-term planning and tracking of performance that we propose for Lead Developers, we propose a fresh approach to grant agreements for them. This will entail review of current grant agreements and the conditions set out in them with the objective of introducing a more streamlined approach to administration of grant payments. The principle to be adopted will be to link subsidy to progress against agreed outcomes and outputs, recognising the maturity of the RSL sector, its experience in managing development programmes and the strong leadership role to be adopted by Lead Developers. We will therefore look to the Lead Developers to report their progress periodically against the milestones and targets that they have set for themselves. This approach will give RSLs much more flexibility in how they manage individual projects and it will reduce bureaucracy because the monitoring arrangements should be considerably reduced.

87. We propose to work with the SFHA and Glasgow and City of Edinburgh Councils¹⁶ to develop a revised grant agreement for Lead Developers.

Question 22

- a) Do you agree with the overall approach to grant agreements for Lead Developers as set out here?
- b) What do you suggest we could alter to make grant payments more streamlined?

¹⁶ Those local authorities that have Transfer of Management of Development Funding

Frequency of appointing Lead Developers and awarding subsidy

88. In conjunction with our local authority partners we will decide how often to run competitions to appoint Lead Developers. Ideally, this would be every three to five years which will encourage the sector to plan over the medium term, and which will also support the introduction of more efficient and effective procurement practices. Future rounds of competition for subsidy would be conducted as and when necessary, bearing in mind that, where Lead Developers have been appointed, much of the Investment Programme may already have been committed to them.

Chapter 6 IMPLEMENTATION

Timetable

89. Subject to responses to this consultation we are working to the following timetable:

- **June 2009:** Regional structure confirmed, pre-qualification prospectus issued and RSLs start to make provisional plans for joining consortia and applying to become a Lead Developer
- **September 2009:** deadline for applications for pre-qualification
- **October 2009:** appointment of pre-qualified RSLs
- **November 2009:** regional Prospectuses published and all pre-qualified RSLs invited to apply for subsidy and for appointment as Lead Developer
- **Oct 2009 – Feb 2010:** RSLs finalise both their consortium membership and investment proposals
- **March 2010:** Deadline for applications from pre-qualified RSLs/consortia for funding of specific projects over 2010-12 and for appointment as Lead Developer
- **April 2010:** Competitive awards of subsidy for 2010-2012 and appointment of Lead Developers for 2010-2015

Question 23

Do you have any comments on the proposed timetable?

Monitoring and evaluation

90. We intend to develop an appropriate monitoring and evaluation framework. We have agreed with COSLA to jointly monitor the delivery of nationally agreed outcomes and we propose to discuss how to do this in conjunction with local authorities and the SFHA. Ideally, we would like to see the framework in place by March 2010 but implementation of the framework will depend on the timetable for investment reform.

Question 24

Which indicators and what aspects of the Investment Programme should be included in a monitoring and evaluation framework?

ANNEX A

Our approach to consultation and how to reply

Consultation is an essential and important aspect of Government's working methods. Given the wide-ranging areas of our work, there are many varied types of consultation. However, in general, consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways that will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, inclusive, effective and appropriate to the issue under consideration and the nature of the target audience, ensuring that every effort is made to ensure the representation of all stakeholder groups. Typically, our consultations involve a written paper distributed to organisations and individuals with an interest in the issue, and they are also placed on our website to enable a wider audience to access the paper and submit their responses.

A questionnaire is available to help you prepare your response to this consultation. This repeats the 24 questions posed in this paper. **You can respond on line** using our consultations web site at: <http://www.scotland.gov.uk/Consultations/Current>. This is where you'll also find the Respondent Information Form that has to be completed by every respondent. From here you can also access further information about our approach to consultation and all previous Scottish Government consultation papers and related publications.

Alternatively, you can respond to this consultation, including a completed copy of your Respondent Information Form in writing to **The Affordable Housing Investment Reform Team, Area 1-H South, Victoria Quay, Edinburgh, EH6 6QQ**; or by e-mail to AHIRPT@scotland.gsi.gov.uk, or you can send your response to us by fax on **(0131) 244 5596**.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

The **closing date for all replies to this consultation is Tuesday 17 March 2009**. Copies of all the written responses received, except those where the individual or organisation request confidentiality, will be placed on the Scottish Government's web site. We aim to publish an analysis of responses in May 2009. If you wish to make a complaint about our consultation process, please contact the Affordable Housing Investment Reform Team at the address provided above.

Should you require a copy of this document in an alternative format or a translation into a community language, this is available on request. Please call (0131) 244 0078.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant body.

ANNEX B Regional Seminars

A series of regional seminars were held between 25 August and 10 September in Irvine, Dundee, Inverness, Aberdeen, Edinburgh and Glasgow, to which RSLs and local authorities were invited. The purpose of the seminars was to advise stakeholders about the Government's initial thinking and seek their views on aspects of investment reform.

