



Department for
Communities and
Local Government

Rents for Social Housing from 2015-16

Consultation

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Scope of the consultation

Topic of this consultation:	<p>This consultation invites views on our proposed rent policy for social housing from April 2015 onwards.</p> <p>It sets out the changes to current rent policy that we are proposing. The main changes are:</p> <ul style="list-style-type: none">• 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:	<p>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.</p> <p>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).</p> <p>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.</p> <p>This consultation invites views on the draft direction and guidance.</p>
Geographical Scope	<p>England only.</p>

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 charged¹ – 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 2013², 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 vacancy³.

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.