



Department for
Communities and
Local Government

High Income Social Tenants

Pay to Stay Consultation Paper: Summary of Responses

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Contents

Section 1: Introduction	3
Section 2: Summary of responses	4
Section 3: Responses to questions	5
Section 4: Next steps	24
Annex A: Updated estimates of high income social tenants	25

Section 1

Introduction

- 1.1 On 13 June 2012, the Government published a consultation paper setting out proposals to charge higher rents to social tenant households on high incomes.
- 1.2 The consultation sought views on a number of issues, particularly around the practical details of how the proposal might be delivered. These issues included: the overall case for reform; approaches to delivering reform, including whether the policy should be voluntary or compulsory for social landlords; the process for disclosure of income by tenants; the income threshold above which tenants might be expected to pay a higher rent; the levels of rent to be set; applying the policy to existing and new tenants and responding to changed circumstances; administration implications and costs; protection for tenants; the use of additional rental income; and the treatment of historic grant.
- 1.3 The consultation process closed on 12 September 2012.
- 1.4 We have considered all of the responses which we received. Section 3 of this document summarises the responses.
- 1.5 We are grateful to organisations and individuals who took the time to respond to the consultation.
- 1.6 Copies of this document are available from the Department for Communities and Local Government website at <https://www.gov.uk/government/organisations/department-for-communities-and-local-government>
- 1.7 Enquiries about the document should be addressed to: kara.kashemsanta@communities.gsi.gov.uk

Section 2

Summary of responses

2.1 155 responses were received from local authorities, arms length management organisations, private registered providers of social housing, representative bodies, tenant and resident organisations, voluntary organisations, other organisations with an interest in social housing, councillors and individuals. Over a third of responses were from local authorities and arms length management organisations and over a fifth were from private registered providers. The table below sets out the breakdown of the origin of responses.

Responses by type of respondent

Type of respondent	Number of responses
Local Authority landlords	49
Non-stock holding Local Authorities	4
Private Registered Providers	35
Arms Length Management Organisations	1
Local Authority and Arms Length Management Organisations - joint responses	6
Sector Representative Bodies	5
Co-operative Landlords	1
Private Landlords	1
Tenant Representative Bodies	9
Other organisations	11
Individuals	33
Total responses	155

Section 3

Responses to questions

The case for reform

Question 1: Do you agree with the principle that very high earners living in social housing should pay higher than social rents?

- 3.1 Around a quarter of respondents agreed with the principle that very high earners living in taxpayer-subsidised social housing should pay higher rents and were supportive of the proposal, while around one-third said that they agreed in principle but had some practical concerns. Over a third were opposed. Over a quarter of local authority respondents and a small percentage of private registered provider respondents supported the proposal without raising issues, while a significant proportion of social landlords said they agreed in principle but had some concerns about the practical details of the proposal. About a third of social landlords were opposed.
- 3.2 Those who supported the proposal broadly did so because they thought it was not right that social tenants with high incomes who could afford housing on the open market should continue to receive a rental subsidy. They agreed with the suggestion that tenants in question should contribute more in rent if they wanted to stay in their social homes.

“We agree that high earners living in social housing should pay higher rents than non high earners. Social housing is intended to be a resource for the most vulnerable in society, not for those who are able to access housing through the open market.” (A voluntary organisation)

*“Publicly subsidised social housing can be regarded as a form of welfare benefit, essentially to provide accommodation for those who are unable to meet their housing needs in the market. Given that the majority of welfare benefits are means-tested, the principle should arguably be also applied to social housing.”
(A local authority)*

- 3.3 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.

“...it is unlikely that many of our tenants would have an income above the suggested threshold, even if the lower option is adopted; the costs of implementation would therefore be likely to outweigh any benefits.” (A private registered provider)

3.4 Some also thought that the policy might create disincentives to work, as tenants may choose not to increase their working hours or take up a better job to avoid paying more rent. It was also felt that the policy might have an impact on mixed and sustainable communities and that those in work on good incomes were good role models and contributed positively to their communities, and should not be penalised for their success or made ‘unwelcome’.

“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.” (A local authority)

3.5 Others felt that the rent for a property should reflect the conditions and characteristics of the property as well as the market (property values, economic conditions, services provided, and so on), rather than tenants’ income.

3.6 While a third of respondents agreed in principle that high income tenants should pay higher rent, they expressed a number of concerns similar to those opposed, outlined above. These issues are discussed in more details under the relevant sections below.

