

Briefing Paper

Pay to Stay



November 2016

Introduction

In 2012 the then coalition government gave social landlords in England discretion to charge near market rents to tenants with high incomes. In 2015 the Conservative government announced that it would extend the policy to make it mandatory although they subsequently decided to make it voluntary for housing associations. The policy has been dubbed 'pay to stay' and was included in the Housing & Planning Act 2016. However, the regulations that are required to enact the policy have yet to be made. The purpose of this briefing paper is to summarise the situation as it currently exists.

Existing Guidance on Rents for Social Tenants with High Incomes

Following a consultation exercise in 2012 the Coalition Government gave social landlords in England the discretion to charge market or near market rents to tenants with an income of £60,000 or more a year. It was argued that high income families should not be paying social rents (typically half the market rent) when they could afford to pay more. The scheme is sometimes known as 'pay to stay.'

It is not clear how many social landlords have implemented this approach. Respondents to a consultation exercise raised concerns over:

- Administration - social landlords do not gather information or monitor tenants' incomes;
- Affordability – affected tenants could face substantial rent increases;
- The potential work disincentive effect; and
- Residualisation of the housing stock as higher earners are incentivised to move out.

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However, the government concluded that local authorities and housing associations should be able to charge those in social housing with high incomes a fairer level of rent to stay in their homes. They consider that 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.

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

The government will encourage local authorities and housing associations to implement rent policies for social tenants with high incomes that reflect the aims outlined above. Where they do so, the government expects them to follow some general principles, set out below.

The expectations regarding social and affordable housing do not apply to properties let to households with an income of at least £60,000 per year.

In this context, by household, the government means 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, they mean taxable income in the tax year ending in the financial year prior to the financial (i.e. 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. Here, 2013/14 is the 'tax year ending (on 5th April 2014) in the financial year (2014/15) prior to the financial (i.e. rent) year in question (2015/16)'.

Where a household is subject to a sudden and ongoing loss of income, having declared that they are above the threshold, the government would expect authorities to reconsider the rent that household is being charged, and amend if appropriate.

Where a high income social tenant's tenancy comes to an end, and they vacate the property, the government would expect properties typically to be re-let in line with their previous lower rent – be it at social rent or affordable rent – to a household in housing need.

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

The government expects authorities to use the additional capacity generated to fund new affordable housing, where possible.

Many in the sector have criticised these proposals as unworkable, especially because they rely on the tenant declaring their income and volunteering to pay the additional rent. This would result in considerable costs of administration especially for landlords whose tenants are unlikely to have incomes in excess of £60,000 a year.

According to the government, between 11,000 and 21,000 households in England meet the new 'pay-to-stay' threshold. Former housing minister Kris Hopkins said:

"(These tenants are) blocking homes that could benefit those in greater housing need (and) relying on poorer taxpayers to subsidise their lifestyle... We want to call time on this blatant unfairness... We intend to give landlords the option to charge very high-earning social tenants a fair level of rent - so if the tenants want to continue using this precious national resource, they will pay for the privilege".

While the guidance does not specify how landlords should find out about tenants' earnings, Communities & Local Government confirmed the responsibility will fall on tenants to self-declare. More than half of respondents backed this approach during the government's consultation on rents for social housing from 2015/16. However, half of those who support tenants' self-declaration, as well as some who disagreed, felt there could be problems with compliance.

Currently, there is nothing to compel tenants to tell their landlords how much they earn. But, the government intends 'to seek a legislative opportunity to place the onus on tenants earning over the threshold to declare their income, when parliamentary time allows'. Alongside that legislation, it will set out details of sanctions for tenants found to have failed to declare. However, no date has yet been set for this legislation.

Michael Gelling, Chair of the Tenants and Residents Organisations of England told 'Inside Housing' that he was opposed to the idea, saying:

"Do you put up a mortgage because of someone's income? It's totally discriminatory... My landlord doesn't know anything about what goes on in my house... and why should they, unless we want them to?"

There was also the question of whether landlords would decide to use the new powers as they would be voluntary. It is felt that very few tenants would be affected and that administering the scheme would be difficult, controversial and costly.

