

Pay to Stay: Fairer Rents in Social Housing

Introduction

The National Federation of ALMOs (NFA) represents 40 ALMOs which manage over 550,000 council homes across 43 local authorities.

The NFA welcomes the opportunity to comment on the government's proposals for change. We fully agree with the underlying principle of Pay to Stay, that those who *can* afford to pay market rent should not be subsidised through social rents. Social housing should be made available for those who truly *need* it especially due to the shortage of social rent properties. However, the NFA believes that in practice the current voluntary 'Pay to Stay' policy, which the scheme is to be built on, will incur large administrative costs for little or no benefit on some areas of the country. Whilst also providing disincentives to work in other areas inevitably increasing welfare dependency, a greater poverty trap and an increase in housing benefit payments. Our response has been informed by ALMOs across the country and statistical analysis.

Summary

Overall, the NFA believes that the current Pay to Stay policy will have a range of perverse effects, which include acting as a disincentive for people to work or gain additional income and increasing the overall welfare bill. At present it also appears to be unprofitable in many areas when taking into account the costs of implementation and administration as well as the negligible difference between social rent levels and market rents in some areas.

However, if implemented, the NFA would like to see councils and its members be able to retain any profit made from implementing this policy to benefit the community, similar to Housing Associations.

Our proposed threshold is £60k (£74k in London) at a household level, which is in line with the current maximum household income for access to Government ownership. The household level proposed should ensure that there are no welfare recipients considered as high income social tenants. The policy could also include a first line principle which exempts anyone currently receiving benefits from being affected by increased rents. This will also allow housing providers to disregard those households and only focus on the remainder to request income information.

The NFA also believes that earnings disregards should be set which take into account household composition, nature of household and regional differences so that the policy is fair to different household needs and unavoidable costs. Different thresholds will also reduce the scope the policy currently has in widening the poverty trap and will ensure that the more vulnerable members of society are not affected. For this reason, we argue that the definition of income should disregard earnings from benefits and take account of costs incurred for specific circumstances i.e. households with children that receive child benefit/child maintenance or have additional costs as a result of an elderly/disabled person who has care-related costs etc.

The administration task ahead is extensive and requires HMRC to share data with ALMOs that are registered providers and those that are not. There are also practical implications involved which require changing tenancy agreements and may need to have conditions reconsidered by the HCA and so on. There are a wide range of factors that will affect the overall cost of administration for any individual ALMO, hence we recommend that for the organisations whose implementation costs potentially exceed the income obtained should be exempt and that the government work with the sector in continuing to shape this policy so that for areas which would see a benefit we can implement a practical and workable solution on the ground.

Consultation Questions

1. How the scheme can support incentives to work

Irrespective of the level of income at which increased rents are imposed, there will inevitably be a degree of disincentive to work. However, if the thresholds are set at a high enough level in the first place many of the disincentives will be reduced.

The NFA and all of its members believe that the proposed thresholds of £30k outside London and £40k inside London are too low and will encompass households who are in receipt of benefit and/or receiving the minimum wage. These households should not be regarded as high income households by any sensible definition and it would be unwise for the state to pay benefits on the one hand and on the other to take them away again. Previous government consultation, when the voluntary Pay to Stay policy was introduced, concluded that “most likely £80,000 or £100,000 would be the level which would best avoid perverse incentives”¹.

However, we believe there could also be a case for setting the threshold at £60,000, which would do more to achieve our aims in terms of fairness and is in line with the current **maximum** household income **of £60,000 (or £74,000 in London)** for access to Government funded affordable home ownership schemes, such as First Buy, in most parts of the country. Setting the threshold at £60,000 would therefore be consistent with the level below which people trying to get onto the housing ladder would be eligible to receive Government support to access housing.²

Introducing a threshold which is lower than £60k outside of London and £74k inside of London would therefore seem punitive and penalise aspiration as well as increasing the disincentives to work or working more hours.