“In principle we believe that although high earners living in social housing should pay higher than social rents, there are a number of factors that need to be taken into consideration.” (A private registered provider)

Delivering reform

3.7 The consultation suggested slightly different approaches in the short term for local authorities and private registered providers.

3.8 For local authorities, it proposed that we issued supplementary rent guidance setting out a framework for authorities to charge social tenants on high incomes a higher rent. The outlined intention was for this approach to enable councils to choose to implement the policy according to their circumstances, and to support them if they wanted to increase rents for high income tenants.

3.9 Private registered providers are subject to regulatory controls on the level of rent they may charge and maximum annual rent increases. In order to allow them to charge higher rents to high income households, the Secretary of State would need to direct the social housing regulator to amend its standard on rent, subject to statutory consultation.

Question 2: Do you agree that this approach would be the best way of delivering additional flexibility for local authorities and private registered providers?

3.10 Similar proportions of respondents agreed and disagreed with the suggested approach, though a higher percentage of local authorities were in favour than private registered providers.

3.11 Those who agreed thought that, in the context of Housing Revenue Account reform, this policy could be a useful tool for local authorities to maximise resources for re-investment in their housing stock. However, they also thought that the guidance needed to be sufficiently (and potentially more) robust.

3.12 Principal concerns were around the administrative burdens and the uncertainty of projected rental income. Some felt that it would be more complicated for private registered providers to increase rents under existing tenancy conditions, which meant implementation would take more time and could result in inconsistencies across the country. Some landlords suggested they were already proposing to take action to better ensure that taxpayer-subsidised social housing for rent is occupied by those in need, including through making use of the flexibilities provided by fixed-term tenure and (for local authorities) their tenancy strategies and allocations policies; and through offering incentives to those tenants who could afford to do so to take up low cost home ownership opportunities.

Question 3: What are your views on the guidance at Annex A?

3.13 Around a quarter of respondents thought that the guidance was reasonable or good, while a similar proportion thought it was not. Over a third of local authorities and a small number of private registered providers thought the guidance was reasonable. Others felt that more clarity was needed on the practicalities of how the policy could be implemented, particularly the steps to be taken to require tenants to disclose their incomes and the relevant definitions (for example, of 'household' and 'reasonable rents').

3.14 The majority of respondents felt that for the scheme to work effectively and transparently, primary legislation requiring the disclosure of household income data - and a supporting mechanism for getting such data would be necessary.

Question 4: Do you think that landlords should be required to charge high income households a higher rent?

3.15 There was a consensus, particularly among social landlords, that the policy should be voluntary for landlords to implement. The main rationales given were that mandating would be anti-localist and that providers should have the

flexibility to decide, in consultation with their tenants and partners, whether implementing the policy would be practical and beneficial for them.

“In line with the principles of Localism we would consider that the decision [...] should be taken locally. This would enable a consideration of local circumstances, such as market forces, to be undertaken.” (Joint response from a local authority and an arms length management organisation)

3.16 Those who thought all landlords should be required to implement the policy felt that it would help to ensure a consistent and fair approach across the country, and would mitigate any risk of possible migration away from areas that choose to charge higher rents to neighbouring areas which do not, thus putting further pressure on demand in those neighbouring areas. Some of those in favour of a mandatory approach suggested different thresholds and rent levels could be applied locally, reflecting differences in local housing market conditions.

“To ensure consistency and fairness we believe that landlords should be required to charge high income households a higher rent. However, landlords should be given the flexibility to decide what that level should be.” (A private registered provider)

The income threshold

Question 5: Do you consider that £60,000, £80,000 or £100,000 would be an appropriate threshold, avoiding the impacts referred to and above?

3.17 About a third of respondents thought that the threshold of £60,000 was appropriate. A smaller proportion thought that £80,000 should be the minimum, while the least favoured was £100,000. Social landlords largely preferred £60,000. There were also views that the threshold could be lower than £60,000, though not a consensus in favour of lowering the threshold.

3.18 A significant number of respondents felt that the threshold should be more nuanced than a single figure, and take into account factors such as local affordability, average earnings and household and property size. Other suggestions included a threshold linked to national average income (double or 2.5 times), or the average upper quartile of local earnings, or landlords being able to set local thresholds for their stock, subject to set parameters.