Budget 2015: High income tenants

In July 2015 the government announced that it intended to oblige housing associations and councils to charge tenants earning more than £30,000 (or £40,000 in London) market rents rather than social rents. This approach has been dubbed 'pay to stay'. The Budget papers stated that:

"The government believes that those on higher incomes should not be subsidised through social rents... Therefore, social housing tenants with household incomes of £40,000 and above in London, and £30,000 and above in the rest of England, will be required to 'Pay to Stay', by paying a market or near market rent for their accommodation... This will ensure they pay a fair level of rent, or make way for those whose need is greater. Local authorities will repay the rent subsidy that they recover from high income tenants to the Exchequer, contributing to deficit reduction.

"Housing associations will be able to use the rent subsidy that they recover to reinvest in new housing. This could raise up to hundreds of millions of pounds in additional rental income for housing associations. The government will consult and set out the detail of this reform in due course."

In presenting the budget George Osborne said:

"We are also going to require those on higher incomes living in social housing to pay rents at the market rate... It's not fair that families earning over £40,000 in London, or £30,000 elsewhere, should have their rents subsidised by other working people.

"The benefits system should not support lifestyles and rents that are not available to the taxpayers who pay for that system. It's not fair that families earning over £40,000 in London, or £30,000 elsewhere, should have their rents subsidised by other working people."

The government expects the move to raise up to £250million a year by 2018/19. It is thought that this could affect 340,000 households.

The Policy Costings document published alongside the Budget stated that the measure will be introduced in 2017/18 and is expected to result in savings of £365million in that year. This represents the payments councils will make to the Treasury. In addition to amending the existing guidance, it is likely that legislation will be required to make the charging of higher rents compulsory. Legislation will also be needed to enable social landlords to access information about their tenants' incomes. In the 2012 consultation document the then Government noted that bringing in the changes for existing tenants with secure or assured tenancies would require either appropriate notice periods or the renegotiation of tenancy agreements. Local authority tenants have secure tenancies, the rules governing which are set out in the Housing Act 1985. Local authority landlords can renegotiate these tenancies and set rents annually. Most housing associations' tenants have assured tenancies governed by the Housing Act 1988. These 1988 Act tenancies would have to be renegotiated if they included any assurances about future rent increases.

This change - that will cost affected tenants on average up to £70 extra a week - will build on measures introduced under the coalition government that enabled housing associations and local authorities to charge market rents to those on incomes of more than £60,000. The Government estimates that higher income social tenants benefit, on average, by over £3,500 per household from reduced rent and represent approximately 9% of all social tenants in England. This includes over 40,000 social rented tenants with household incomes in excess of £50,000 per year; and a further 300,000 with incomes over £30,000 per annum.

In the government's announcement, it was unclear whether the policy would apply to existing social renters. However, the Department for Communities and Local Government confirmed to *'Inside Housing'* that the new rules would apply to both existing and new tenants.

Brandon Lewis, housing minister, said:

"We're introducing 'pay to stay' to ensure that high income social tenants pay a fair rent that better reflects their ability to pay."

Provisions of the Housing & Planning Act

The provisions of the Housing & Planning Act that relate to charging near market rents for tenants with high incomes can be found in chapter three of part four of the Bill.

Section 78 covers mandatory rents for high income local authority tenants as follows:

"Mandatory rents for high income local authority tenants. (1) The Secretary of State may by regulations make provision about the levels of rent that an English local housing authority must charge a high income tenant of social housing in England. (2) The regulations may, in particular, require the rent— (a) to be equal to the market rate, (b) to be a proportion of the market rate, or (c) to be determined by reference to other factors. (3) The regulations may, in particular, provide for the rent to be different— (a) for people with different incomes, or (b) for social housing in different areas. (4) The regulations may require a local housing authority to have regard to guidance given by the Secretary of State when determining rent in accordance with the regulations. (5) Regulations under this section are referred to in this Chapter as 'rent regulations'."

The explanatory note provides the following explanation:

“The clause gives the Secretary of State the power to set the levels of rent that local authorities must charge high income social tenants (‘HISTS’). Regulations will specify how much rent a high income social tenant should pay. Housing associations who choose to operate a policy for high income social tenants will be able to determine the level of rent payable by their tenants.”

‘High income’ is defined in section 79 as follows:

“Meaning of ‘high income’ etc. (1) Rent regulations must— (a) define what is meant by “high income” for the purposes of this Chapter, and (b) make provision about how a person’s income is to be calculated. (2) The regulations may, in particular— (a) define “high income” in different ways for different areas; (b) specify things that are, or are not, to be treated as income; (c) make provision about the period by reference to which a person’s income is to be calculated (which may be a period in the past); (d) make provision about how a person’s income is to be verified; (e) require a person’s household income (as defined by the regulations) to be taken into account; (f) require a local housing authority to have regard to guidance given by the Secretary of State when calculating or verifying a person’s income.”