It is important to note that this figure is advisory and we believe that the threshold should be set at different levels which take into account household composition, the nature of household and regional differences.

The government should recognise that there is a significant difference in the disposable income of a single person earning £30k in a one bedroom property compared to a couple

¹ High Income Social Tenants, **Pay to Stay Consultation paper, DCLG June 2012** Available here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225313/High_Income_Social_Tenants_-_Pay_to_stay.pdf (number 15, page 6)

² *Ibid*, p.6

who both earn £15k living in a two or three bedroom home who have 2 children to feed, clothe and look after.

Any threshold should therefore also have certain earnings **disregard** payments received for specific circumstances such as **child benefit, child maintenance payments** and **childcare costs** or additional **costs associated with disability** or other **caring responsibilities**.

Once a threshold is decided upon it will still be necessary to introduce a taper which is low enough to minimise the disincentives to work, seek promotion or increase remuneration in order to reduce the risk of a perverse behavioural response.

Having said that, a HIST taper and the existing HB/UC taper will act as a 'double taper' and create a higher marginal tax rate, which is known to disincentivise tenants to improve their incomes. With tax, national insurance, pension contributions and in some cases student loan repayments to make, effective marginal rates of tax are already around 50% for those just above the minimum wage. We would suggest therefore that no more than 5% of additional income above the starting point should be raised in additional rent.

If this policy relates to all earning household members it may also encourage young people who are in work and earning, out of the family home, for fear of increasing a parents liability due to their earned income. This would create further demands on social housing and potentially Housing Benefit where they are on low income. Therefore we suggest that the definition of household for income purposes should only include spouse/partner/civil partner residing at the property for the combined income of a 'couple'.

There could also be **a principle** that the **level of rent shouldn't exceed an agreed percentage of net income** to ensure it remains affordable even if higher than a social rent. This could be **28%** of net income as suggested by Savills, NHF and JRF in their Living Rent report.³

2. Evidence of administrative costs

Based on the current systems and powers that Local Authorities have, what is your estimate of the administrative costs and what are the factors that drive these costs?

Our members are currently assessing the potential impact of these proposals and we do not have estimates of the costs at this time but the factors that will drive the administrative costs are the following:

- The system by which market rent will be assessed and maintained
- How tenants' income data will be acquired and how often the information will need to be updated i.e. tenants who have irregular work patterns, self-employment etc.

³ Lupton, M and Collins, H. *Living Rents – a new development framework for Affordable Housing*, JRF and NHF, June 2015. Available at: <http://biggerboat.org/rental-matters/wp-content/uploads/sites/3/2015/06/Executive-summary-only.pdf>

- The ease and timeliness of information flows between HMRC and the landlord and to what extent the information is required to be shared with tenants
- Practical implications – changing tenancy agreements including consultation on changes, informing tenants of rent changes, costs of delay etc.
- Any procedures put in place to allow tenants to appeal against rent assessments.

At present, the market rents of the stock managed and owned by our organisations are unknown and there is likely to be significant variances between property types and locations. In some cases, mainly in areas of the Midlands and the North of England, social rents will be the same as or only a little more than market rents. In these cases the administrative burden and the resources required to adopt this policy would be disproportionate to the revenue gained and could in fact lead to a cost to the HRA rather than a surplus for the Treasury.

A significant proportion of the income generated will be spent on the additional administration, especially in lower rent areas where the gap between social rent and market rent is less than in London and the South East.

Our members believe that the implementation and administrative costs for Local Authorities have been underestimated; many tenants have incomes that fluctuate i.e. insecure/temporary jobs, seasonal work, zero hour contracts or are self-employed etc. This can be burdensome for operating systems to keep track of and to maintain unless some form of automatic link to HMRC, which is already doing this at an individual level, is established.

If this is not the case, local providers will need to rely on tenants to declare their income level using a self-declaration procedure. The details on how this will work are going to take considerable attention – particularly in terms of IT infrastructure, links with HMRC and avoiding excessive administrative costs. There will also be difficulties to overcome in establishing family income levels, particularly where family arrangements are fluid.

