Briefing to the meeting of the Homes PDG on 13 September 2016 on "Pay to Stay", also known as the High Income Social Tenant Policy

Claire Fry, Housing Services Manager

The Pay to Stay policy was first announced in the 2013 spending review following a consultation during the summer of 2012. The original income threshold was set at £60,000.

The updated policy was announced in the summer budget. At a recent roadshow attended by the Housing Services Manager and one of our Housing Systems Administrators, representatives from the Department of Communities and Local Government (DCLG) gave the following reasons as the rationale for the policy:

- Fairness: those tenants on higher incomes should contribute more
- Waiting lists: there is a large demand for social housing and it needs to be available for those in the greatest housing need
- Homeownership: it is likely to make tenants consider their options. The cost of the increased rent may be lower than a mortgage for the same property if the tenant exercised their Right to Buy.
- Revenue raising: the Council will be expected to pay most of the additional revenue collected to central government

The policy is being implemented through the Housing and Planning Act 2016.

Tenants with an income above the threshold will pay a higher rent from April 2017. The starting income threshold in the first year of the policy will be £40,000 in London and £31,000 elsewhere. Therefore, tenants in Mid Devon will have to pay more rent if their household income, as defined within the policy, is higher than £31,000. These thresholds will be increased on a yearly basis in accordance with the Consumer Price Index (CPI). Tenants in receipt of Housing Benefit, Universal Credit, Disabled Living Allowance and some other benefits will be exempted from the policy.

The taxable income of the two highest household incomes will count. This will include pensions and savings. Household is defined as tenants, joint tenants, their civil partners, partners or spouses. Additional rent will be 15% of income over the threshold or the market rent, whichever is lower. This means that there will be a taper rate of 15%, meaning that 15p in rent for every additional pound earned over £31,000 by our tenants will be collected up until the point where they are paying market rent for their home. The income of non-dependents such as grown up children will not be taken into account. However, if two joint tenants are siblings and both have partners, the Council will have to assess the income of all four and base the calculation on the income of the two who earn the most.

The implementation date for the new policy is April 2017. However, the regulations which should contain more information about what local authorities need to do to achieve what is required have yet to be published. They were expected during July. The implementation date may change but currently there is no information about whether or not it will.

Local authorities will need to start collecting income and National Insurance numbers in order to facilitate data-sharing with Her Majesty's Revenue & Customs (HMRC). Data sharing agreements are in development to enable systems to be put in place to enable income data to be checked. The Housing Service will be expected to charge market rent if a tenant chooses not to share information with the Council regarding household income.

The Housing Service will be expected to further develop our fraud strategy to respond to the situation where someone gives us information which is incorrect in order to avoid paying a higher rent. Members will recall that our fraud strategy is currently contained within the Tenancy Policy.

There will be an expectation that local authorities develop their own method for working out market rents. However, DCLG are planning to develop an assurance framework to check methodologies and to check that the funds being transferred by local housing authorities in respect of this policy are correct.

We understand that the DCLG does not expect the Council to obtain valuations relating to each and every property not least because it would be prohibitively expensive. Currently, the Housing Service is planning to use "beacon properties" because there is only a limited number of property types within our housing stock. It is estimated that there are about 40 different types of home and so valuations will be obtained on each of these. Then, if a market rent must be charged, Officers can use the market rent obtained for a property with similar attributes. Any methodology used must adhere to RICS approved practices.

The policy will also apply to affordable rents, where the Council is currently charging 80% of the market rent.

Tenants will have a right of appeal and there will be three grounds:

- Incorrect calculation of rent (or that the taper has been applied incorrectly)
- That they are not a high income social tenant
- Or that the market rent is not a market rent

The DCLG is has indicated that tenants will be able to appeal cases in the First Tier Tribunal. Alternatively, they can go through our internal complaints procedure and then to the Housing Ombudsman Service.

The DCLG has advised that there will be financial support available in respect of the administration of the new system. It is likely that the Housing Service will be able to include the cost of dealing with any complaints or reviews as part of our reasonable costs to cover our expenses.