The explanatory note provides the following explanation:

“Regulations made under this provision will define the meaning of ‘high income’ by reference to income thresholds, the definition of ‘household’, and the type of ‘income’ to be captured. Regulations could also be used to set out how income should relate to the rent set, in respect of the reference period. Local authorities will also be required to have regard to guidance issued by the Secretary of State.”

Section eighty covers information about income as follows:

“Information about income (1) Rent regulations may give a local housing authority the power to require a tenant to provide information or evidence for the purpose of determining whether the local housing authority is obliged by the regulations to charge a specific level of rent and what that level is. (2) Rent regulations may require an English local housing authority to charge the maximum rent to a tenant who has failed to comply with a requirement. (3) Regulations made in reliance on subsection (1) may, in particular, make provision about— (a) the kind of information or evidence that may be required; (b) the time within which and the manner and form in which the information or evidence is to be provided. (4) In subsection (1) ‘tenant’ includes prospective tenant.

“(5) In subsection (2) ‘the maximum rent’ means the rent that a local housing authority is required to charge a high income tenant of the premises under section 78 (or, if regulations under section 78(3)(a) provide for different rents for people with different incomes, the rent that a person in the highest income bracket would be required to pay).”

The explanatory note provides the following explanation:

“Under regulations made under this clause, local authorities can be given the power to require their tenants to declare what their household income is. The power can determine the type of evidence that is required to satisfy a landlord. This will be used to determine whether that household is over or below the income thresholds that have been set. Regulations will encourage timely declaration of income information by providing that if a tenant fails to declare income in accordance with the Regulations the tenant’s rent will be raised to maximum levels.”

Section 81 covers HM Revenues & Customs information as follows:

“HMRC information. (1) HMRC may disclose information for the purpose of enabling a local housing authority to determine whether it is obliged by rent 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 local housing authority, (b) the Secretary of State for the purposes of passing the information to local housing authorities, (c) a public body that has been given the function of passing information between HMRC and local housing authorities 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 local housing authorities. (3) The Secretary of State may by regulations— (a) give a public body the function mentioned in subsection (2)(c), and (b) make provision about the carrying out of that function. (4) The Secretary of State must obtain HMRC’s consent before making— (a) arrangements under subsection (2)(d), or (b) regulations under subsection (3). (5) Information disclosed under this section to the Secretary of State or to a body mentioned in subsection (2)(c) or (d) may be passed on to a local housing authority for which it is intended. (6) Information disclosed under this section may not otherwise be further disclosed without authorisation from HMRC. (7) Where a person contravenes subsection (6) by disclosing any revenue and customs information relating to a person whose identity - (a) is specified in the disclosure, or (b) can be deduced from it, section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act. (8) In this section— ‘HMRC’ means the Commissioners for Her Majesty’s Revenue and Customs; ‘revenue and customs information relating to a person’ has the meaning given by section 19(2) of the Commissioners for Revenue and Customs Act 2005; ‘tenant’ includes prospective tenant.”

The explanatory note provides the following explanation:

“Following the declaration of income by tenants, a process of verification may be needed to ensure that declarations of income are correct. The power in this clause allows data to be shared between HMRC and local authorities for the purposes of verification – either directly from HMRC to landlords, or via the Secretary of State or a single body nominated by the Secretary of State to act as the ‘gatekeeper’ for this purpose. The Secretary of State must obtain the consent of HMRC before making arrangements with a private body to fulfil this function, or making regulations which give a public body this function.”

Section 82 covers reverting to original rent levels as follows:

“Reverting to original rent levels. (1) Rent regulations may include provision for the purpose of ensuring that where a requirement imposed under section 78(1) ceases to apply, the rent is changed to what it would have been if the requirement had never applied. (2) Rent regulations may include provision for the purpose of ensuring that where— (a) a local housing authority is required by section 80(2) to charge the maximum rent because of a tenant’s failure to provide information or evidence, and (b) the tenant subsequently provides the necessary information or evidence, the rent is changed to what it would have been if section 80(2) had never applied.”