“Since rent levels, house prices, private rents and incomes vary so much across the country, suggest a more local index or proportion would be sensible.” (A representative body)

“The principle for where the threshold should be drawn should be based on the ability of the household to move into market housing.” (A local authority)

3.19 Those who favoured the threshold of **£60,000** suggested it was reasonable and consistent with other Government policies involving income thresholds, such as access to affordable home ownership (although it was noted that the threshold may need to be adjusted to £74,000 for London, to align with London schemes) and the child benefit “cap”.

“Generally, the proposed income levels seem appropriate and are in line with other Government policies, including the cut off point for affordable housing and Child Benefit levels. However, it would be more meaningful to vary the income thresholds by area, for example the cost of living is considerably higher in London.” (A local authority)

“Any threshold should be based on existing thresholds for accessing affordable home ownership on a regional basis to ensure consistency and transparency.” (A local authority)

3.20 Those who preferred the higher thresholds of **£80,000** and **£100,000** thought that the £60,000 threshold might be too low for households of large families or in atypical circumstances or in high demand areas. It was also felt that higher thresholds would help to ensure tenants were not disincentivised from improving their circumstances.

“Although a £80,000 threshold appears to be a high income for one individual, this may not be true for a family with a large number of children and dependants. We believe setting the threshold level too low could discourage family members living in social housing from bettering themselves.” (A local authority)

3.21 Some felt payments received to fund care should be excluded from income, and that costs, such as those for childcare and support for adult social care, should also be taken into account.

Question 6: Could levels below £60,000 be considered without disadvantaging other households on low incomes or the vulnerable?

Where should the line be drawn?

Question 7: At what level do you think the income threshold could start impacting on welfare or affecting work incentives?

3.22 Under a quarter of respondents, including a third of local authorities and a fifth of private registered providers, thought that levels below £60,000 could be considered. Over a third, including around half of social landlords, thought it would not be appropriate. A small percentage thought that it could be considered, depending on the local area (for example, that it might be more appropriate where rental values are low). Those who disagreed thought that if the threshold was below £60,000 it could act as a disincentive to work, particularly for larger households and in high demand areas such as London.

3.23 There was no consensus on the level of threshold that could start impacting on welfare or affecting work incentives, with views expressed ranging from £26,000 for a single household to £74,000 in London. A large number of respondents felt it would be difficult to determine the impact on work incentives and that this would depend mainly on (and vary by) household size, individual circumstances and location. A small proportion of respondents thought that any level of threshold would affect welfare or work incentives. There were also views that no more than 30% of a household's income should go on housing costs; otherwise, it could start to impact detrimentally on the household's budget.

3.24 A number of respondents suggested that tapers should be applied to limit the impact on work incentives, although it was acknowledged that these would be complex to operate.

“There is a danger that families will ‘fall off the cliff’ if they exceed the given threshold without a taper being in place.” (A private registered provider)

“£60,000 would be a reasonable starting point and if landlords could scale up the rent charge progressively by income band (£60,000, then £80,000, and finally £100,000) this might mitigate the incentive to cut working hours.” (A private registered provider)

“If this was to be implemented then a sliding scale of rent charge would be more appropriate and avoid anyone seeking to keep their income below a certain level to avoid a rent increase. However – this would introduce more complex bureaucracy...” (A local authority)

Question 8: Should the policy apply only to those whose names are on the tenancy agreement?

3.25 Over a quarter of respondents thought the policy should apply only to those whose names are on the tenancy agreement or the two heads of household (a tenant and their partner if not on a joint tenancy), while over a third thought it should apply to the whole household. Private registered providers' views were split between the two, while more local authorities thought it should apply to the whole household.

3.26 Respondents' reasons for applying the policy only to those named on the tenancy agreement were that they have legal responsibility for paying rent, and it would be difficult to keep track of other household members and verify their incomes. They also thought that applying the policy to the whole household could have negative impacts on large families or multi-person households (for example, it could act as a disincentive for some members to work, or reduce the ability of non-dependents to save and provide for their own housing). However, it was suggested that there should be a mechanism in place to prevent tenants from transferring the tenancy to the lower earner.

“.. it should apply to the person whose name is on the tenancy agreement plus their spouse, partner or other head of the household. For practical reasons relating to the disclosure of income it should not apply to other members such as children, grand parents or other relatives.” (A private registered provider)

3.27 It was thought that, where a household was providing care for another family member (for example, an elderly parent who may have significant savings or assets, or for a disabled adult child), discretion should be allowed to avoid potential hardship. Respondents also thought that lodgers should be excluded.

3.28 Respondents who thought that the policy should apply to the whole household felt it would otherwise be inconsistent with assessment of housing benefit, where the whole household income is taken into account.

