



Department for
Communities and
Local Government

Members of the House of Lords

Baroness Williams of Trafford
Parliamentary Under Secretary of State

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Dear Colleagues,

Housing and Planning Bill Committee sitting six: high income social tenants and restricting lifetime tenancies and succession.

I am writing following the sixth sitting of the Lords Committee on the Housing and Planning Bill on 14 March.

High income social tenants

Pay to Stay – consultation

Lord Beecham asked whether consultation was carried out with organisations (for example, Citizens Advice Bureau and other tenant representative groups) about the policy in advance.

From October to late November 2015 we published a consultation: *Pay to Stay: Fairer Rents in Social Housing*. The Government consulted on how income thresholds should work, the interaction with Housing Benefit, and sought evidence of likely administrative costs in operating the scheme. Over 500 written responses were received: largely from individuals and a small number of tenant groups and panels. The Government's response is available on www.gov.uk¹:

The Government intends to continue to engage with tenant groups as we approach the implementation date of April 2017.

Number of households above the income threshold outside of London

Lord Campbell-Savours sought clarification on the estimate of households above the threshold outside London.

Our current estimate of the number of social rent households outside of London with incomes in excess of the £30,000 threshold is around 305,000. This figure includes both local authority and housing association tenants. These estimates are subject to further work that the Department is carrying out on the threshold and income definitions.

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/506457/160309_Pay_to_Stay_Consultation_response.pdf

Reduction of threshold from the voluntary scheme level

Baroness Lister also sought clarification on why threshold was reduced from voluntary scheme level of £60,000.

The thresholds of household income above £30,000 outside London, and £40,000 in London represents a starting point for when people should start contributing more rent. These incomes are above the average median wage of £26,000 a year. The taper will ensure that households close to this threshold pay only a few more pounds of rent a month. I believe social housing should be prioritised to those genuinely in need. There will be households on lower incomes who are more in need of social housing for rent.

Administration costs

Lord Kennedy, Lord Kerslake and Baroness Hollis asked that the costs of setting up the scheme be covered by Government.

The Government has committed to covering reasonable administration costs and is working with the sector to find a simple and cost effective solution to administering the policy.

Payment by a local authority of increased income to Secretary of State - Clause 84 (5).

Lord Kennedy asked for further clarification on the effect of Clause 84 (5).

As outlined in my response to the Delegated Powers and Regulatory Reform Committee, I intend to apply the affirmative procedure to the first exercise of the power in this clause. I will bring forward more detail on the operation at Report stage of the Bill.

The Commissioners for Revenue and Customs Act 2005

Lord Beecham requested that we check the applicability of the Commissioners for Revenue and Customs Act 2005 in relation to the policy.

I believe there may have been a slight misunderstanding and I can clarify that clause 81 of the Bill will provide powers to enable HMRC to share information for the purpose of identifying high income tenants above the threshold. Information provided by HMRC may not be further disclosed without HMRC authorisation. The HMRC information can be shared with:

- (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, or
- (d) a body with which the Secretary of State has made arrangements for the passing of information between HMRC and local housing authorities.

A person who discloses HMRC information from which a person (i.e. a taxpayer) can be identified is guilty of a criminal offence under the Commissioners for Revenue and Customs Act 2005. There is no conflict between the clause 81 provisions and the 2005 Act. The 2005 Act does not prevent the information sharing required by clause 81 though it does, quite rightly, make it a criminal offence to further disclose the HMRC information without HMRC authorisation.

I have outlined further questions and answers asked during the debate on this policy in **Annex A**.

Restricting lifetime tenancies and succession

Guidance:

During the debate I indicated that the Government will be providing guidance to assist local authorities with the introduction of new fixed term tenancies. We expect that, as a minimum, this will cover the length of tenancies that local authorities should offer in different circumstances as well as the circumstances in which we would expect local authorities to grant a further tenancy at the end of the fixed term.

Lord Bassam and Lord Shipley asked whether and when the House would have the opportunity to consider the guidance.

I can confirm that we will make the guidance available in time for the House to consider alongside the regulations we expect to make for these measures. Currently, we expect to make a single set of regulations which are subject to the affirmative procedure. We expect to lay the regulations in winter 2016/17.