The explanatory note provides the following explanation:

“Where a local authority determines that tenants in social households are high income social tenants, regulations made under this clause will give landlords the power to increase the rent payable under a tenancy (if it cannot be done already). This clause also provides for other legislation to be amended by Regulation. The purpose of this power is to enable amendments to legislation which may otherwise prevent or limit the circumstances in which rents can be raised. Tenants will also, by regulations, be given the right to appeal decisions.”

Section 83 covers the power to charge rents and the procedure for changing rents as follows:

“Power to change rents and procedure for changing rents. (1) Rent regulations may give a local housing authority power to change the rent payable under a tenancy for the purpose of complying with the regulations. (2) Rent regulations may make provision about the procedure for changing rent to comply with the regulations (whether the change is made using a power given by regulations under subsection (1) or otherwise). (3) Regulations made in reliance on subsection (2) may, in particular— (a) make provision about the review of decisions to increase rent; (b) give rights of appeal to the First-tier Tribunal and amend existing rights of appeal. (4) Regulations under this section may amend any provision made by or under an Act passed before this Act or in the same Session.”

The explanatory note provides the following explanation:

“The power ensures that where a local authority tenant ceases to be a high income social tenant, that the rent reverts to the current social rent. The circumstances that would trigger a review of rent can be set by regulations. In particular, regulations can be used to require a review of rent when a tenant has declared relevant evidence of income (having failed to within the original timeframe set by the landlord).”

Section 84 covers payment by a local authority of increased income to the Secretary of State as follows:

“Payment by local authority of increased income to Secretary of State. (1) Rent regulations may require a local housing authority to make a payment or payments to the Secretary of State in respect of any estimated increase in rental income because of the regulations. (2) The amount of a payment is to be calculated in accordance with the regulations. (3) The regulations may provide for deductions to be made to reflect the administrative costs of local authorities in implementing the regulations. (4) The regulations may provide for interest to be charged in the event of late payment. (5) The regulations may provide for assumptions to be made in making a calculation, whether or not those assumptions are, or are likely to be, borne out by events. (6) The regulations may make provision about how and when payments are to be made including, in particular, provision for payments by instalment.”

The explanatory note provides the following explanation:

“Local housing authorities will be required by regulations to return any additional income received to the exchequer. The exact amounts and the process for returning the money will be set via regulations. Following consultation on the issue of administrative costs, regulations can be used to ensure that local authorities do not incur those costs. Regulations also allow for interest to be charged in the event of late payment.”

Section 85 covers the provision of information to the Secretary of State as follows:

“Provision of information to Secretary of State. Rent regulations may give the Secretary of State a power to require a local housing authority to provide information in connection with the regulations.”

The explanatory note provides the following explanation:

“This clause provides power for the Secretary of State to collect data from local authorities for the purposes of reviewing the operation of the policy.”

Section 86 covers interaction with other legislation and consequential amendments as follows:

“Interaction with other legislation and consequential amendments. (1) The Secretary of State must use the power in section 22(4) of the Welfare Reform and Work Act 2016 to provide that section 21 of that Act does not apply to a high income tenant of social housing to whom rent regulations apply. (2) In section 24 of the Housing Act 1985 (rent), after subsection (5) insert— ‘(5A) See also Chapter 3 of Part 4 of the Housing and Planning Act 2016 (rents for high income social tenants in England).’ (3) In Part 2 of Schedule 4 to the Local Government and Housing Act 1989 (the keeping of the Housing Revenue Account: debits), after item 10 insert— ‘Item 11: payments under section 84 of the Housing and Planning Act 2016 Any sums payable for the year to the Secretary of State under regulations made in reliance on section 84 of the Housing and Planning Act 2016 (rents for high income social tenants: payment by local authority of increased income to Secretary of State)’.”

The explanatory note provides the following explanation:

“Subsection (1) provides that when regulations are made requiring local authority landlords to charge high income tenants of social housing increased rents provision, regulations must also be made to exempt such tenants from the rent reduction requirements in the Welfare Reform and Work Bill. Subsection (3) makes changes to the provisions regarding the keeping of the Housing Revenue Account adding to the list of permissible debit items contained in Part 2 of Schedule to the Local Government and Housing Act 1989 a payment under regulations made in reliance on clause 79.”

