

THURSDAY, 30 NOVEMBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR HOUSING SERVICES**VARIABLE RENT POLICY FOR COUNCIL TENANTS****EXEMPT INFORMATION**

N/A

Purpose

The scope of the report is to amend the Councils Rent Setting Policy to include arrangements to charge affordable rents on new and affordable housing as detailed in the report.

In accordance with DCLG guidance¹ Local authorities should only let properties on affordable rent terms:

- Where they have a Framework Delivery Agreement in place with the Homes and Communities Agency, under the Government's affordable homes programmes; or
- Where the Homes and Communities Agency have indicated that the new supply they propose to provide represents value for money, for new build affordable housing that is not funded (in part) by Government grant; or
- Where they have an agreement in place with the Secretary of State, to retain additional Right to Buy receipts for investment in new affordable rented homes.

Recommendations**Cabinet:-**

- Approve the Rent Setting Policy as provided at Annex one detailing the specific arrangements for charging affordable rent as per the DCLG conditions listed above.
- Delegate authority to the Director Communities, Partnerships and Housing in conjunction with the Portfolio Holder of Housing to
 - amend the Rent Setting Policy in line with the changing Government agenda around rent setting and charging.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/313355/14-05-07_Guidance_on_Rents_for_Social_Housing_Final_.pdf

- to vary affordable rent charges in line with HCA grant funding conditions should it differ from the methodology contained in the proposed policy to ensure it maximises commercial opportunities around future grant funding.
- in conjunction with Councils s151 Officer seek a financial waiver to invest in the Orchard Housing Management *Affordable rent* module to ensure efficient rental recovery. In order to oversee the arrangements for investing in the housing management system to ensure digital solution to track affordable tenancy types for the purposes of both re-valuation and rent generation

Executive Summary

Cabinet approved on the 24th November 2016 to charge affordable rents² on new build council housing; capped at Local Housing Allowance rates where affordable rent levels were higher. The attached Rent Setting Policy 2017 details the arrangements to give effect to this taking into account the DCLG guidance on rents for social housing as well as legislation detailed in the Welfare Reform Act 2016 and associated Social Housing Rent Regulations 2016.

At the time of the November Cabinet decision there were plans by the Government, confirming that from April 2019, all social sector rents would be subject to the LHA cap. Notice has only been received in the last week (13/11/17) that this will now not go ahead. So there will only continue to be the *under occupancy reductions* of 14% and 25% for additional bedrooms above the householders needs. Housing benefit will continue to be paid and Subsidy claimed on the actual rent charged (reasonable rents less any ineligible service charges which have never been claimed anyway). Whilst this allows the Council to charge above the LHA cap (as benefit will be payable) it is proposed at this stage to continue with the cap until a full affordability assessment can be done with regard to charging up to 80% of market rent for those who are on a low income but ordinarily would be just outside of housing benefit eligibility. Clearly this reduces the overall income available for reinvestment but does mitigate the potential for increased rent charges and bad debt.

An assessment will be undertaken as part of the first review of the rent setting policy and linked to the HRA Business plan update in 2018/19.

To date the Council has plans in place to deliver 19 new build council housing units, noting that the development conditions of accessing partial HCA funding stipulated affordable rent levels. Indicative affordable rent levels have been calculated and other than the 1x4bed at Bloomfield Way are all capped at LHA rates; including the 4 already let at Kirtley. It is proposed that the principles and methodology to calculate these rents will be applied to other new build &/or acquisitions that meet the affordable rent criteria.

² Section 19 of the Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 defines Affordable Rent as “an initial rent which is no more than 80 % of the market rent or rent set on a social rent basis (if higher). As the proposed rate will be not be more than 80 % than market rent then it will be classed as an affordable rent.

Additionally acquisitions (either obtained through traditional buy back routes &/or via s.106) using partial HCA funding &/or 1-4-1 right to buy receipts will also be subject to affordable rent levels based on the principles set out in the report and associated policy.

Commercially this benefits the Housing Revenue Account as additional income is generated and the difference between Social (often referred to as formula rents) and affordable rent levels is estimated to provide between c£1,000 and £3,500 per property. Members are referred to the table within the financial implications sections of this report, showing the potential for an additional income of between £27,000 and £69,000 assuming 20 additional properties per annum; which over the medium term potentially generates between £108,000 and £345,000 to support the Councils strategic priorities around investing in new and affordable housing.