“We think it would be unfair if it only applied to those on the tenancy agreement. Household income is taken into account when assessing housing benefit and therefore it would be perverse if this were not the case when considering if rent should be increased. However there may be social consequences for this approach, particularly for large families and multi-household homes.” (A local authority)

Question 9: Should income other than pay be included in the threshold amount, such as Lottery windfalls or inheritances?

3.29 There was no strong consensus in responses as to whether the threshold should also take account of income other than pay, particularly assets and savings. A number of respondents suggested that assessment should be in line with how benefit entitlement is assessed, where inheritance, windfalls and savings are taken into account; although it was also accepted that relatively modest windfalls or inheritances may have only a short to medium term impact on a household's ability to pay higher rents. A number of social landlords also suggested that it would be difficult for landlords to obtain and verify information on types of “incomes” that were not earnings.

“Capital is included in the calculation of Housing Benefit so that should by the same logic be included in this calculation.” (An individual tenant)

“It would seem reasonable that other forms of income such as inheritance or significant lottery windfalls are considered in a similar way as they are for eligibility for welfare benefits. However, [...] a mechanism for checking and verifying income for all tenants would be required. (A private registered provider)

Question 10: Should certain groups be exempted from higher rents, such as disabled people, or pensioners? If so, please set out your reasoning.

3.30 Whilst more respondents thought that Government shouldn't introduce blanket exemptions from the policy for groups such as pensioners than thought we should, many of those against blanket exemptions nevertheless thought landlords should instead have discretion to decide and take into account factors such as care costs or whether the tenant received care support payments.

3.31 Groups that respondents thought should be exempted were disabled people (10%), pensioners (6%) and those in supported accommodation (4%).

"We recognise that disabled people and pensioners are more likely to incur higher living expenses such as heating and care costs. [...] this should be taken into account through disposable income levels. However, as a principle, we do not believe that any group should be automatically exempt." (A private registered provider)

"People living in adapted property and those in receipt of care or support ought to be assessed separately to ensure that care costs are properly considered." (A private registered provider)

How high should rents for high income social tenants be set?

3.32 We proposed in the consultation that landlords should increase rent for high income tenants to affordable rent (up to 80% of market rents) as an interim measure before the introduction of full market rent.

Question 11: Do you agree that landlords should be able to charge 80% of market rates to high income households which meet the proposed criteria; that is, an individual or two individuals with a high joint income?

Question 12: Would allowing a landlord to charge full market rents be appropriate in your area in your view?

3.33 Over two-thirds of respondents who answered this question, including over half of social landlords, thought that social landlords should be able to charge affordable rent to high income tenants as an interim measure.

3.34 A smaller proportion of respondents were supportive of charging market rent, with just under half of social landlords in favour.

"Allowing landlords to charge 80% of market rents to high income households in the first instance seems a sensible way to implement this policy. This would effectively turn social rent homes into affordable rent homes for households on a high income, a principle which has already been established under the current affordable homes programme." (A sector representative body)

3.35 Many social landlords thought that there should be local flexibility on rent setting, in part to enable the use of tapers in areas where the difference between social rent and market rent is significant. Some landlords also said that they would like the flexibility to introduce the rent increase through a graduated process.

“..It may be appropriate to consider the ability to charge between 80% and 100% of market rate and employ a sliding scale relating to the income of the tenant or resident to determine the charge.” (Joint response from a local authority and arms length management organisation)

3.36 Some thought the levels of rent should depend on the threshold; and that if (for example) the threshold was set at £100,000, full market rent should be charged. There were suggestions that using the Local Housing Allowance would be more appropriate than market rents as (some argued) it provides an objective, robust benchmark that takes account of defined housing market areas.

3.37 Those who disagreed with charging market rent commented that, in areas where market rents are significantly higher than social rents, it could be unaffordable even for high income households. Some landlords indicated that (if the option was open to them) they would choose to use a local definition of affordability. For example, for London, it was suggested that rents there should be set in line with average Affordable Rents.

“In developing our Tenancy Strategy, we took the view that local market rents are frequently above what would be affordable on an average borough household income. We would use our local definition of affordability, if we were required to introduce a Pay to Stay scheme.” (A local authority)

3.38 In addition, many social providers suggested that charging market rents would have implications for their charitable status and organisational objectives. It was also suggested that the treatment of historic grant (i.e. at what stage repayment occurs) would be a critical factor in charging full market rent.

