Taunton Deane Borough Council

Tenant Services Management Board – 16th December 2013

Rents for Social Housing from 2015-16: Communities and Local Government Consultation

Report of Lisa West – Housing Income Manager
(This matter is the responsibility of Executive Councillor Jean Adkins)

1.0 Executive Summary

This report describes key government proposals on rent policy for social housing from April 2015 onwards. Draft guidance for stock-owning local authorities on rents for social housing is also set out.

Tenant Services Management Board (TSMB) is invited to comment on key rent policy proposals and the guidance. Comments will be included in the council's final response to the consultation which ends on 24th December 2013.

2.0 Introduction

In October 2013 the Department for Communities and Local Government announced proposals on rent policy for social housing from April 2015 onwards.

The main proposals are:

- Moving from annual increases in weekly rents of RPI + 0.5 percentage points (+ up to £2 for social rents), to increases of CPI + 1 percentage point. As a result, removing (from 1 April 2015) the flexibility available to landlords to increase weekly social rents each year by an additional £2, above the increase in formula rent, where the rent is below the rent flexibility level and rent cap; and

- Making clear that rent policy does not apply where a social tenant household has an income of at least £60,000 a year.

Draft guidance setting out the Government's policy on rents for local authorities is also proposed, and replaces the "Guide to Social Rent Reforms", published by the Department of Environment, Transport and the Regions in 2001, and "A Guide to Social Rent Reform in the Local Authority Sector", issued in February 2003.

Consultation documents are attached (Appendix 1 and 2) and the documents can also be obtained by visiting the Communities and Local Government website i.e. Rents for Social Housing from 2015-16; and Guidance on Rents for Social Housing:

https://www.gov.uk/government/consultations/rents-for-social-housing-from-2015-to-2016

3.0 Tenant Services Management Board response to the key proposals

At the 16th December 2013 TSMB meeting there will be an opportunity for Tenant Services Management Board members to discuss and agree their views on the proposals which will be incorporated into the final response to be made to government by Taunton Deane Borough Council.

4.0 Recommendation

It is recommended the Tenant Services Management Board:

- Consider and agree their final response to the consultation issued by the Department of Communities and Local Government – Rents for Social Housing from 2015-16.

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Department for Communities and Local Government

Guidance on Rents for Social Housing

Draft for consultation

October 2013
Department for Communities and Local Government

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, email contactus@communities.gov.uk or write to us at:

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Contents

Chapter 1

Introduction

Application

1.1 This guidance sets out the Government's policy on rents for social housing for April 2015 onwards.

1.2 It applies to stock-owning local authorities only, though we expect the social housing regulator to have regard to it in setting the Rent Standard for private registered providers. We expect local authorities to have regard to this guidance when setting rents for their housing stock.

1.3 This guidance replaces the "Guide to Social Rent Reforms", published by the Department of Environment, Transport and the Regions in 2001, and "A Guide to Social Rent Reform in the Local Authority Sector", issued in February 2003; and any other guidance on rents issued in relation to those documents.

Policy to 2014-15

1.4 Since 2001, most rents for social housing ("social rents") have been set based on a formula set by Government. The formula creates a "formula" rent for each property, which is calculated based on the relative value of the property, relative local income levels, and the size of the property, and landlords are expected to move the actual rent of a property to this formula rent, over time. An aim of this formula-based approach is to ensure that similar rents are paid for similar social rent properties.

1.5 Annual changes in social rent levels have also been based on a policy set by Government. Weekly rents are expected to increase by RPI + 0.5 percentage points annually, plus up to an additional £2 where the rent is below the formula level for the property. At the 2010 Spending Review, the Government extended this policy for social rent increases to 2014-15.

1.6 At the 2010 Spending Review, the Government also introduced "affordable rent". Our policy is that landlords can let properties at affordable rent (up to 80 percent of local market rent) where they have in place an agreement with the Homes and Communities Agency, Greater London Authority (for new housing in London) or the Department (for new housing under the Right to Buy replacement policy) to provide new affordable housing.

1.7 Within the terms of the Government's affordable homes programmes, specifically, existing vacant properties can also be "re-let" at affordable rent. Affordable rents are currently expected to increase by no more than RPI + 0.5 percentage points annually.

1.8 Affordable rent is designed to maximise the delivery of new affordable housing by making the best possible use of Government investment. It allows us to deliver more new affordable homes for every pound of upfront investment, ensuring more people in housing need are able to benefit from a sub-market rent.

Policy from 2015-16

1.9 In announcements made at Budget 2013 and in the 2013 Spending Round, the Government signalled changes to rents for social housing.

1.10 At Budget 2013, the Government signalled its intention to set out, in the Spending Round, a rent policy to apply for ten years from 2015/16. This commitment was in recognition of the benefit of long-term certainty to landlords, in helping them to plan for future investment – and so provide more new affordable homes, improve existing affordable homes, and provide good services to their tenants.

1.11 The Government also set out its aim that those in social rented housing with high incomes should pay a fairer level of rent. We believe that, where a social tenant household has an annual income of at least £60,000, the landlord should be able to charge them the full market rent, rather than being expected to continue to provide them with a sub-market rent. This would allow landlords to make best use of social housing, and would mean a sub-market rent is provided only to those tenants who clearly need it.

1.12 At the Spending Round, the Government then gave certainty to social landlords by confirming that, from 2015-16, rents in the social sector would increase by CPI + 1 percentage point annually, for ten years. The move from RPI to CPI follows the Office for National Statistics' announcement in January 2013 that the formula used to produce the Retail Price Index does not meet international standards. As a result, the Government is looking to move to the Consumer Price Index, where possible, where an inflation-index is currently being used in policy.

1.13 The basis upon which social rents and affordable rents are set, as set out above, is to continue to apply.

1.14 Under this policy, the majority of existing rented properties in the social sector will continue to be let at social rent; and we expect the majority of new properties will continue to be let at affordable rent.

1.15 This guidance explains, in further detail, the basis on which local authorities are expected to set their rents from April 2015 onwards.

Our Aims

1.16 The Government's aims for its new rent policy are to:

- Ensure that rents for social housing remain affordable in the long-term.
- Protect social tenants from excessive increases in rents.
- Provide long-term certainty and stability to social tenants, social landlords and their funders, in order to:

    - Enable tenants to understand their future housing costs better;
    - Enable landlords to plan for future investment better;
    - Encourage landlords to invest in new affordable housing, helping more people in need;
    - Support landlords to drive value for money; and
    - Give investors confidence in social housing.
- Give landlords significant income to invest in the maintenance and improvement of existing homes, the provision of new affordable homes, and in providing good services to their tenants.
- Control public expenditure – principally, housing benefit costs.
- Support landlords to charge a fairer rent to those social tenant households with high incomes.