Improvements:

Baroness Lister asked for clarification of the intention of paragraphs 12 and 13 of Schedule 7. The effect of these provisions is that new fixed term tenants will not have a statutory right to improve and be compensated for improvements. We do not believe it is appropriate that fixed term tenancies, which may last for two to five years, should automatically carry a statutory right to make or be compensated for improvements to the property. We believe it should be up to landlords, who would have to pay the compensation, to grant such rights within the tenancy agreement, if they choose. That is the position currently for flexible tenancies introduced by the Localism Act.

Baroness Lister was concerned about the implications of these provisions for those who make improvements to their home to care for disabled relatives. As a result, I have asked my officials to meet with Carers UK to explore this matter. We will ensure the meeting also covers the point she raised about providing a right for carers to succeed where there is no spouse or partner.

A copy of this letter will be placed in the House library.

A handwritten signature in cursive script that reads "Williams of Trafford".

BARONESS WILLIAMS OF TRAFFORD

Annex A – Frequently asked questions on ‘Pay to Stay’.

Is one reason why there has been no imposition on housing associations to introduce pay to stay is because it is part of the package to reclassify housing associations so they are no longer public bodies?

- The priority for the Government is the deregulation of the housing association sector. Our aim is to revert the status back to private following the Office for National Statistics reclassification. As a result, the operation of a policy for high income social tenants will remain voluntary for housing associations to operate.

Why do council tenants have a special duty to reduce the deficit while housing association tenants do not?

- Housing associations will need to consider whether to operate a policy. Whilst it will be their choice, the definition of a high income social household will be set by the Government. This will ensure a consistent basis for the policy nationally.

Will ALMOs be able to access the data sharing provisions in the Bill?

- This was addressed during the debate. The Housing Act 1985 provides that where a local authority have outsourced part or all of their housing management functions to another body such as an ALMO, it will be treated as if it were done by the Local Authority. Legal advice has confirmed that further drafting is not required to cover ALMOs and therefore they will be able to access the data sharing provisions in the Bill.

Would receipts from Pay to Stay go directly to the local authority?

- The increase in rent will be collected by the local authority and passed to the Exchequer. The Government needs to reduce the deficit and the extra rental income from local authorities has been identified as a contribution to that.

When would the consultation findings on Pay to Stay be published?

- The consultation response was published on the 8 March 2016. A copy can be found on the Gov.uk website here:
<https://www.gov.uk/government/consultations/pay-to-stay-high-income-social-tenants>

Has any work been carried out on the social consequences of Pay to Stay?

- An equality impact assessment of Pay to Stay has been carried out and published. The policy is not believed to have any specific negative impact on any of the protected characteristics. It is available on the Bill website here: <http://www.parliament.uk/documents/impact-assessments/IA16-002K.pdf>

With reference to the announcement of a taper is the Government minded to choose the lower of the two options?

- The Government is considering the level at which the taper will be set, and will bring forward further details at Report Stage of the Bill. The detail will be set out in regulations, as mentioned in the DPRRC response, I intend to amend the Bill to use affirmative procedure for the first exercise of this power.

What will happen if a High Income Social Tenant is made redundant or there is a family crisis?

- The tenant will have the same recourse to financial help that is currently available, for example they would be able to apply for Universal Credit.

In which areas of the country will full market rent be the target?

- The Government is working with the Valuation Office Agency to establish a process of setting market rents which will be calculated on a locality basis. Separately our analysts are carefully considering the level at which to set the taper. Once the level of the taper is set, consideration will be given the level of market rent to be set. This will be set out in regulations, as mentioned in the DPRRC response; I intend to amend the Bill to use affirmative procedure for the first exercise of this power.

When we will have information about what regulations will say with regards to exemptions?

- Officials are engaging with local authorities and representative groups in developing policy with regards to exemptions. The Government is considering carefully the matter and will bring forward further detail at Report stage.

What lessons had been taken from the previous 'pay to stay' scheme?

- It is unclear how many local authorities have implemented the approach. There is currently no requirement on social landlords to charge higher rents for high income tenants. The Government has not collected information on any additional rent payments collected since the scheme was introduced.