The cost of ongoing monitoring of every tenant (and their family's) incomes is also of great concern as there is no easily accessible source which this data can be extracted from other than (presumably) HMRC. The integration of some form of HMRC interface or to require self-declaration by tenants (which itself would need to be checked) will add to those costs and bureaucracy.

Many issues will also need to be addressed at a practical level. For instance, there are likely to be requirements to invade the privacy of tenants to confirm stated income and it is unclear how these issues can be resolved without cost and delay. The enforcement of this policy by our members may also prove to be an issue as their powers of enforcement are against the named tenants only and it may be difficult if the 'higher earners' are not the tenants named on the tenancy agreement. This may also require reissuing tenancy agreements to allow for organisations to acquire household income data as and when necessary.

In addition our members may not be adequately covered by the provisions in the Housing and Planning Bill for HMRC to share data with them. The section on HMRC information (77) says:

- “(1) HMRC may disclose information for the purpose of enabling a registered provider of social housing to determine whether it is obliged by rent 10 regulations to charge a tenant a specific level of rent and what that level is.
- (2) The information may only be disclosed to—
- (a) A registered provider of social housing,
 - (b) The Secretary of State for the purposes of passing the information to registered providers,
 - (c) 15a public body that has been given the function of passing information between HMRC and registered providers by regulations under subsection (3), or
 - (d) A body with which the Secretary of State has made arrangements for the passing of information between HMRC and registered providers.”

We only have 9 ALMOs who are Registered Providers but the remaining 31 are owned by their parent councils and manage stock on their behalf. Both RPs and non RPs would need access to this data to implement the policy and need to be covered by the provisions in the Bill in order to be able to implement it as smoothly as possible.

In addition, some of our members have built new properties with HCA grant and HCA grant conditions restrict rent charges to once a year. Failure to comply with this could in theory result in default. This issue can presumably be dealt with by instruction to the HCA to amend those conditions. To adjust rents once a year would require a rent based on the previous year's income level which would not be indicative of the household's current income. If more frequent updates are required, not only would that technically breach HCA grant conditions, but would also lead to further increases in costs to be deducted from the income to maintain the policy.

Tenants are also notified by post of rent charges across most organisations. Hence, there will be an increase in postage and printing costs as a result of increasing frequency of notifications unless there is only an annual process – which could trap tenants on too high a rent level for an unreasonable amount of time. Alongside this, there will be a cost involved for the complaints/appeals process to enable tenants to have their rent assessment reconsidered which can also result in delays.

These administrative tasks are demanding and will need to be funded. It is hoped that the definition of *allowable* staff costs will not be restrictive and legitimate costs of administering the new arrangements can and will be recovered. We welcome the government's commitment to fund these costs through allowing Council's costs to be deducted from the income raised. We suspect that – other than in London and the South East – the amounts of cash raised from the policy will be small in national terms whilst causing a lot of difficulties across the entire sector. The costs of implementation are likely to be very considerable without very effective and integrated IT systems to support it. Such IT upgrades will take considerable time to implement once the details of the scheme are clear. Implementation by 2017 already looks very optimistic.

It also seems inconsistent and unfair that while Housing Associations are able to retain any additional funds raised to reinvest in housing, Councils are not offered the same opportunity and incentive. The ALMO sector alone has built over 2,600 homes from 2008 – 2014. This further diminishes the sector's capacity to meet local housing needs at a time when we need to deliver as many homes as possible from all sources.

To avoid these administrative and implementation costs we are aware that there have been suggestions that it could be easier to set all rents for social housing providers at market rent and provide a rent subsidy for tenants who are on lower incomes and/or receiving welfare using a self-declaration process. As a trade body for ALMOs we believe this would go against our members' social purpose and their core principle of providing fair and affordable housing.