As the Council progresses its commercial ambitions around growth and seeks to invest in new and affordable council housing it is expected that income may increase allowing for continued investment to deliver more affordable housing.

In summary by approving the Rent Setting Policy, Cabinet are endorsing key principles seeking to provide clarity and detail around:-

Proposals	Summary Policy Principles and details
Market rent methodology	Market rents are assessed in line with RICs approved methodology as detailed in the policy
LHA cap – calculations and formula	LHA rates are set by the Government and fixed until 2020. LHA rates are published on the Councils website ³ and will be calculated in accordance with the relevant legislation and in conjunction with development partners where HCA funding conditions exist.
Affordable rent for the first 19 new council homes – up to 80% of market rent as shown in the spreadsheet at Annex two	The development agreement with Waterloo (dated 17/2/15) confirms that under clause 10.4.2. rent charges must not be higher than set out in the firm scheme details agreed by the HCA. Rents will therefore be assessed in compliance with that agreement and all relevant terms to maximise income to the Council and in order to secure HCA funding. The illustration at Annex two shows rents are typically between 73%-76% of market rents (capped at LHA) other than 1x4bed at Bloomfield where affordable rent (80%) will be charged as LHA is higher. The rents for these properties have already been agreed by Waterloo on behalf the HCA.
Compliance with tenancy management arrangements with regard to either secure or fixed term tenancies	Unless explicitly stated as part of a separate HCA &/or funding agreements, legal advice has confirmed there is no current legislation that states that affordable rented tenancies should be fixed term automatically. It is therefore recommended that the Council’s tenancy management policy would apply and FTT would be offered save continuation of tenancy rights for transferring secure tenants’ in compliance with those previously agreed arrangements.
Arrangements to capture social and	Capturing this information will require investment in the Councils Housing management system – Orchard. Initially

³ <https://www.tamworth.gov.uk/local-housing-allowances-2015-2020>

affordable rents so additional income can be re-invested in new and affordable housing	information will be manually calculated but the policy suggests ongoing monitoring and reporting will benefit from the efficient use of software solutions to reduce duplication & waste hence the recommendation to waive charges to use the Orchard affordable rent module.
Rent Charging generally	The policy states that affordable rents may be charged (capped at LHA rates as applicable) on all partially HCA funded units &/or where 1-4-1 RTB receipts have been used; to comply with relevant site specific HCA agreements. Where neither HCA grant conditions &/or 1-4-1 receipts are not applicable then social rents will apply in accordance with the rent setting regulations. This will allow the Council to charge affordable rents on those properties that become void which were acquired using 1-4-1 capital receipts and could be charged affordable rent legitimately.
Service Charges and affordable rent	The Market rent is assessed to include provision for service charges. The LHA cap is also inclusive of service charges so should there be additional service charges then these will be collected in accordance with the current service charge policy and will not be additional to the LHA rate. When the Council calculates the additional rent it has collected, where it charges an affordable rent instead of a social (formula) rent, the formula rent used will be exclusive of service charges and where these cannot be passed on to the tenant they will be met from HRA balances as is the case now.

Financial & Resource Implications

Charging affordable rents presents a significant commercial opportunity to generate additional rental income. Previously Cabinet have decided to cap rents at the LHA rates given previous Government intentions. However, notice has only been received in the last week (13/11/17) that this will now not go ahead. So there will only continue to be the Under Occupancy reductions of 14% and 25% for additional bedrooms above the householders needs. Housing Benefit will continue to be paid and Subsidy claimed on the actual rent charged (reasonable rents less any ineligible service charges which have never been claimed anyway). It is not proposed the full affordable rent is charged until a full affordability impact assessment can be undertaken.

The difference between LHA rates and up to 80% market rents (affordable), based on the figures obtained for the 19 new units, varies between 4 and 7%, and equates to less than £10 per week, which does potentially reduce available income for re-investment by £10,000. That said the additional income generated for re-investment is illustrated below and further business planning can seek to balance income generation with affordability as that is reviewed in 2018/19.

The table below seeks to illustrate potential increased income from charging Affordable rent capped by LHA rent based on assumptions around numbers and property type.