1.17 In particular, in coming to a decision on an appropriate basis for increasing rents in future, we have tried as far as possible to balance the need to ensure rents remain affordable, with the need to ensure that landlords have the income they need to remain in good financial health and to invest, particularly in new affordable homes.

1.18 For local authorities, specifically, our aim is also to support them to make use of the opportunities presented by self-financing. Ten years of rent certainty should put them in a strong position to plan strategically and utilise the freedoms they now have following our reforms – including the ability to keep full rental income – and invest in homes and services.

Chapter 2

Social Rent Guidance

Key Principles

2.1 Under social rent policy, rents should be set based on a formula. This formula should enable local authorities to set rents at a level that allows them to meet their obligations to their tenants and maintain their stock, while maintaining a credit balance on their Housing Revenue Accounts.

2.2 The Government wants social rents to take account of:

- The condition and location of a property – reflected in its value;
- Local earnings; and
- Property size (specifically, the number of bedrooms in a property).

2.3 Property value provides a simple way of reflecting the attractiveness and quality of the property. Local earnings ensure that rents take account of how much income people have, helping them to remain affordable. And property size helps to ensure that properties with more bedrooms have a proportionately higher rent, as would be expected.

2.4 Our expectations for the setting of social rents are set out below.

Formula Rent

2.5 The basis for the calculation of formula rents is:

- 30 percent of a property's rent should be based on relative property values;
- 70 percent of a property's rent should be based on relative local earnings; and
- a bedroom factor should be applied so that, other things being equal, smaller properties have lower rents.

2.6 This can be expressed as a formula, in which the formula rent for a property is calculated using the following approach:

Weekly formula rent is equal to:

70% of the national average rent
Multiplied by relative county earnings
Multiplied by the bedroom weight

Plus

30% of the national average rent
Multiplied by relative property value

National average rent means the national (England) average rent in April 2000.

Relative county earnings means the average manual earnings for the county in which the property is located divided by national average manual earnings, both at 1999 levels. Appendix A contains details of the earnings data to be used.

Relative property value means an individual property's value divided by the national (England) average property value, as at January 1999 prices.

2.7 The amounts to use for the national average rent, national average manual earnings and the national average property value are set out at Appendix A. Bedroom weights are also set out at Appendix A.

2.8 For the vast majority of social rent properties, a formula rent has already been set. There will however be some cases where a formula rent is not in place – usually, only for new properties developed. Where this is the case, and the property is to be let at social rent, a formula rent will need to be calculated.

Uplift of Formula Rent

2.9 Putting the relevant information into the above formula will give the formula rent for 2000-01 for the property. The 2000-01 formula rent should then be up rated, for each year, using the relevant uplift.

2.10 For 2001-02 to 2014-15, the uplift for each year is the Retail Price Index (RPI) at September of the previous year plus an additional amount. In 2001-02, that additional amount is 1.0 percent; for all other years, it is 0.5 percent. The uplifts for each of these years are shown in the table at Appendix A.

2.11 From 2015-16 to 2024-25, the uplift for each year should be the Consumer Price Index (CPI) at September of the previous year plus 1.0 percent.

Rent Flexibility Level

2.12 The Government's policy recognises that authorities should have some discretion over the rent set for individual properties, in order to take account of local factors and concerns, in consultation with tenants.

2.13 As a result, the policy contains flexibility for authorities to set rents at up to 5 percent above formula rent (10 percent for supported housing and sheltered housing). We expect authorities to use this flexibility in a balanced way, and not set all rents at 5 percent above the formula rent.

2.14 Where a rent is at a level that is more than 5 percent above the formula rent (10 percent for supported housing and sheltered housing) in 2015-16, it should be brought within the flexibility level over time, either through applying a rent increase of less than CPI + 1 percentage point, or through lowering the rent when the property becomes vacant and is re-let.

Limit on Rent Changes

2.15 From April 2015, we expect local authorities to increase rents by no more than CPI (at September of the previous year) + 1 percentage point in any year.

2.16 As set out above, formula rents should also increase by CPI + 1 percentage point each year, from 2015-16. In practice, due in part to the annual limit on weekly rent increases between 2001-02 and 2014-15, of RPI + 0.5 percentage points + £2, some properties will not have reached formula rent by April 2015. Where this is the case, we expect authorities to adhere to the limit on rent changes, but to move the rent up to formula rent where the property is re-let following vacancy.

Rent Caps

2.17 Local authorities are expected to apply the rent caps in determining formula rents.

2.18 The rent caps apply as a maximum ceiling on the formula rent, and depend on the size of the property (the number of bedrooms it contains). Where the formula rent would be higher than the rent cap for a particular size of property, the rent cap should be used instead.

2.19 Up to 2014-15, rent caps were inflated annually by RPI (at September of the previous year) + 1 percentage point. From 2015-16 onwards, rent caps should increase by CPI + 1.5 percentage points annually.

2.20 While rent caps should increase annually by CPI + 1.5 percentage points, the annual change in rent for the tenant in a "rent capped" property should still be governed by the CPI + 1 percentage point limit on rent changes.

2.21 However, where a property whose rent is governed by the rent cap comes up for re-let (and formula rent remains above the rent cap), the new rent charged should be based on the rent cap level – which should have been increasing by CPI + 1.5 percentage points, rather than CPI + 1 percentage point.

2.22 Where a rent is above the rent cap level, local authorities should look to reduce the rent level over time so that it is within the cap.

2.23 Rent caps for 2014-15 are set out in Appendix A.

Property Valuations

2.24 To ensure consistency between local authorities, a common approach should be followed to the valuation of properties, as far as possible.

2.25 In calculating the formula rent, the value of the property should be based on an existing use value, assuming vacant possession and continual residential use.

2.26 Existing use values should be produced by the comparative method and not by a discounted cash flow method.

2.27 Existing use value is not the same as “existing use value – social housing”, which is used for resource accounting purposes, and makes a downward adjustment to the existing use value to reflect the lower value of properties when used for social housing.

2.28 A downward adjustment to open market valuations – to reflect factors such as sub-market rents – should not be made for social rent purposes. It would add complication and introduce circularity by allowing the pattern of current rents to influence the pattern of formula rents.

2.29 As set out above, the valuation should be made at January 1999 prices.

2.30 As the price base is constant, the valuation of a property for social rent purposes should generally remain the same, over time. However, an authority may want to revalue where it has carried out major works that materially affect the value of the property.

2.31 In terms of method, authorities are not expected to carry out an individual valuation for each property – this would not be practicable or desirable – though they will need to attribute a value to each social rent property in order to calculate its formula rent. Rather than carrying out individual valuations, an option would be to focus instead on more generic valuations for particular types and sizes of properties in different locations.

Service Charges

2.32 In addition to their rent, tenants may also pay service charges. Rents are generally taken to include all charges associated with the occupation of a property, such as maintenance and general housing management services. Service charges usually reflect additional services which may not be provided to every tenant, or which may be connected with communal facilities rather than being particular to the occupation of a dwelling. Service charges are subject to separate legal requirements, including tenancy agreements, and are limited to covering the cost of providing the services.