3. *How income thresholds should operate beyond the minimum threshold set at Budget, for example through use of a simple taper/multiple thresholds that increase the amount of rent as income increases*

Tenants in social housing will be given a 1% reduction in their rents from 2016, whilst those considered as HISTs will have to pay more rent from 2017. This will have an adverse effect on the social rent reduction and could increase the number of welfare recipients as they fall into the eligibility range.

An initial analysis carried out by the Chartered Institute of Housing suggests that if the threshold of £30,000 for the two highest earners is maintained very few tenants with children will benefit from the 1% rent reduction because they will still be on benefits even when they hit the pay to stay threshold.

For a couple with 2 children who are paying £75 per week in social rent need to be earning £32,968 to escape tax credits or £35,516 to escape Universal Credit. When the market rent is raised to average market rents⁴ outside of London the income required to escape Universal Credit rises to £43,680 and £67,704 for London. This is similar for a couple with one child where paying social rent of £75 per week they need to earn £26,208 for them to be ineligible for tax credits and £29,224 for Universal Credit. If their rent is raised to market rent they will need to earn on average outside of London £37,128 to escape Universal Credit and £60,320 for those residing in London.

Therefore, at present the definition of HISTs will include many tenants who will still be in receipt of Universal Credit even though they have reached the pay to stay threshold and considered 'high earners'.

With the newly increased minimum wage now set to be increased at £9 an hour, two fulltime workers on a minimum wage will earn a gross £32,760 a year, assuming a 35 hour week. This will place them in the 'high earners' category which contradicts common sense as well as other policies including the increase in tax thresholds to the new national minimum wage level.

⁴ The rents chosen are average market rents from VOA data (or slightly rougher if there is only a small difference between regions).

Taking this into consideration, we would propose that the starting point for the policy is set at £60k and £74k in line with DCLG comments in response to the last consultation on this policy. This would ensure that, hard-working families on minimum wages will not be treated as 'high earners' for one policy whilst simultaneously not being taxed on their income because it is considered too low.

The Government's impact assessment acknowledged that there was a 'cliff edge' issue with initial proposals – there would have been a huge disincentive to work / marginal tax rate in excess of 100% at the threshold. The proposal to introduce a taper is therefore welcome to avoid the high marginal impacts of multiple thresholds and it is also likely to be easier to apply administratively. The new taper should clearly try to avoid any cliff edges and be low enough to minimise disincentives to work or seek promotion/improved remuneration. With tax, national insurance, pension contributions and in some cases student loan repayments to make, effective marginal rates of tax are already around 50% for those just above the minimum wage. We would suggest therefore that no more than 5% of additional income above the starting point should be raised in additional rent.

The threshold should also be increased each year in line with wage inflation to ensure that the threshold will not drag an increasing proportion of tenants into being treated as 'high earners' over time.

It is our belief that the policy will influence HISTs in the direction of Right to Buy where the state's view of their home (family size, income and property) will give them a subsidy in return rather than this policy's intention of raising additional taxation. The two policies appear to be diametrically opposed. This makes little sense from a policy point of view.

4. *Whether the starting threshold should be set in relation to eligibility for Housing Benefit.*

As mentioned earlier the NFA's stance is that the threshold should be higher than that currently proposed. Housing Benefit is currently being phased out and will be replaced by Universal Credit. Therefore setting in relation to eligibility for Housing Benefit will effectively act as an additional taper which would widen the poverty trap and extend higher up the income scale. It will also negate/undermine the purpose of creating Universal Credit and be more complex to administer as UC includes a provision for rent. We believe that starting threshold should be at the very minimum above that which a family would be eligible for any kind of welfare benefit and at best much higher to allow for work incentives and for households to be truly considered as high earners in the normal sense of the term.

It would however be sensible to assume for the purposes of administering the scheme that social landlords do not have to set up the systems or enquire as to the income of any household in receipt of Housing Benefit or Universal Credit or other welfare benefits.

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