	Average / Formula Rent	LHA	Affordable Rents	LHA - Formula Rent Diff per Week	Total for the year	20 Additional Units
1 Bed		98.48				
2 Bed	94.90	123.41	132.35	28.51	1,368.48	27,370
3 Bed	106.94	140.26	150.00	33.32	1,599.36	31,987
4 Bed	113.23	184.89	170.00	71.66	3,439.68	68,794

The second table illustrates potential income forgone by charging Affordable rent capped by LHA rent compared to Affordable rents at 80% of Market rent, based on assumptions around numbers and property type.

	Average / Formula Rent	LHA	Affordable Rents	Affordable Rent - LHA per week	Potential Income lost per unit per week	Potential Income lost per 20 unit
1 Bed		98.48				
2 Bed	94.90	123.41	132.35	8.94	8.94	8,582
3 Bed	106.94	140.26	150.00	9.74	9.74	9,350
4 Bed	113.23	184.89	170.00	0.00	0.00	0

It should be noted that in the example above as the LHA capped rent is greater than market rent for the 4 bed property no potential income is forgone.

The difference between social and affordable rents varies based on property type between £28 and £71pw as per the illustration above for the new build properties. As Housing benefit is payable, those claimants in receipt of maximum housing benefit will have their rent costs covered. However those not in receipt of housing benefits (either partial or wholly) may have a higher rent charge.

The illustration at Annex two shows that the typical affordable rent charge is between 73%-76% of market rent. Affordable rent will be capped at LHA rates unless 80% of market rent is less, in line with the Cabinet decision on the 24th November 2016. Currently the only property where LHA cap does not apply is the new build property at Bloomfield Way (1x4bed) where the LHA cap represents 87% of market value and therefore in this case (and it is proposed in similar cases) the cheaper rent applies – affordable rent.

As the HRA business planning assessment is undertaken affordability will be a key consideration as the Council can charge up to 80% of market rent noting the formula rent represents a charging floor. It is also confirmed that currently Housing benefits will pay up to 80% of market and this will be a future commercial consideration as there is opportunity to charge more.

Members should note affordable rents are subject to the requirement to reduce rents by 1% in each of the four years from 2016; should this reduction be changed this

would affect the rents going forward and will be built into the usual budget setting process.

Local Allowance Rates have been set for 5 years from 2015-2020 and should this be revised then this will affect the current calculations.

When tenancies are let on an affordable rent basis and relet then this will also trigger a reassessment and is likely to incur additional administrative costs which can be met from existing budgets whilst the numbers are relative modest; however this will be kept under review.

Costs of investment in the development of the Orchard Housing Management System, allowing for efficient management of affordable tenancies for the purposes of re-valuations and to assess income for re-investment is likely to up to a maximum of £10k. It is recommended that a financial waiver is sought to progress this development within Orchard and these costs can be met from existing budgets.

Legal & Risk Implications

Risk	Mitigation
<p>Tenants' dissatisfaction as those liable for affordable rent will see higher rental charge from those social renting.</p>	<p>Rent will be capped at the LHA rate and although it has been confirmed in the last week that housing benefit will pay social tenants up to affordable rent levels (if eligible) it is recommended that this is assessed as part of the wider HRA business plan vis affordability and how this is balanced with commerciality. Equally the exact details behind the LHA cap and the Governments clear intention and decision are not known in full so this avoids the potential for rent subsidy to be affected should the Government review its approach as part of the Autumn budget.</p> <p>The current proposal is that only those properties delivered with HCA grant conditions &/or those acquired using 1-4-1 RTB capital receipts will attract affordable rents. For 2017/18 this is likely to be less than 10% of the overall stock.</p> <p>As other commercial opportunities are progressed this could increase as decisions around social and affordable rent levels are not confirmed at this stage on those schemes.</p> <p>The Housing Revenue Account Business Plan update planned for April 2018 will consider future commercial opportunities</p>