2.33 Authorities are expected to set reasonable and transparent service charges which reflect the service being provided to tenants. For social rent, they are also expected to identify service charges separately to the rent charge.

2.34 Service charges are not governed by the same factors as rent. However, authorities should endeavour to keep increases for service charges within the limit on rent changes, of CPI + 1 percentage point, to help keep charges affordable.

2.35 The only exception to this expectation is where new or extended services are introduced, where we expect an additional charge may need to be made. Where this is the case, authorities are expected to consult appropriately with tenants before introducing new or extended services and associated charges.

Chapter 3

Affordable Rent Guidance

Key Principles

3.1 Properties let on affordable rent terms fall within the definition of social housing, but are exempt from the social rent expectations outlined in chapter two of this guidance.

3.2 Affordable rent allows local authorities to set rents at levels that are typically higher than social rents. The intention behind this flexibility is to enable them to generate additional capacity for investment in new affordable housing. Affordable rent therefore allows for more new affordable homes to be built for every pound of upfront Government investment, meaning more people in need can be housed at sub-market rents than would otherwise be the case.

3.3 This chapter sets out our policy on affordable rent, and our expectations of stock-owning local authorities who let affordable rent properties.

Applicability

3.4 Local authorities should only let properties on affordable rent terms:

- Where they have a Framework Delivery Agreement in place with the Homes and Communities Agency or Greater London Authority, under the Government's affordable homes programmes; or

- Where the Homes and Communities Agency or Greater London Authority have indicated that the new supply they propose to provide represents value for money, for new build affordable housing that is not funded (in part) by Government grant; or

- Where they have an agreement in place with the Secretary of State, to retain additional Right to Buy receipts for investment in new affordable rented homes.

Rent Setting

3.5 Homes let on affordable rent terms should be made available at a rent level of up to 80 percent of gross market rents, inclusive of service charges where these are applicable.

3.6 Gross market rents generally include any service charges, and these, as well as the property size and location, should be taken into account when determining what rent level a property might achieve.

3.7 A tenancy where a local authority is the landlord is excluded from the mainstream Local Housing Allowance rules. Whilst we do not propose to set maximum rents above which local authorities should not charge for affordable rent properties, authorities should have regard to the local market context, including the relevant Local Housing Allowance for the Broad Rental Market Area in which the property is located, when setting affordable rents.

3.8 An affordable rent should be no lower than the potential formula rent for the property. In cases where the rent would be lower than the formula rent, the formula rent should constitute a floor for the rent to be charged.

3.9 Housing for vulnerable and older people often includes a range of services to support the particular needs of the client group. When setting an affordable rent level for housing for vulnerable and older people, the gross market rent comparables should be based on similar types and models of service provision, ideally within the local area. Where there are insufficient comparables for similar types of provision in the local area, valuers should be requested to identify comparables from other areas and extrapolate their best estimate of what the gross market rent should be. Local authorities should then set the initial rent up to 80 percent of that level.

3.10 Local authorities should also be mindful of the need to comply with the terms of agreements with the Homes and Communities Agency or Greater London Authority, in setting rents. They should also have regard to the conditions and policies set out in the Frameworks for the Government's affordable homes programmes, where they are letting properties on affordable rent terms within these programmes.

Property Valuations

3.11 Valuations for initial rent setting should be made in accordance with a method recognised by the Royal Institution of Chartered Surveyors. This expectation is intended to help ensure that authorities adopt a consistent and transparent approach to the valuation of market rents.

3.12 The Royal Institution of Chartered Surveyors sets out its principles for valuations in "Royal Institution of Chartered Surveyors Valuation – Professional Standards" (known as the Red Book). This is available free to their members and can be purchased online or as a hard copy.

3.13 Local authorities may not always need to undertake a full valuation on each occasion that a property is let on affordable rent terms. In areas where affordable rent is widely used, local authorities may have a rolling schedule of tenancies coming up for re-issue or re-let. Where that is the case, over time, local authorities may have adequate comparables readily to hand, and there may be no need for a full valuation. Where this is so, authorities may want to rebase rents using a desktop review of recent transactions.

Limit on Rent Changes

3.14 Local authorities should increase rents for properties let on affordable rent terms by no more than CPI + 1 percentage point each year. CPI should be taken as at September of the previous year.

New and Reissued Tenancies

3.15 On each occasion that an affordable rent tenancy is issued for a property – whether it is let to a new tenant, or an existing tenancy is re-issued – local authorities should re-set the rent based on a new valuation, to ensure it remains at no more than 80 percent of the relevant market rent.

3.16 The only exception to this is where the accommodation is re-let to the same tenant as a consequence of a probationary tenancy coming to an end. In this case, an authority is not expected to re-set the rent.

3.17 This expectation overrides the CPI + 1 percentage point limit on rent changes.

Housing Benefit

3.18 The Government has implemented a process to allow properties let on affordable rent terms by local authorities to be treated outside of the Rent Rebate Subsidy Limitation scheme.

3.19 To claim Housing Benefit subsidy above the limit rent for affordable rent properties, an authority must show the auditor of their subsidy claim form a letter signed by their Section 151 Officer, addressed to the Department, which:

- Lists the addresses of all affordable rent properties – broken down between existing homes that have been converted to affordable rent, and newly built homes let at affordable rent;
- Confirms that the rents will not rise except in line with Government policy;
- Confirms any properties re-let have had their rents re-set, if needed, to ensure they remain at no more than 80 percent of market rent;
- Confirms that all income derived from the higher rent has been spent or will be spent – and only spent – on new affordable housing;

3.20 Plus, for new build housing that is not funded (in part) by Government grant:

- Confirms that the schemes' finances have been approved by the Homes and Communities Agency or Greater London Authority;

3.21 And for housing that is provided under the Government's programmes:

- Confirms that the amount of capacity generated by conversions of existing properties to affordable rent is no greater than that specified in their delivery agreement with the Homes and Communities Agency or Greater London Authority.

3.22 It should be noted that we will not permit existing properties to be excluded from the Rent Rebate Subsidy Limitation system unless they have been converted to affordable rent in line with the terms of an authority's delivery agreement with the Homes and Communities Agency or Greater London Authority, under the Government's affordable home programmes. Otherwise affordable rent housing

3.23 The Government has implemented a similar process for homes provided using additional Right to Buy receipts that have resulted from the increase in sales arising from our increase in the discount cap for Right to Buy.

3.24 In this case, to claim Housing Benefit subsidy above the limit rent, an authority must show their auditor:

- A copy of their agreement with the Secretary of State, which enables them to retain additional Right to Buy receipts; and
- A statement signed by their Section 151 Officer which confirms that the homes in question have been built or acquired using Right to Buy receipts in line with the conditions set out in the agreement.