A range of views were expressed by participants at each of the seminars. Overall, the views may be summarised under six headings:

- 1 Being more strategic and value for money**
Most were sympathetic to the aims of developing a more strategic approach and seeking to improve value for money. However, there was some scepticism as to where cost efficiencies could be found.
- 2 The credit crunch and the 2008 changes to HAG**
There were some early indications that RSLs were coping with the tighter grant assumptions. However, several felt that they were already seeking to reduce operating costs, and that the credit crunch made it very difficult for them to drive subsidy costs further down through use of savings or adoption of more commercial borrowing practices.
- 3 Lead Developers**
Reaction to the concept of lead developers was mixed. However, in some parts of Scotland progress along these lines is already taking place, and in some others it is recognised that this would be a sensible evolution for the RSL sector.
- 4 The future for community-based associations**
Some RSLs were positive and encouraged progress with reform as they were ready and keen to engage with the new approaches. However, other RSLs contended that small community-based RSLs developing at their own hand would be better placed to serve the needs of local communities and to innovate, both on quality and on value for money.
- 5 Competition**
The majority of RSLs were wary about the introduction of competition. They were concerned that competitive mechanisms would need to be designed with care if they were not to introduce perverse incentives.
- 6 Local authorities' role**
There was considerable interest in the future role of local authorities, and requests for clarity on how future competitive approaches could integrate with local authorities' strategic role regarding social housing developments in their areas.

ANNEX C

Outline pre-qualification questionnaire

SECTION 1 – APPLICANT INFORMATION	
Name, location, contact details	<p><i>This is in order to confirm which body is applying, that they are on the Register of Social Landlords, and how to get in touch with the applicant.</i></p> <p><i>This would also be where information about any formal group structures (parent and subsidiaries) would be confirmed.</i></p>
SECTION 2 – CONFIRMATION OF GOOD STANDING	
<p>A Statement of Good Standing, that confirms that the applicant:</p> <ul style="list-style-type: none"> • Has the necessary powers; • Is not in financial or governance difficulties; • Is not experiencing legal difficulties; • Provides quality housing services; and that • The applicant’s accounts are in good order 	<p><i>This to ensure that pre-qualified RSLs are of good standing and not subject to difficulties that may give rise to unacceptable levels of risk.</i></p> <p><i>We could rely on annual accounts, the Management Letter prepared by the Auditor and regulatory assessments by the Scottish Housing Regulator, but there are likely to be time lags between this information being made available and the submission of applications for pre-qualification.</i></p>
SECTION 3 – FINANCIAL STANDING	
<p>A copy of the most recent audited accounts and the most recent five year financial forecasts for the applicant RSL.</p> <p>If the applicant is a subsidiary of another RSL, a copy of the consolidated and/or group accounts and parent RSL’s accounts will be requested.</p>	<p><i>The results of the five year financial forecasts may be sourced from the Scottish Housing Regulator, if the RSL consents to this.</i></p> <p><i>If no forecast has been completed, then it is proposed that an RSL wanting to pre-qualify should complete one.</i></p>
SECTION 4 – DEVELOPMENT AND PROCUREMENT EXPERTISE	
General	
Details of any quality assurance or accreditation which is relevant for the procurement and development functions.	<i>Examples may include ISO9000, ISO140000, membership of Housemark, adoption of nationally-recognised construction codes of good practice.</i>
Details of management arrangements for controlling and procuring development work over the past three years.	<i>This is intended to source practical evidence about the applicant’s approach to managing and controlling projects.</i>
Examples of recent development projects	<i>This is in order to source evidence to support the applicant’s statements about innovation, quality, design, procurement, supply chain management, sustainability and efficiency.</i>

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Innovation	
Examples of innovation introduced by the applicant in order to improve value for money	<i>Examples might include: modern methods of construction; cost management; increased energy efficiency; whole life costing and asset management</i>
Design	
Information about the approach taken to ensure design quality: how the applicant has ensured compliance with design standards and how it manages projects to ensure that this is delivered in the completed new homes.	<i>This is intended to go beyond Building Standards. It should capture the standards to which the applicant works and to which it holds contractors and developers working on its behalf.</i>
Supply Chain Management	
Any involvement by the applicant in buying clubs, Strategic Framework Agreements or other bulk purchase arrangements, and what their requirements are regarding workforce or contractors' involvement in construction skills certification schemes.	<i>These questions are intended to promote adoption of improved supply chain management.</i>
Efficiency	
The applicant's approach to use of whole life costing, use of existing land banks and general deliverability.	<i>These questions relate to general deliverability and the applicant's approach to project, cost and risk management.</i>
Equality and Diversity	
A statement by the applicant about their approach to discharging their general duty to promote equality and diversity through development of new homes. This could include how they work with communities and promote improved relationships.	<i>RSLs are expected to ensure that unlawful discrimination is eliminated and that they promote equality of opportunity in all they do. This should be demonstrable in their approach to investment in new homes.</i>
Sustainability	
An explanation from the applicant about their approach to planning for and delivery of increased sustainability of their new developments.	<i>Given the importance of tackling climate change it would be a preferable for the applicant to provide some evidence of their approach rather than simply confirm that they have a policy.</i>



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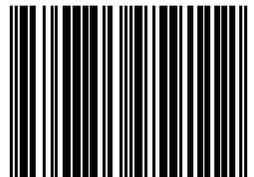
This document is also available on the Scottish Government website:
www.scotland.gov.uk

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