Section 87 covers private registered providers’ rent policies for high income tenants as follows:

“Private providers: policies for high income social tenants (1) A private registered provider of social housing that has a policy about levels of rent for high income social tenants in England must publish that policy. (2) The policy must include provision for requesting reviews of, or appealing, decisions under the policy.”

The explanatory note provides the following explanation:

“The clause requires private registered providers who have adopted a voluntary policy to publish details of that policy. That published policy must allow for an appeal mechanism.”

Section 88 covers HM Revenues & Customs information for private registered providers as follows:

“HMRC information for private registered providers. (1) HMRC may disclose information for the purpose of enabling a private registered provider of social housing to apply any relevant policy about levels of rent for high income social tenants in England. (2) The information may only be disclosed to— (a) the private registered provider of social housing, (b) the Secretary of State for the purposes of passing the information to registered providers, (c) a 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. (3) The Secretary of State may by regulations— (a) give a public body the function mentioned in subsection (2)(c), and (b) make provision about the carrying out of that function. (4) The Secretary of State must obtain HMRC’s consent before making— (a) arrangements under subsection (2)(d), or (b) regulations under subsection (3). (5) Information disclosed under this section to the Secretary of State or to a body mentioned in subsection (2)(c) or (d) may be passed on to a registered provider for which it is intended. (6) Information disclosed under this section may not otherwise be further disclosed without authorisation from HMRC.”

(7) Where a person contravenes subsection (6) by disclosing any revenue and customs information relating to a person whose identity— (a) is specified in the disclosure, or (b) can be deduced from it, section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act. (8) In this section— ‘HMRC’ means the Commissioners for Her Majesty’s Revenue and Customs; ‘relevant’, in relation to a private registered provider’s policy about levels of rent for high income social tenants in England, means a policy that— (a) has been published as required by section 87, and (b) complies with any requirements imposed under subsection (2) of that section; ‘revenue and customs information relating to a person’ has the meaning given by section 19(2) of the Commissioners for Revenue and Customs Act 2005; ‘tenant’ includes prospective tenant.

The explanatory note provides the following explanation:

“The Clause allows HMRC to share data with private registered providers in the same way as Clause 81 does for local authorities.”

Section 69 covers interpretation as follows:

“Interpretation of Chapter. In this Chapter— ‘high income’ has the meaning given by regulations under section 79; ‘local housing authority’ has the meaning given by section 1 of the Housing Act 1985; ‘rent’ includes payments under a licence to occupy; ‘rent regulations’ has the meaning given by section 78; ‘social housing’ has the same meaning as in Part 2 of the Housing and Regeneration Act 2008 (see sections 68 and 72 of that Act); ‘tenancy’ includes a licence to occupy; ‘tenant’ includes a person who has a licence to occupy.”

Consultation on Near-Market Rents for Tenants on High Incomes

The government has carried out a consultation on the detailed implementation of near-market rents for tenants on high incomes. Their response to the consultation was published in March 2016.

The Government wants to ensure that the policy supports work incentives, and confirmed that a taper will be applied above the minimum income thresholds as suggested by 89% of respondents to the consultation. Further detail on the operation of the taper will be set out in due course but the government intends to design this so that households at the lower end of income above the proposed threshold will see their rent rise by only a few pounds each week. The Government will also consider how the taper system will work alongside Universal Credit and will bring forward further detail as this is rolled out.

The Government agrees with most consultees that it should not be the case that those who are in receipt of housing benefit should be subject to increased rents, as the rent rises would simply need to be covered by the taxpayer. Households in receipt of housing benefit will therefore be exempt from the policy. The Government will consider the links to Universal Credit as it is rolled out.

The Government will allow local authorities to retain a reasonable amount of administrative costs. The amount that can be retained will be subject to further discussions with the sector about what a reasonable level would constitute.

Issues Identified

The proposal that people with reasonable means should not have their rents subsidised by people on lower incomes seems reasonable and is likely to be popular with many voters.

However, consideration needs to be given to the probable outcome of the policy. When a tenant with a relatively high income is faced with a choice of paying market rent or buying their council home with a discount of between £70,000 and £100,000 what would you expect them to do? I expect that many will buy their homes. This will have two consequences: First, the taxpayer will be giving the person on a relatively high income a subsidy through 'Right to Buy' rather than through a social rent; and second, all the evidence demonstrates that the result of 'Right to Buy' in the long-term is not usually an increase in owner-occupation but an increase in private landlordism. Consequently, the policy is likely to result in the taxpayer providing subsidies for tenants on relatively high incomes and for homes to transfer from social housing to private landlords.