Chapter 4

Guidance on Rents for Social Tenants with High Incomes

Key Principles

4.1 The Government believes that local authorities should be able to charge those in social housing with high incomes a fairer level of rent to stay in their homes.

4.2 This would help them to make best use of social housing. It would give them additional income to invest in new social housing – helping more people in housing need – and would help ensure sub-market rents are being provided only to those tenants who clearly need them.

4.3 As a result, the Government does not expect local authorities to adhere to its social rent policy expectations in relation to social tenants with high incomes.

4.4 We encourage local authorities to implement their own rent policies for social tenants with high incomes that reflect the aims outlined above. Where they do so, we expect them to follow some general principles, set out below.

Applicability

4.5 The expectations in chapters two and three do not apply to properties let to households with an income of at least £60,000 per year.

4.6 In this context, by household, we mean tenants named on the tenancy agreement, and any named tenant's spouse, civil partner or partner where they reside in the rental accommodation. By income, we mean taxable income in the tax year ending in the financial year prior to the financial (i.e. rent) year in question.

4.7 To give an example, the income received in the 2013-14 tax year would guide the rent payable in the 2015-16 rent setting year, where a household was above the threshold. Here, 2013-14 is the "tax year ending (on 5 April 2014) in the financial year (2014-15) prior to the financial (i.e. rent) year in question (2015-16)".

4.8 Further information on income in scope can be found at: www.hmrc.gov.uk/incometax/taxable-income.htm.

4.9 Where there are more than two incomes within the household, as defined, we would expect the two highest incomes only to be taken into account.

4.10 We expect authorities to use additional capacity generated to fund new affordable housing, where possible.

Appendix A

Information for Calculating Formula Rents

1. This appendix provides the information, apart from property-specific details, that is needed to calculate formula rents.

Rents

2. The national average rent that should be used, for April 2000, is £54.62.

3. This was the national average rent for private registered providers for April 2000. A decision was taken to use this amount in calculating formula rents for local authorities following consultation on the three year review of rent restructuring, in 2004. This decision was taken to ensure the same formula was used to calculate rents for all tenants of social rent properties, regardless of whether they rented from a local authority or housing association.

Property Values

4. The national average property value to be used, for January 1999, is £49,750.

5. This was the national average property value for private registered providers at January 1999. A decision was taken to use this amount following the three year review, for the same reason as outlined above.

Earnings

6. County earnings data to be used is in the following table:

County	Earnings £ / week	County	Earnings £ / week	County	Earnings £ / week
Avon	321.20	Greater London	354.10	Nottinghamshire	298.00
Bedfordshire	343.70	Greater Manchester	307.30	Oxfordshire	323.80
Berkshire	345.40	Hampshire	328.70	Shropshire	295.40
Buckinghamshire	328.30	Hereford & Worcs.	289.60	Somerset	299.70
Cambridgeshire	330.10	Hertfordshire	343.70	South Yorkshire	299.10
Cheshire	322.00	Humberside	318.40	Staffordshire	296.20
Cleveland	338.40	Isle of Wight	288.50	Suffolk	304.30
Cornwall	255.50	Kent	316.40	Surrey	333.20
Cumbria	323.70	Lancashire	302.70	Tyne and Wear	307.90
Derbyshire	321.10	Leicestershire	303.10	Warwickshire	326.10
Devon	278.00	Lincolnshire	286.70	West Midlands	320.60
Dorset	293.90	Merseyside	324.90	West Sussex	332.50
Durham	289.70	Norfolk	302.50	West Yorkshire	302.70
East Sussex	281.50	North Yorkshire	299.60	Wiltshire	313.90
Essex	325.90	Northamptonshire	328.50		
Gloucestershire	308.00	Northumberland	276.10	**England average**	**316.40**

7. These figures are derived from the New Earning Survey (produced by the Office for National Statistics) and represent the average gross weekly earnings of full-time manual workers over the 1997 to 1999 period, uprated to 1999 prices. Pre-1996 counties are used, because of the problems of small sample sizes for what were (at the time) some of the new counties, especially unitary authorities.

Bedroom Weights

8. The following bedroom weights should be used (specifically, applied to the earnings term in the formula):

Number of bedrooms	Bedroom weight
0 (i.e. bedsits)	0.80
1	0.90
2	1.00
3	1.10
4	1.20
5	1.30
6 or more	1.40

9. These weights are not derived from any single source, but are intended to provide a broad reflection of the way in which larger properties tend to be valued more highly by their inhabitants.

Uprating of Formula Rents

10. Once a formula rent for 2000-01 has been calculated, it should be up rated for each year using the figures outlined in the following table:

Year	RPI Inflation	Additional	Total
2001-02	3.3%	1.0%	4.3%
2002-03	1.7%	0.5%	2.2%
2003-04	1.7%	0.5%	2.2%
2004-05	2.8%	0.5%	3.3%
2005-06	3.1%	0.5%	3.6%
2006-07	2.7%	0.5%	3.2%
2007-08	3.6%	0.5%	4.1%
2008-09	3.9%	0.5%	4.4%
2009-10	5.0%	0.5%	5.5%
2010-11	-1.4%	0.5%	-0.9%
2011-12	4.6%	0.5%	5.1%
2012-13	5.6%	0.5%	6.1%
2013-14	2.6%	0.5%	3.1%
2014-15	3.2%	0.5%	3.7%

11. For 2015-16 onwards, the formula rent should be up rated annually by CPI (at September of the previous year) + 1 percentage point.

Rent Caps

12. Formula rent caps for 2014-15 are as outlined in the following table:

Number of bedrooms	Rent cap
1 and bedsits	£137.71
2	£145.80
3	£153.90
4	£162.00
5	£170.10
6 or more	£178.19

13. From 2015-16, rent caps will increase by CPI (at September of the previous year) + 1.5 percentage points, each year.

Appendix B

Example Calculation of a Formula Rent

1. Consider a three-bed local authority property in Leicestershire, for which the capital value is estimated to be £55,000 in January 1999.

2. The information needed to calculate the formula rent is in Appendix A. From this information:

Average rent at April 2000	£54.62
Average earnings in Leicestershire	£303.10
National average earnings	£316.40
Bedroom weight	1.10
National average property value in January 1999	£49,750

3. Putting these figures into the formula:

70% of the average rent	70% x £54.62	£38.23
Multiplied by relative county earnings	x £303.10 / £316.40	£36.62
Multiplied by bedroom weight	x 1.10	**£40.29 subtotal**
30% of the average rent	30% x £54.62	£16.39
Multiplied by relative property value	x £55,000 / £49,750	**£18.12 subtotal**
Adding together the sub-totals	**£40.29 + £18.12**	**£58.41 total**

4. In this example, the initial formula rent for 2000-01 is £58.41 – provided this amount is not higher than the rent cap for the size of property. If it is higher, then the formula rent should be replaced by the rent cap amount.