The arrangements for the first year will be under review by the DCLG and so they may introduce a formula going forward in future years setting out what proportion of the receipts can be retained for administration. It is likely that any additional costs incurred in the first year as the start-up costs will need to be taken into account. This may include the cost of writing to all those tenants not in receipt of Housing Benefit or Universal Credit to obtain income information.

If we pay too much to DCLG and find later that we overpaid due to having made our calculation based on an income which is too high, we can claim back the monies. We will pay quarterly and can claim back in the next payment.

The Council will be required to send a quarterly return to the DCLG and for this reason it is important that we have appropriate systems in place for record-keeping. The Housing Service uses the Orchard housing management system but we are aware that their solution relating to the Pay to Stay scheme may not be finalised before the proposed implementation date in April 2017. An interim solution is required and we are currently looking at how we can make best use of existing systems until our housing management system has the ability to record and account for all aspects of the Pay to Stay scheme.

We can anticipate that the collection of information relating to household income will be harder in the rural areas. If someone fails to respond to a request for information, an Officer will have to visit and this will have costs associated with it especially if their home is located some distance from our main office. We understand that there will be more funding available in respect of administrative costs for the first year to take account of such issues.

For the first year of the policy, money transferred by local authorities will be based on actual receipts received. The DCLG is expecting 20% of those tenants not in receipt of Housing Benefit or Universal Credit to have to pay additional rent. In Mid Devon this equates to approximately 200 households, given that we have just over 3,000 tenants and about 60% of these are in receipt of Housing Benefit or Universal Credit. There could be some exemptions due to the fact that it is likely that there will be pockets of deprivation in some areas of each District. It is likely that the regulations will contain information about this.

We understand that the Council will be expected to account for the additional charges and income within the housing revenue account (HRA), which is a ring-fenced account. Members will recall that the Housing Service is funded mainly by income collected as rent and that this is paid into the HRA.

The Housing Service will need to collect information relating to the income of tenants but our Solicitor has advised that there is currently no power to require from tenants information about their income and national insurance numbers.

Section 82 (1) of the Housing and Planning Act states:

“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”

Section 82(2) states:

“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”

As the rent regulations have not been made, the Council currently has no power to seek the information needed to implement the scheme or to impose a sanction of market rent.

If the implementation date does not change, there will only be a very limited amount of time in which to collect the information needed to inform the rent setting process in January. Generally, rent increase notices need to be sent out in February. If once the regulations have been published, tenants fail to provide the information requested, there would only be a very short time in which to collect the details needed prior to enable the Council to take the provisions of the Pay to Stay scheme into account when setting the rent for April 2017.

The Housing Service will be expected to verify income. There is a lack of clarity about how this will work. We understand that income from the current year will be taken into account. If this is the case, the Neighbourhood teams will have to base the rent for next year 2017/18 on income for this year 2016/17. It is likely that P60s and current payslips will be needed but P60s will not be available until after the beginning of the new financial year.

If someone fails to disclose their income, the Housing Service is expected to charge market rent. If the information is forthcoming, we can change the rent but there needs to be an agreed policy on this.

The Government is committed to encouraging housing associations to also implement the policy. It is currently voluntary for them but if they do decide to implement a Pay to Stay scheme, the additional money collected can be retained.

As a result of the need to implement the new policy, the Housing Service will need to review a number of existing policies. For example, there is a need to reinforce the clauses relating to fraud contained within the existing tenancy policy. The

complaints policy will also have to be refreshed to take account of the arrangements relating to appeals under the Pay to Stay scheme. We will also need to have information available on how the Housing Service will apply the taper; this could be incorporated into the tenancy policy or contained within a new policy. In addition, we will need to implement a policy setting out how market rent will be determined.

Having a comprehensive set of policies and procedures is going to be important given the likelihood of potential challenge by people who are dissatisfied with the operation of the new regime.

For more information, please call Claire Fry, Housing Services Manager, on 01884 234920