It is unclear how many, if any, social housing providers have implemented a 'pay to stay' policy for higher earners living in their stock. The Government has not collected information on any additional rent payments collected since the scheme was introduced.

Issues that have been identified within the sector include:

Administering higher rents for higher earners

Concerns were raised during the consultation process about the administrative burden the scheme would introduce, particularly for housing associations. A particular issue was that, for areas with low numbers of high-earning social tenants, the costs of implementing the scheme might outweigh any benefits. Summarising the responses received to the 2012 consultation, the Government observed that:

"The majority of those opposed felt that the policy would create administrative burdens and could be excessively costly to implement for landlords, particularly in identifying tenants with high incomes and adjusting rents and tenancy agreements to reflect tenants' fluctuating incomes. Many felt that, in areas with very low numbers of high income tenants, the policy was unlikely to generate additional income and the costs involved would outweigh the benefits."

The complexity of establishing local market rents for different property types and the potential cost of dealing with disputes over valuations were also raised as potential burdens. The responses to the August 2013 survey by Inside Housing suggested that the expectation of high administration costs and difficulties in collecting data were significant factors for social landlords deciding whether or not to implement the policy: Keith Exford, Chief Executive of 57,000-home Affinity Sutton, said:

"It is unlikely we would implement pay-to-stay. People's circumstances are going to change so regularly it will be a nightmare to keep up with."

Nick Atkin, Chief Executive of 6,400-home Halton Housing Trust, said:

"It could be a disproportionate amount of effort for very little return."

Moat, that owns and manages 20,000 homes, described the policy as a 'blunt instrument' which does not take into account different households' circumstances.

A disincentive to work?

The Government recognised the potential for a threshold that was too low to create a disincentive to work, saying that:

“Any incentive to reduce work, together with increased rents, could lead to higher benefit costs. The Government’s policy is to maintain downward pressure on the welfare bill. We are keen, therefore, in setting the threshold to find a balance so the tipping point is not reached where avoiding triggering the threshold becomes a significant consideration.”

Respondents did not agree on a single level at which an income threshold would have an effect on work incentives because of the importance of other factors such as household size and personal circumstances. However, it was recognised that the earnings level at which a disincentive could be created would be significantly higher in London than elsewhere in the country. Some respondents suggested that an income taper should be applied to mitigate any disincentive to work but it was acknowledged that such a taper would be ‘complex to operate.’

It has been calculated that those earning £60,000, if charged market rents, could end up spending as little as 7% or as much as 39% of their pre-tax income on social housing in different parts of the country.

Impact on mixed communities

Concern was raised by some respondents that a ‘pay to stay’ scheme could damage the social mix of some communities, potentially removing positive role models in the form of those in well-paid employment. A local authority responded to the government’s consultation by saying:

“We consider that diversity and mixed incomes are a positive benefit for social housing stock, and that well-paid social housing tenants are an asset and should be encouraged rather than discouraged.”

The Government argued that, because the proposed increase in rent would affect only those within the top 10% of earnings (£60,000 or over) ‘any reduction in income mix is likely to be very minor.’

Affordability

‘Inside Housing’ reported, in August 2013, on the findings of research conducted by the consultancy Hometrack. The research indicated that in sixteen London local authority areas an income of £82,226 was required to be able to pay an ‘affordable rent’ (normally set at 63% of market value). Hometrack also said that in the same areas, 131,000 social sector properties required an income of over £60,000 to pay affordable rent.

The first impact analysis of the government’s proposed Pay to Stay policy was published in September 2015. It illustrates not only the impact on tenants and landlords, but also the scale of the housing crisis, the disparity in housing costs across England, and the potential for the law of unintentional consequences.

The survey uses adjusted government data on rents, incomes and property values. It used an assumption of 35% of income spent on housing costs as a measure of affordability and assumed a mortgage four times income to gauge who can buy, taking ‘Right to Buy’ discounts into account.

It found that 60% of affected London tenants would be unable to afford to Pay to Stay or to take up 'Right to Buy'. The figure was close to 50% in the East, 43% in the South East and 27% in the South West. By contrast, in northern regions almost everybody affected is expected to be able to afford it.