5. Otherwise, the formula rent for future years is then calculated by uprating this amount using the figures outlined for each year in Appendix A.

Department for
Communities and
Local Government

Rents for Social Housing from 2015-16

Consultation

October 2013
Department for Communities and Local Government

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Scope of the consultation

Topic of this consultation:	This consultation invites views on our proposed rent policy for social housing from April 2015 onwards. It sets out the changes to current rent policy that we are proposing. The main changes are: • Moving from annual increases in weekly rents of RPI + 0.5 percentage points (+ up to £2 for social rents), to increases of CPI + 1 percentage point. • As a result, removing (from 1 April 2015) the flexibility available to landlords to increase weekly social rents each year by an additional £2, above the increase in formula rent, where the rent is below the rent flexibility level and rent cap. • Making clear that rent policy does not apply where a social tenant household has an income of at least £60,000 a year.
Scope of this consultation:	Rent policy applies to registered providers of social housing: specifically, private registered providers (who are mainly housing associations), through the rent direction, and the regulatory standard on rent issued by the Regulator in relation to the rent direction; and local authorities, through guidance and the "limit rent" control on housing benefit expenditure. Section 197 of the Housing and Regeneration Act 2008 gives the Secretary of State certain powers to direct the Social Housing Regulator to set standards, and about the content of those standards. Once formally issued, a direction is binding on the Regulator when it consults on and set standards for registered providers (it should be noted that the Regulator's regulatory standard on rents only applies to private registered providers – not stock-owning local authorities). We propose to use these powers to issue a new direction to the Regulator on rent. We also propose to issue new guidance to stock-owning local authorities. This consultation invites views on the draft direction and guidance.
Geographical Scope	England only.

Basic Information

To:	This consultation will be of particular interest to tenants of social housing, registered providers of social housing and their funders, and representative bodies of tenants, providers and funders. We are obliged by legislation to consult the Regulator, the Greater London Authority, the Audit Commission, and bodies representing the interests of local housing authorities, registered providers, and tenants of social housing, before giving a direction. We have written to relevant bodies regarding this consultation.
Responsibility for the consultation:	The Affordable Housing Regulation and Investment Division in the Department for Communities and Local Government is responsible for this consultation.
Duration:	The consultation starts on 31 October 2013 and finishes on 24 December 2013.
Enquiries:	For further information on this consultation document please email rentpolicy@communities.gsi.gov.uk
How to respond:	Consultation responses should be submitted by email to: rentpolicy@communities.gsi.gov.uk Or by post to: Rent Policy Consultation Affordable Housing Regulation and Investment Division Department for Communities and Local Government Eland House, Zone 1/A2 Bressenden Place London, SW1E 5DU
Additional ways to become involved:	Following this consultation – and the formal issuing of a new direction on rent – the Regulator will consult on changes to its regulatory standard on rent. Bodies with an interest in the standard are advised to participate in that consultation.
After the consultation:	The Government will publish a summary of responses to the consultation, a new direction to the Regulator on rent and new rent guidance for local authorities on the Department for Communities and Local Government website. You should assume that individual responses to the consultation will be made publicly available.
Compliance with the code of practice	This consultation document and the consultation process have been planned to adhere to the Government Code of Practice on consultation. The period of consultation will be eight weeks.

Introduction

1. This is a consultation on rents for social housing from April 2015.

2. It follows announcements at Budget 2013 and the Spending Round 2013 on changes to rent policy:

   - At Budget, we set out our intention to allow social landlords to charge tenants in social rented housing with high incomes a fairer level of rent.

   - We also signalled our intention to set out, at the Spending Round, a rent policy to apply for ten years from 2015-16.

   - At the Spending Round, we then gave certainty to social landlords by confirming that, from April 2015, rents in the social sector would increase by Consumer Price Index (CPI) inflation + 1 percentage point annually, for ten years.

3. The current basis upon which social rents and affordable rents are set will continue to apply.

4. To implement the new policy for private registered providers, we intend to issue a new direction to the Regulator on rent; a draft version for consultation is attached. Once the direction has been formally issued, in final form, following consultation, the Regulator will issue for consultation a new regulatory standard on rent, setting out the rent requirements on private registered providers to apply from April 2015.

5. The Government issued a direction on rent to the Regulator in March 2012, with effect from 1 April 2012. The new direction will replace that direction.

6. To implement the new policy for stock-owning local authorities, we intend to issue new rent guidance; a draft version for consultation is attached.

7. This guidance is intended to replace the “Guide to Social Rent Reforms”, issued in March 2001, and “A Guide to Social Rent Reform in the Local Authority Sector”, issued in February 2003; and any other guidance issued in relation to those documents.

8. The direction and guidance have no pre-determined end date, though the Government has committed to the new policy until March 2025.

9. The text in this consultation document is not binding. It is intended to enable a better informed consultation by explaining the rationale for the direction and guidance.

10. We invite your views on the questions listed, the draft direction, and the draft guidance for local authorities, by 24 December 2013.

Context

Regulation of social housing

11. Social housing (as defined by the Housing and Regeneration Act 2008), provided by registered providers, is subject to regulation by the Social Housing Regulator. Registered providers are local authorities or private bodies (known as private registered providers) registered with the Regulator.

12. The principal regulatory tool is the setting of standards by the Regulator. The Regulator currently has two standard-setting powers under the 2008 Act. Section 193 enables the Regulator to set standards for registered providers "*as to the nature, extent and quality of accommodation, facilities or services provided by them in connection with social housing*". Section 194 permits the Regulator to set standards for private registered providers in "*matters relating to the management of their financial and other affairs*". It also permits the Regulator to set standards for registered providers "*requiring them to comply with specified rules about their levels of rent*."

13. Section 197 of the 2008 Act provides that the Secretary of State may direct the Regulator to (a) set standards under section 193 or 194; (b) about the content of standards under section 193 or 194; and (c) have regard to specified objectives when setting standards under section 193 or 194.

14. One of the subjects on which the Secretary of State may issue a direction, under section 197, is rent. The current direction to the Regulator on rent was issued by the Secretary of State in March 2012, and applied from 1 April 2012.

15. While stock-owning local authorities are registered providers, they are excluded from rent regulation, which only applies to private registered providers.

16. Local authorities are expected to have regard to guidance issued by Government on rent policy, when setting rents. They are also subject to a control on housing benefit expenditure, known as the "limit rent". Limit rents for each local authority are set by Government, based on social rent policy, and they determine how much housing benefit subsidy an authority receives for its tenants.

Current rent policy

17. Since 2001, most rents for social housing have been set based on a formula set by Government. The formula creates a "formula" rent for each property, which is worked out based on a combination of the relative value of the property, relative local earnings levels and the size of the property. Landlords are expected to move the actual rent of a property to this formula rent, over time. Rents set based on the formula are known as "**social rents**".