3.39 Some respondents suggested that rents needed to reflect the locality and physical nature of the property fairly.

3.40 There were also views that increasing rent in two steps could be confusing and that landlords should either charge 80% of market rent or full market rent in one step, or the Government would need to provide clarity on the length of any transition period.

3.41 It was suggested that considerable notice should be given to tenants in advance of the rent increase to allow them time to move to other accommodation if they so wished.

Question 13: Are there any practical barriers to charging full market rents?

3.42 Respondents mentioned a number of practical barriers to charging full market rents. One frequently mentioned was around assessing market rents for different properties and whether this should be agreed between private registered providers and local authorities within local areas. Some suggested that there should be Government benchmarks for local authority areas. Respondents thought that an annual valuation would incur additional costs, and the assessments of 'market rents' might also be opposed by tenants.

"[Barriers are] transparency issues around the determination of an appropriate local market rent, and appeals/challenges to determinations." (A local authority)

3.43 A large number of respondents thought that amending existing tenancy agreements which currently specify conditions for rent increase to charge higher rent than specified would not be possible under the current regulatory framework; could be considered 'unfair' under the Unfair Terms in Consumer Contracts Regulations; and that a consultation with tenants would be required prior to any change to tenancy agreements.

"Pre-existing tenancy agreements dictating the method for increasing rents will act as a barrier to charging full market rents to higher income tenants. To change this we would need to consult with the tenants..." (A private registered provider)

3.44 Other potential technical barriers mentioned were: the implications for social landlord's charitable status and organisational objectives (constitutional rules); rent guarantees that were a condition of large scale voluntary transfers; rent controls under Section 106 agreements; and existing funding and lending covenants.

3.45 Respondents also raised the issue of the implications of converting grant-funded social rented properties to market rent, in terms of requirements to recycle grant, given the potential for properties to revert back to social rent in future.

3.46 Some respondents highlighted the increased uncertainty of income streams if rents vary as tenants' circumstances change.

3.47 Other 'barriers' mentioned were: the administrative burdens in identifying high income tenants; the difficulty in obtaining and verifying information about tenants' incomes; and a potential increase in benefit claims.

Question 14: If the power to charge a higher rent was optional for landlords, would you be likely to make use of it?

3.48 Around a quarter of social landlord respondents said they would charge higher rent if this was optional, while just under half said they would not. Some social landlords said that they would consider it if rent increases were on a sliding scale, while many said that they would only implement the policy where their assessment showed that the additional income would outweigh the costs.

“We support rent increases in our draft tenancy strategy for flexible tenancies and are likely to use it for all tenancies” (A local authority)

“We would only consider charging higher rents if the practicalities of requiring income disclosure were administratively straightforward and it proved economically sound to recover the higher rent, in other words if the income received exceeded the collection costs.” (A private registered provider)

Disclosure of income

Question 15: Your views are invited on how we could best enable landlords to set higher rents to high income households in advance of any legislation.

3.49 Many respondents said it would be difficult to implement the policy fairly and transparently without the means to verify the tenant’s income, through legislation requiring tenants to disclose their incomes or allowing data sharing with existing systems such as those used by HM Revenue and Customs. Some thought that any legislation should be accompanied by guidance to ensure clarity and consistency.

“Legislation is needed to enable flexibility in rent setting and also to enable landlords to gather income information. However the process of monitoring and verification with external agencies needs to be addressed.” (A private registered provider)

3.50 Most private registered providers thought that legislation changes and consultation with tenants would be required to enable them to vary existing tenancy agreements to include conditions to charge higher rent based on incomes. However, it was noted that the process would be considerably simpler for new tenants.

3.51 For local authorities, there were some views that there was already flexibility for them to charge higher rents, as long as this was considered ‘reasonable’. It was further suggested that they could include conditions and requirements as to income disclosure as part of allocations. However, there would still be difficulties in identifying high income tenants.

“Local authorities have existing statutory powers to charge reasonable rents but the difficulty would be establishing which tenants qualify to pay the higher level of rent.” (A local authority)

3.52 Respondents also suggested that increasing rents in advance of formal legislation may result in growing levels of arrears and clarification would be needed as to the legal position of landlords seeking to pursue arrears through courts prior to the legislation being enacted.

Question 16: We would also welcome your views on the practicalities of requiring income disclosure; specifically, what kind of mechanism would be needed and how this would best work?