Evidence suggests that rather than moving, many affected tenants will sacrifice spending on other essentials to meet the increase in their rent. There will be pressure on family budgets, with some likely to fall into arrears.

Others will move into smaller properties in less expensive areas in the private rented sector, potentially further from jobs, support networks, and childcare. The change is likely to lead to less mixed communities and responsibility for this will be seen to lie with landlords rather than with the government.

The study concludes that 60% of the 27,108 affected households in London will neither be able to afford market rent or be able to buy their house under the 'Right to Buy'. In the East, South East and South West regions of England the figure is 49%, 43% and 27% respectively.

However, the research shows all those affected in the three northern regions would be able to stay in their home by buying it under the 'Right to Buy' or by paying full market rent. In the North East, 86% of the 11,227 households affected would have enough income to buy with a 'Right to Buy' discount. The figure ranges from 60% to 69% in all the other non-south English regions.

The government's stated aim behind the policy is fairness - to 'put an end to the situation where the high-income social tenants benefit from taxpayer-funded subsidies of up to £3,500 a year'. At first sight this appears to be inconsistent with offering some tenants up to £103,000 in 'Right to Buy' discounts, but some commentators have speculated that one of the underlying intentions of increasing rents for tenants with high incomes is to make 'Right to Buy' more attractive, in the hope of meeting the government's stated aim of reversing the decline in homeownership.

However, this study suggests that in some areas ownership is not feasible for many affected tenants, with house values outstripping salaries to the extent that residents will be unable to arrange a mortgage. In areas where social rents are much closer to private rents and mortgages, the increase in rents to near market levels may prove an insufficient incentive to many residents to take on the risk and burden of homeownership.

Recent Announcements

Late amendments were made to the Housing and Planning Bill in the House of Lords that were accepted by the government. These included:

- The policy will be voluntary for housing associations
- A taper is to be applied above minimum income thresholds and will be inflation linked
- Housing Benefit recipients will be exempt
- Local authorities will be able to retain some rent to cover administrative costs

Response of the Sector

The Local Government Association responded as follows:

"Local authorities want to manage their homes to meet best the needs of communities and should be free to set differential rent levels based on local circumstances and housing markets."

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“We are concerned that the Bill seeks to establish a process for taking a sum of money from councils based on a national estimate that will unlikely reflect actual local conditions. Councils, like housing associations, should be able to retain the additional income generated from these rents to build new homes. This would have far greater benefits for local communities than the money going to the Treasury.

“This is important in light of the reductions in social rents contained in the Welfare Reform and Work Bill.”

Local Government Association Chair Lord Porter (Conservative) claims that the number of tenants over earnings threshold will be a matter of ‘guesswork’ and has questioned how the government will be able to work out tenants earning above the pay-to-stay thresholds.

The Local Government Association remains concerned about how the scheme will be administered. Ministers plan to require councils to pay the Treasury a sum based on a nationally-undertaken estimate of the additional rental income each council is likely to generate. A government impact assessment on the policy said there were currently about 130,000 ‘higher income’ households living in council homes, a figure that would increase as wages rise.

Lord Porter told the Local Government Chronicle that:

“I can’t see how the government can come up with a formula that will be able to tell each council how many (tenants earning above the thresholds) it has got. It would be complete and utter guesswork. As a council the only thing you know is which tenants are not in receipt of benefits.”

The government estimates it will cost local government £14.1million annually to administer the policy while £370million of additional rent will be raised in 2017/18, rising to £510million by 2019-20. However, the Local Government Association believes the administration costs of the policy will make significant inroads on what is raised through additional rent.

Councillor Peter Box (Labour), Local Government Association housing spokesman, said:

“The policy would be incredibly complex and expensive to administer. Local taxpayers must not foot this bill, and all administrative costs must be deducted from any payments required by government.”

Adrian Waite
November 2016

About ‘AWICS’

‘AWICS’ is a management consultancy and training company. We specialise in providing support in finance and management to clients in local government and housing in England, Scotland and Wales. We are well known for our ability to analyse and explain complex financial and management issues clearly.

Our mission statement is ‘Independence, Integrity, Value’. We therefore provide support to clients from an independent standpoint that is designed to help the client to achieve their objectives. We are passionate about working with the utmost integrity. We believe that we offer the best value for money that is available today!

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For more information about our services and us please visit our website at www.awics.co.uk or contact Adrian Waite at Adrian.waite@awics.co.uk.

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