18. Landlords have flexibility to set rents up to 5 percent above the formula rent. There are also formula **rent caps,** set by property size, which increase by Retail Price Index inflation (RPI) + 1 percentage point each year.

19. Annual changes in social rent levels have also been based on policy set by Government. Weekly rents are expected to increase by up to Retail Price Index inflation + 0.5 percentage points annually, plus up to an additional £2 where the rent is below the formula rent for the property. At the 2010 Spending Review, the Government extended this policy for rent increases to 2014-15.

20. At the 2010 Spending Review, the Government also introduced "**affordable rent**". Affordable rent allows landlords to let new properties and some existing vacant properties at up to 80% of local market rent (inclusive of service charges), as part of an agreement on new affordable housing supply. Affordable rents are expected to increase by up to RPI + 0.5 percentage points annually under current policy. Where an affordable rent property is re-let, the expectation is that the rent is re-set, based on a new valuation, to ensure it remains at no more than 80% of market rent.

21. Affordable rent is designed to maximise the provision of new affordable housing. It enables landlords to generate additional capacity for investment in new housing. As a result, it allows the Government to deliver more new affordable homes for every pound of upfront investment, whilst ensuring that new tenants in need of social housing still benefit from a sub-market rent.

22. Under our new policy, as set out in the next section, the majority of existing rented properties in the social sector will continue to be let at social rent. We expect that most new build properties will continue to be let at affordable rent – principally because we propose to continue using affordable rent, which is successfully delivering more homes for less capital investment under the current Affordable Homes Programme, in our next Programme.

Housing Benefit and Universal Credit

23. Tenants in social housing are able to apply for Housing Benefit to help them meet their housing costs. For social tenants, the calculation of Housing Benefit reflects the actual rent charged[1] – subject to the removal of the spare room subsidy, and the total benefit cap.

24. Housing Benefit costs relating to the tenants of private registered providers are largely controlled by the regulatory limit on rent increases.

25. Local authorities, as outlined above, are subject to a control known as the "limit rent", which is set based on rent policy. To determine how much Housing Benefit subsidy a local authority receives (on behalf of their tenants, who claim it), their limit rent is compared to their average actual rent, and where the average rent is higher, housing benefit subsidy is proportionately reduced.

26. The Government is introducing Universal Credit. Under Universal Credit, six existing working age benefits including Housing Benefit will be made into a single payment

[1] This is different to the position for tenants in the private rented sector, where the amount of housing benefit payable is capped at maximum levels, depending on the size of the household and where the property is located.

and the claimant will typically receive this payment themselves – rather than having their housing costs paid directly to their landlord, as currently.

27. With the introduction of Universal Credit, not all local authority tenants will be covered by Housing Benefit subsidy payments to local authorities, as is the case currently.

28. The Government is considering how to ensure that Universal Credit only meets reasonable housing costs for local authority tenants. An option would be to use the powers it has taken, through The Rent Officers (Universal Credit Functions) Order 2013[2], to refer housing payments to the rent officer if they appear to be excessive or are subject to excessive increases.

29. These powers are an extension of those that already exist for housing benefit, applicable to private registered providers. If they are used, the intention would be that it would be sparingly: whilst we must protect the financial integrity of Universal Credit, we do not want to undermine the certainty that social landlords and tenants gain from the general principle that benefit reflects the rent charged.

30. These powers are intended to apply to social rent properties (excluding temporary accommodation); all properties let at affordable rents in line with policy will be considered reasonable.

31. We intend to continue to use the limit rent to control costs relating to pension age tenants and those council tenants who remain on Housing Benefit, during the transition to Universal Credit. This process will work the same as currently, with the proportion of Housing Benefit subsidy a local authority receives being reduced if its average actual rent is above its limit rent; and with affordable rent properties excluded from the limit rent, provided certain conditions are met (as set out in the draft guidance). We will update our method for calculating limit rents to reflect the new policy coming in from April 2015, of annual rent increases of CPI + 1 percentage point, and no "convergence factor".

32. We will set out details of proposed limit rents for 2014-15 in due course.

33. We will also set out, in due course, details of how we propose to treat properties let to high income social tenants in relation to the Rent Rebate Subsidy Limitation system.

[2] See http://www.legislation.gov.uk/uksi/2013/382/contents/made

Proposals

34. All of the proposed changes to rent policy outlined in this section are intended to come into force for the 2015-16 rent year: so from 1 April 2015. The changes are reflected in the new draft rent direction and guidance.

Social rent policy

Rent setting

35. As set out in the introduction, we propose to maintain aspects of current social rent policy. In particular, social rents will continue to be set on the current basis. For each social rent property, a formula rent will therefore be calculated (where one has not been calculated already) based on the current formula, and using the values that are currently used for national average rent and capital value (as at January 1999 prices) and manual earnings levels.

36. The current formula takes into account the value of the property and its size, and also local earnings (meaning affordability is considered). We also want to maintain the formula, and the values used, to provide stability to tenants; and to landlords, which should support them to make the most of the £3.3 billion further investment in new affordable homes announced in this year's Spending Round.

Rent increases

37. The main change we are proposing to social rent policy is to move from an annual limit on weekly rent increases of RPI + 0.5 percentage points + up to £2, to a limit of CPI + 1 percentage point.

38. We are moving from RPI to CPI following the Office for National Statistics' announcement in January 2013 that the formula used to produce the Retail Price Index does not meet international standards. As a result, the Government is looking to move to the Consumer Price Index, where possible, where an inflation-index is currently being used in policy. This change should also put rents on a more stable footing: CPI has been less susceptible to sudden changes and broad variations than RPI in recent years.

39. The CPI figure to be used is for September in the previous year – the same basis as is used for RPI, currently.

40. Maintaining an inflation-linked rent policy will provide stability for tenants and landlords, and ensure that changes in rents continue to be linked to changes in costs. This approach should give landlords significant income to invest in the maintenance and improvement of existing homes, the provision of new affordable homes, and in providing good services to their tenants.

41. We have committed to this policy for ten years – until 2024-25. Our aim is that long-term certainty and stability on rents gives investors confidence and helps landlords to

plan for future investment. We expect it to support landlords to build more new affordable homes and to drive value for money.

42. Related to this change, we propose that formula rents should uprate by CPI + 1 percentage point each year, from April 2015; rather than RPI + 0.5 percentage points, as currently.

43. A consequence of this change in policy is that we do not intend to extend the flexibility to increase rents by up to an additional £2 above the increase in formula rent, where the rent is below the rent flexibility level or rent cap, beyond 2014-15. In other words, the rent increase limit will no longer be higher than the increase in formula rent. This flexibility currently exists to help landlords to bring actual rents in line with formula rents.

44. This change will create a rent increase system that is simpler and that should be more easily understood by tenants. And overall, we think rent increases of CPI + 1 percentage point for ten years give landlords a strong basis on which to plan for the future, and strike the right balance between protecting tenants and giving landlords the income they need to invest in homes.