3.53 A third of respondents thought it would be preferable to obtain information from existing systems, potentially those operated by HM Revenue and Customs, or require information from banks and building societies. Some respondents suggested that methods and mechanisms for collecting income data were already being considered and evaluated by some landlords in response to the Government's welfare reform proposals. It was suggested that there could be issues around data protection which would need to be considered before implementation.

3.54 Other respondents suggested tenancy agreements would need to be amended to include requirements for tenants to provide income information on a regular basis. Another approach proposed was for tenants to be obliged to inform landlords when their income reaches the threshold, with penalties for those who failed to do so or gave false information. This process would also require verification of information.

"Potentially, a mechanism that built a requirement for disclosure into tenancy agreements could provide the basis for information requests [...]. Other mechanisms, for example, data sharing with Inland Revenue, might be technically possible but would have both resource and data protection implications." (A local authority)

3.55 A large number of respondents thought that requiring landlords to collect and verify tenant income information would have significant resource implications and require changes to existing processes and IT systems; and could lead to additional work around fraud investigation and general compliance. There were also concerns that the policy may affect the relationship between landlords and tenants.

3.56 However, it was also thought that there may be difficulties with matching property data with centrally-held tax data on individuals.

3.57 For new tenants, it was suggested that disclosure of income should be required at the point of application, with verification at sign-up. The agreed rent and conditions for rent increases relating to income changes could then be set out in tenancy agreements.

Question 17: Do you already hold or have access to information about tenants' income levels that could be used to support a 'pay to stay' approach?

3.58 The majority of social landlords (around two-thirds) said that they did not hold or have access to information on tenants' incomes other than for those receiving housing benefits, while just under a quarter said they only had limited information and only a very small number said that they held or had access to tenants' income information.

3.59 The sources of information referred to were new tenants' applications and Continuous Recording of Property & Lettings logs, and customer profiling exercises. However, the information was generally supplied on a voluntary basis and was neither comprehensive nor robust. Some landlords stated that they will be collecting this information as part of flexible tenancy reviews in the near future.

Question 18: Would you be likely to make use of any new statutory powers to require tenants to disclose their income?

3.60 Over a third of social landlord respondents answered yes to this question. Of those who answered yes, many said that they would also be inclined to use the information for other purposes, for example, as part of their new allocations policy or to tailor services to customers' needs (i.e. for broader management purposes). Some stated that they would use the information to offer a wider range of housing options for higher income households.

"Yes, but in the context of transparent policy and procedures for enabling challenge and appeals. We would also use the information as a lever to offer a wider range of housing options for higher income households to consider and access." (A private registered provider)

3.61 A large number of those who said 'no' thought that the number of high income tenants in their areas would be too low and the administrative burdens and costs would outweigh the benefits.

Question 19: Should the income year be the tax year, the calendar year or a rolling year? Do you see difficulties with adjusting a tenant's rent based on a previous year?

3.62 The most frequently mentioned response was tax year (38%), followed by rolling year (10%) then the current year (5%).

3.63 The main reason proposed for the tax year was the comparable ease of obtaining standardised information in the form of statutory tax documentation such as P60s, statutory accounts, self-assessment tax returns, and so on.

However, there were concerns that adjusting rents based on a tenant's previous year's income could be problematic for those who are self-employed and those who do not have a steady income stream, or those whose income is at risk of varying substantially due to changes in their circumstances and work conditions, as they may be less likely to have the same level of income in the current year.

- 3.64 Those who opted for the rolling year thought that it would be easier to administer and would provide a fairer reflection of a tenant's income.
- 3.65 Some respondents suggested that rents should be based on current income in the same way that housing benefit is assessed, as (they thought) it would provide a fairer reflection of income and take account of changing circumstances. It was acknowledged, however, that this approach may be more complex to administer.

Applying the policy to existing and new tenants

Question 20: What practical issues do you see in charging existing high income tenants a higher rent?

- 3.66 Respondents mentioned issues similar to those for questions ten and eleven. The issue most frequently identified was the administrative burdens and costs involved in collecting and verifying tenants' income information.

Moves and income changes

Question 21: How quickly could local authority and housing association rent processes respond to changed tenant circumstances? What issues might arise?

- 3.67 In terms of potential income changes and which tenants to assess, there were differing views between limiting rent reviews to known high earners or tenants within a percentage parameter of the income threshold, and reviewing all other tenants on a five year basis (or as part of a tenancy review if on a fixed term tenancy), and carrying out reviews for all tenants regularly to ensure consistency.
- 3.68 A large number of respondents felt that all tenants not receiving housing benefit should be regularly checked although many did not specify how regularly this should be. A significant proportion thought that an annual review would be sufficient as a more frequent update would require significant resources to administer. Some landlords also noted that currently their tenancy agreements only allow for annual rent reviews.