	around affordable rent and will be cognisant of the Councils position vis maximising income.
Unable to let the properties due to affordability	The Councils Finding a Home lettings scheme is popular and given the LHA cap arrangements it is not a material risk. Elsewhere the Council is reviewing its allocations policy and consideration will be given to issues of affordability in relation to reviews of the suitability of offers.
Increase in rent arrears if tenants are not in receipt of welfare benefits	Robust action is in place to monitor rent accounts and offer support to tenants where appropriate
1% reduction over the next financial years could eventually result in affordable rent being lower than the LHA	The Rent setting policy (at annex one on point 4.25) does confirm that affordable rent will be no lower than the potential formula rent for the property. In cases where the affordable rent would be lower, then the formula rent will constitute a floor for the rent to be charged however this is extremely unlikely.
If tenants have to pay for service charges not covered by housing benefit then rent arrears could increase	Robust recovery mechanisms are in place to monitor rent accounts and offer support to tenants if appropriate
The government makes changes to the LHA allowance	Staff are regularly updated on Government changes to Housing and will plan for any changes

Matters for Consideration

Rent Setting Context

Charting the history of rent setting - in 2002 the Labour Government introduced a rent convergence policy under which, over a ten year period, rents in social housing (local authority and housing association owned stock) were to be brought into alignment.⁴

A rent formula was established with actual rents moving towards a national formula rent which took account of values of properties and local earnings relative to national earnings. A 'bedroom weighting' factor was also applied to try and ensure the resulting rents better reflected the perceived value of the properties. These formula rents were increased each year by the Retail Prices Index (RPI) + 0.5%.

The Coalition Government continued this rent setting process with (initially) a revised target convergence date for local authorities of 2015-16, subject to a maximum annual rent rise for an individual tenant of RPI + 0.5% + £2 per week.

⁴ <http://researchbriefings.files.parliament.uk/documents/SN01090/SN01090.pdf>

As part of the 2013 Spending Round the Coalition Government announced that “from 2015-16 social rents will rise by CPI plus 1% each year for 10 years.” Following this announcement, DCLG sent a letter to housing bodies on 2 July 2013 in which plans to cut short the policy of converging council and housing association rents were revealed. Social landlords whose average rents had not yet reached target levels were concerned about the implications for their ability to repay debt and invest in new and existing social housing stock, but the certainty delivered by a 10-year rent settlement was welcomed.

The Draft Guidance on Rents for social housing from 2015 to 2016 consultation was published in October 2013 with a summary of responses published in May 2014. At the same time, the Government published its policy on rents for local authority owned social housing from April 2015 onwards - Guidance on rents for social housing. The guidance confirmed the intention to proceed with its policy of ending rent convergence in April 2015, and that CPI plus 1% would form the basis of rent increases for the next ten years.

Arrangements for the 10 year settlement ended on 8 July 2015 (Summer Budget 2015) when the Chancellor announced that rents in social housing would be reduced by 1% a year for four years resulting in a 12% reduction in average rents by 2020-21. The measure was forecast to save the treasury £1.4 billion by 2020-21, primarily in reduced Housing Benefit expenditure. Around 1.2 million tenants not in receipt of Housing Benefit in the social rented sector were expected to benefit by £700 per year (current prices).

The Office for Budget Responsibility (OBR) predicted an overall reduction in housing investment as a result of the rent reduction policy. The measure has been implemented through provisions contained in the Welfare Reform and Work Act 2016.

New and Affordable Housing Delivery

In line with previously agreed development proposals the first four 2 bedroom houses in Kirtley, Glascoate were successfully let on the 13th October 2017. Using the principles in the policy all 4 properties were let on affordable rents (capped at LHA rates) as affordable rent levels were higher (as per annex two).

The remaining 15 properties are anticipated to be available before Christmas and will be let at the rent levels in the attached annex two.

Next Steps

The Rent Setting Policy 2017 will be kept under review and as Government and regulatory changes arise with regard to rent setting these will be reported to the Portfolio Holder of Housing. A review of the Housing Revenue Account Business Plan is on the Council's forward plan for April 2018 and this will review all available commercial opportunities in line with the Council's ambitions and strategic priorities.

The Housing White Paper, *Fixing our broken housing market*, (February 2017), includes a commitment to develop a rent policy for social landlords beyond 2020. Progress of this will be monitored and reflected in the medium term financial strategy which details opportunities and risks around budget setting.

Author: Tina Mustafa Head of Landlord Services & Sue Philp ext. 467

Background papers

Appendices:

Annex One Rent Setting Policy

Annex Two – Rent illustrations on New Build

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