45. While we expect most social rent properties to be at formula rent by 2014-15, we recognise that this will not be the case for all properties; in part because some will have been prevented from reaching formula rent by the current limit on rent increases of RPI + 0.5 percentage points + £2.

46. Where a property is not at formula rent by 2014-15, we expect landlords to apply the new limit on rent changes from April 2015. They could then move the rent up to formula rent if the property is re-let at social rent, following vacancy; so the rent need not remain below the formula rent permanently.

47. We recognise that this policy change will impact more significantly on some landlords than others. In general, we expect that it would not impact on a landlord's financial viability. But where a private registered provider believes that any aspect of our new policy will impact on their financial viability, they should contact the Regulator, which can offer time-limited waivers from adherence to policy to support associations to remain financially viable. Before providing a waiver, the Regulator expects an association to have looked at all other solutions for addressing their viability concerns, including reducing non-core spending.

48. This policy change is intended to ensure that all social tenants, in future, see their rents increase on the same basis. It will also help to control the housing benefit bill, which is a key priority for Government.

Other aspects of policy

49. Current policy gives landlords flexibility to set rents up to 5% above or below formula rent (this is called the **rent flexibility level**).

50. We intend to maintain this flexibility – it gives landlords some discretion to reflect local factors and concerns, in discussion with their tenants.

51. We are proposing to make a small change relating to it. Specifically, we intend to make clear that where a rent is more than 5 percentage points above formula rent, it should be brought within the rent flexibility level, over time, either through applying a rent increase of less than CPI + 1 percentage point, or through lowering the rent when the property is re-let on vacancy (the current rent direction says that increases for rents above the flexibility level should be limited to RPI + 0.5 percentage points). This change is intended to ensure that any rents that remain above the flexibility level are brought within it, over time.

52. There are a small number of housing associations who have waivers with the Regulator which allow them to continue for a period to set rents above the rent flexibility level, in order to help maintain their financial viability. This policy change is not intended to override those waivers.

53. Current policy also contains **rent caps**. They apply as a cash limit, and depend on the size of the property (the number of bedrooms it contains). Where the formula rent would be higher than the rent cap for a particular size of property, the expectation is that the rent cap is used instead.

54. We are considering whether to remove the rent caps, to provide flexibility to landlords to move the rent to formula rent on re-let. This would be consistent with the approach we are otherwise taking for “rent convergence”, where existing tenants receive the protection of the rent increase limit, but landlords can set rents at formula rent on re-let. We would welcome views on this.

55. If we do provide this flexibility, it would have no impact on existing tenants who remain in their home – they will benefit from the limit on annual rent increases of CPI + 1 percentage point. Rather, it would allow landlords to use vacant properties to increase their capacity for investment in new homes.

56. While we are considering providing this flexibility, we have set out in the draft direction and guidance what our proposed policy would be if caps were maintained, to enable interested parties to provide views on a fuller basis.

57. Currently, caps increase by RPI + 1 percentage point each year. Under the new policy, if rent caps were maintained, they would increase by CPI + 1.5 percentage points each year. This change is intended to reflect the approach taken in current policy – where rent caps inflate by 0.5 percentage points more than the formula rent – but for our new formula of CPI + 1 percentage point.

58. While caps would increase annually by CPI + 1.5 percentage points, the annual change in rent for the tenant in the property would be governed by the CPI + 1 percentage point limit on rent increases. This difference would mean that the actual rent deviates from the rent cap, for the period that the tenant remains in the property. But it would also mean that rent caps continue to move towards (catch up with) formula rents, over time; and when a landlord comes to re-let a property, where the rent is controlled by the rent cap, they will be able to do so at a level based on rent increases of CPI + 1.5 percentage points, rather than CPI + 1 percentage point.

Question 1: What are your views on the Government’s proposed policy on social rents from 2015-16?

Question 2: Should the rent caps be removed? If you are a landlord, how (if at all) do the caps impact on you currently?

Affordable rent policy

59. We are only proposing one change to affordable rent policy – that the limit on annual rent increases should be CPI + 1 percentage point, rather than RPI + 0.5 percentage points, from April 2015. This change reflects what we are proposing for social rent, and is being made for the same reasons as outlined above for social rent increases.

60. Affordable rents will therefore continue to be set on the current basis, at a level (inclusive of service charges) which is no more than 80% of the estimated local market rent (inclusive of service charges), based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors.

61. This approach allows landlords to increase their financial capacity for investment in new homes, whilst ensuring tenants continue to benefit from a sub-market rent. It also allows for lower rents to be set, where specific circumstances mean that this is appropriate.

62. Our intention is that homes for rent in our new 2015 – 2018 Affordable Homes Programme will be let at affordable rent. While offers which include affordable rent at less than 80 percent of local market rent will be considered, in specific circumstances, we will expect providers to utilise the flexibility to charge rents of up to 80 percent of market rents to maximise financial capacity.

63. Under the current Affordable Homes Programme, in aggregate, a modest number of vacant properties have been converted from social rent to affordable rent, or sold and the proceeds reinvested. Some providers have taken a more active approach than others to using conversions and sales to maximise financial capacity for investment in new housing. In the new Programme, we will expect all providers to take a rigorous approach in looking at vacant properties and asking how they could best be used to help build more homes, in order to help more people in housing need.

64. Further details of the new Programme will be set out in due course.

Question 3: Do you agree with the move from basic rent increases of RPI + 0.5 percentage points to CPI + 1 percentage point (for social rent and affordable rent)?

Policy on rents for social tenants with high incomes

65. In July 2012, the Government published a consultation paper setting out proposals to enable landlords to charge higher rents to social tenant households with high incomes.

66. We then set out at Budget 2013 our intention to allow landlords to charge market rents to social tenant households with incomes of at least £60,000 per year; and make sure that it is the responsibility of these tenants to ensure they are making a fair contribution.

67. A formal summary of responses to the consultation was published on 25 July 2013, and can be found on our website at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/225313/High_Income_Social_Tenants_-_Pay_to_stay.pdf.

68. This summary provided further information on how we intended to implement this policy. Specifically, it explained that we would take steps towards removing the regulatory controls preventing private registered providers charging market rents to social tenant households on incomes of more than £60,000 per year; and would set out revised rent guidance for local authorities.

69. It also reiterated our intention to place responsibility on high income social tenants to ensure they are making a fairer contribution; and set out our aim to seek a legislative opportunity to place the onus on tenants earning over the threshold to declare their income, when Parliamentary time allows.

70. The Government believes that social landlords should be able to charge those in social housing with high incomes a fairer level of rent. This would help landlords to make best use of social housing. It would give them additional income to invest in new social housing – helping more people in housing need – and would help ensure sub-market rents are being provided to those tenants who need them the most.