“It would be necessary to seek regular updates if the system is to operate accurately and equitably.” (A local authority)

“A power or requirement for the individual tenant or applicant to provide and maintain the information as up to date would be a beneficial step.” (A local authority)

3.69 Over half of respondents who replied to this question thought that the income assessment process needed to be responsive enough to enable landlords to respond quickly to changes in tenants’ financial circumstances, notably where income fell below the threshold, to avoid causing financial hardship to tenants. It was thought reasonable to expect tenants to inform landlords if their income dropped during the rent year, so that their rent could be adjusted down in line, though others suggested that the rent should remain constant if the shortfall could be met by housing benefit.

“A quick response would be necessary to avoid under and over-charging and potential appeals” (A local authority)

“In theory, the Housing Association could respond quite quickly if informed of the changes by the tenants themselves.” (A private registered provider)

3.70 It was noted that flexible tenancies now allow providers to review the circumstances of some of their tenants, including how their income might have changed.

Tenant protections

Question 22: Is an internal appeal or complaint process the best way of allowing tenants to appeal against decisions to put them onto a higher rent? Are there existing appeal or complaint mechanisms within your structures that could be adapted for this purpose?

3.71 Under half of respondents (though around two-thirds of social landlords) thought that an existing internal appeal or complaints process would be sufficient or could be adapted to deal appropriately with appeals against higher rent decisions. It was suggested that those who would deal with such appeals would need to be separate from those determining the rent levels. Among these respondents, a small number thought that a separate framework for dealing with appeals on rent decisions or a clear set of guidelines and principles that underpin the policy would be helpful.

3.72 14% of respondents thought that a separate mechanism or an independent review process may be needed. There were also views that a national body could have the role of ensuring that landlords are adhering to the principles set out in the policy and to any criteria set out in guidance, and dealing with complaints or appeals from tenants.

Question 23: Should there be a uniform set of rules across the social housing sector on how any appeals should be handled? If so, who should make these rules?

3.73 Two-thirds of respondents thought that there should be a uniform set of rules across the sector. Of these, 12% thought that the Government should provide additional guidance on how appeals should be handled. However, the views were split between having a standardised appeal process and clear guidance set out by the Government, and having guidance under the regulatory framework but allowing local flexibility on how the process is carried out.

“Our view is that there should be a uniform and consistent approach, [...] this is best dealt with by government setting out the policy framework and standards that registered landlords would have to follow if they choose to implement a ‘pay to stay’ policy.” (A private registered provider)

“For Registered Providers, the Regulator should provide guidance and DCLG should do so for local authorities, although this should be general and allow for local flexibility.” (A local authority)

3.74 A third of those who responded thought that there should not be a uniform set of rules because social landlords already have comprehensive complaints and appeals procedures in place that can easily be adapted to cover appeals locally. However, it was suggested that for transparency all social landlords should be required to publish their rent setting policy and have a fair and transparent appeals process.

“The Council does not believe central Government should provide a uniform set of rules across the social housing sector on how appeals should be handled but instead should require all social landlords to produce a fair and transparent appeals process for their organisations.” (A local authority)

3.75 There were also a small number of respondents who felt that the process should be dealt with by an independent external body, such as the Rent Assessment Committees, Valuation Office Agency, Land Tribunal, Independent Housing Ombudsman or Leasehold Valuation Tribunal service.

Administrative implications and costs

Question 24: What is your view of the administrative costs that might be incurred in implementing these proposals? What opportunities do you see for minimising additional costs?

3.76 The principal concern about the policy, expressed frequently, was that the administrative burdens and costs to landlords in implementing it would be high, particularly in obtaining and assessing income information and amending

tenancy agreements. 62% of respondents thought that the administrative costs would be high and 15% of these expected that they would be higher than the income the policy may generate, therefore making (they argued) optional implementation for landlords more preferable. Some respondents felt it was not possible to estimate costs at this stage.

3.77 Respondents thought that implementation costs would also arise from: calculating the rent level of a property; staff training and guidance; amendments to IT systems, rent accounts and management processes; carrying out a formal consultation process with tenants; sending out rent statement letters, dealing with non-compliance, rent arrears and any fraud investigation; and appeals and potential implications for void turn-around times.