71. Details of how we propose to support landlords to implement the policy are set out below.

Approach to implementation

72. To enable landlords to implement the policy as soon as possible, we are proposing two stages: the first stage will be to remove the regulatory controls preventing social landlords from charging market rents to high-income social households; the second stage will be to introduce a legal measure – when parliamentary time allows – requiring social tenant households on incomes of at least £60,000 per year to declare this to their landlord.

73. Private registered providers are expected to adhere to rent regulation. Regulation expects them to set rents for social housing based on the formula, unless a specific exemption is provided (as for affordable rent, for example).

74. Local authorities are obliged by legislation to charge reasonable rents. We also expect them to have regard to Government guidance on rents, which currently contains no exemption on this issue.

75. We propose to create a new exemption from rent policy expectations, for social tenant households on incomes of more than £60,000 per year. We intend to do so through an exemption to the rent direction for private registered providers and through guidance on this issue for local authorities.

76. To create an exemption, we have set out (in the draft direction and guidance) what is meant by “income” and “household”, in this context.

77. In considering these terms, and in our general approach to implementation, we have been guided by the principle that the policy should be simple to understand and administer, as far as possible, unless there is a specific, compelling reason for taking a more complex approach. The approach we have taken to defining “income” and “household” should be considered in this context.

“Household”

78. Our previous consultation set out that we intended to define “household,” for the purposes of this policy, as “a single tenant earning at or above the agreed threshold or the two highest earning individuals whose joint income is at or above the threshold.”

79. Having considered further, we propose to define household so that it covers:

- Tenants named on the tenancy agreement; and
- The tenants’ spouses, civil partners or partners where they reside in the rental accommodation.

80. We propose that a spouse, civil partner or partner’s income should only be taken into account where they are living at the property.

81. Where there are more than two incomes within the household (for example, four people with an income who fall within the definition of household above), we propose that only the two highest incomes should be taken into account, when considering whether the household is above the threshold.

Question 4: Do you agree with the definition of “household” proposed’?

“Income”

82. We propose to use a definition of income based on total taxable income. We think this is a reasonable and comprehensive reflection of income coming in, and expect that most if not all households with a taxable income of at least £60,000 a year should be able to determine easily that this is the case.

83. Taxable income includes: earnings from employment and from self-employment; income from pensions; most interest from savings, investment income (dividends on company shares), rental income, income paid from a trust; and some state benefits.

Further information on income in scope can be found at: www.hmrc.gov.uk/incometax/taxable-income.htm.

84. It does not include existing capital, though it does cover the income that this generates. We have considered carefully whether capital should be included. Arguably, including it would not always provide the best reflection of ongoing "income" – given the potential for it to go quickly, and, where it goes, the difficulty of "recovering" it quickly (compared to income from moving in and out of employment). It is also challenging to define an appropriate threshold for capital that should be considered as income.

85. However, we would welcome views on whether capital should be included. We would also welcome views on whether – if it were to be included – a threshold should be used, and if so at what level; and on the point at which capital should be taken into account (for example, should this be capital at the end of the tax year under consideration?)

86. As our definition of income is based on taxable income, we are proposing to use the tax year as the period for which tenants should calculate their annual income, for the purposes of the policy. This approach was supported by a majority of those who responded on this issue to our previous consultation.

87. It will mean that there is a time difference between the income period (the tax year, which runs from 6 April to 5 April) and the rent year in question (the financial year, which runs from 1 April to 31 March), to ensure a full tax year can be taken into account. To ensure this, the relevant tax year for the purpose of the policy is the tax year that ends in the year preceding the rent year in question. To give an example, the income received in the 2013-14 tax year would guide the rent payable in the 2015-16 rent setting year, where a household was above the threshold.

88. Where a household is subject to a sudden and ongoing loss of income, having declared that they are above the threshold, we would expect them to discuss this matter with their landlord.

89. For the purposes of the legislation we propose to introduce (see paragraph 72), we will consider whether it would be appropriate to enable the definitions of "household" and "income" to be amended, or to vary the income threshold in future.

Question 5: Do you agree with the definition of "income" proposed?

Question 6: In particular, should capital be included and if so, how?

Question 7: Do you agree with the income period proposed?

Tenants' self-declaration

90. We intend to seek a legislative opportunity – when parliamentary time allows – to introduce a requirement for social tenant households on incomes of at least £60,000 per year to declare this to their landlord, along with appropriate sanctions for failing to declare and other consequential changes to the legislation which might be needed.

91. Only households whose income is above the threshold would be required to make a declaration to the landlord. Where a tenant made a declaration, the landlord could decide whether to charge the tenant up to full market rent. If a landlord decided to do so, it would need to give the tenant reasonable notice before the new rent came into effect.

Question 8: What are your views on the proposed self-declaration approach?

Other aspects of policy

92. Our previous consultation asked for views on how **additional income** arising from the policy should be spent. Around a half of respondents thought that it should be reinvested in social housing – either improving stock or providing additional social housing.

93. In our summary of consultation responses, we set out that we would generally expect providers to use additional income to help fund new affordable housing, to meet housing need. This position is reflected in the draft guidance.

94. A further issue considered in the previous consultation was the **treatment of historic Government grant** in properties converted to market rent as a result of this policy.

95. In general, where a landlord converts a grant-funded social rent property to a higher rent, some or all of the capital grant in that property will need to be recycled by the provider or recovered by the Homes and Communities Agency or Greater London Authority, depending on the conditions attached to the grant payment.

96. Under the terms of the Affordable Homes Programme, where an existing social rent property is converted to Affordable Rent, historic grant can be kept in the property, provided the additional rental capacity generated is used for new supply. If Affordable Rent properties are converted to market rent, historic grant would currently need to be recycled.

97. Under this policy, the position is more complex, as there is potential for the property to fluctuate between market rent and social rent (for example, if the high income household moves out, or their circumstances change).

98. We want to safeguard the Government's historic investment in social housing, but also not disincentivise landlords from charging higher rents to high income social tenants. In this context, we propose the following approach to the treatment of historic grant if a landlord increases the rent to market level using the policy exemption created:

- The landlord repays or recycles the grant in the same way they would do currently when converting properties to market rent (where they have regulator approval to convert, in the case of private registered providers); or

- The grant remains in the property, provided that additional capacity generated is spent on new affordable housing. We expect that this approach may be more attractive to landlords where they want to re-let the property at social rent following vacancy[3].

99. Where a landlord proposes to retain the grant in the property, they should make the relevant grant-giving authority aware up front; we will set out further details of who they should contact and what information they need to provide in due course. Changes required to the Capital Funding Guide to support this approach will be published in advance of implementation of the new rent policy (April 2015) and will be notified by the Homes and Communities Agency and Greater London Authority in the normal way.

***Question 9**: Do you agree with how we propose to treat historic grant?*

[3] If the property became vacant and the landlord wanted to re-let it at market rent to a new tenant, they would be required to repay or recycle the grant at that point (where they have regulator approval to convert) in line with current arrangements.