3.78 It was suggested that costs could be minimised by requiring tenants to provide proof of income annually, or making the most of existing systems (for example those used by HM Revenue and Customs and/or the Department for Work and Pensions) to obtain income information that could be passed to social landlords taking part in the scheme. Respondents suggested that some cost modelling across a range of social housing providers should be carried out to develop the policy further. It was also suggested that financial assistance from the Government to support administration and upgrading IT systems would be helpful.

Question 25: Do you have any comments about the regulatory implications of giving private registered providers these additional flexibilities?

3.79 The most frequently identified implication was the need to amend the existing Rent Standard in the social housing regulatory framework to enable private registered providers to charge higher rents. Also, for tenants who are within the 'fair rents' regime, it was suggested a change in legislation would be required.

3.80 Some respondents suggested the policy and processes should be clearly defined within primary legislation or the regulatory framework to ensure a consistent, transparent and fair approach nationally. Issues proposed as needing defining included whether the appeals process would be classified within the economic standards or consumer standards, and whether there would be any restriction on how additional rental income should be spent. Some respondents also thought that the policy should be robustly regulated to help ensure compliance.

"We believe that the regulatory expectations will need to be clearly outlined in revised Rent Standard guidance." (A private registered provider)

"There would need to be some regulation and monitoring of how this proposal is being delivered and any issues identified within a local area" (A local authority)

3.81 Some private registered providers thought that additional flexibilities would mean more complex rent structures, with implications for business planning and social objectives and greater inconsistency between providers.

3.82 Some respondents argued that imposing duties on private registered providers to obtain and monitor information on tenant's incomes could have implications for data protection and privacy, particularly as the intention was to apply the policy retrospectively to existing tenants.

Use of increased rental income

Question 26: How should additional income generated by this policy be used?

3.83 Around half of respondents thought additional rental income should be reinvested in social housing, either improving existing stock or providing additional affordable housing within the local area, while just under a fifth thought that it should be treated as normal rental income where individual providers decide how the money should be spent. Many respondents emphasised that the Government should ensure that any income gained should be used to offset the costs of administering the scheme in the first instance.

"The landlord should be able to retain 100% of the additional rent collected. It should be used to build new social housing and improve the existing stock." (A tenants representative body)

"Additional income should be retained by the relevant social housing landlord. For local authorities, additional income generated should be treated the same as other rental income and paid into the Housing Revenue Account for reinvestment as per the Business Plan." (A local authority)

3.84 It was also suggested that social landlords in a local area could pool additional rental income into a local fund for affordable housing for the area. Other suggestions included reinvesting in service improvement, supporting vulnerable people and local communities, or supplementing discretionary housing payments and providing additional support for those on lower incomes.

3.85 However, there were also views that the extra income would be minimal and that, as there may be no certainty that the property would continue to be designated as a higher rent property (as tenants' circumstances might change), the gain might only be available to fund short term projects; and that any prescription of the use of this additional income may therefore not be appropriate.

Treatment of historic grant

Question 27: What are the practical implications of requiring grant reinvestment / recovery when a property moves to a higher rent (or reverts back to social rent)?

- 3.86 Under the current regulatory framework, historic grant would need to be recycled if rent on a property was increased to market rent. However, most social landlords argued for retaining grant in properties because they thought that recycling would add complexity and increase administrative burdens, both for landlords and the Regulator, and additional rental income may not cover the amount of grant to be repaid for a significant period of time. There were also concerns about the implications if the property later reverted back to social rent because tenants moved out or their income dropped.
- 3.87 One approach suggested was to keep the property at higher rent in perpetuity, but it was thought that this could increase providers' risk profile and would reduce (in marginal terms) the social rented stock.
- 3.88 Some suggested that, instead of paying back grant, landlords should be able to seek approval from the body responsible for grant to retain it in the property, subject to investing additional income generated into new supply, as in the case of converting to affordable rent from social rent.

"We believe it is unrealistic to reinvest or recover grant on properties under a 'pay to stay' scheme, [...] it would suffice to require organisations to directly reinvest any additional income generated into the provision of new affordable housing to meet local housing need." (A private registered provider)

Other issues

Question 28: Are there any other issues you wish to raise?

- 3.89 A number of respondents made additional comments in response to this question, but the principal issues raised have been covered in sections on previous questions. Issues frequently mentioned here were the potential impact on mixed communities; the potential disincentives to work and aspiration; that the practical implications should be fully considered before implementing the policy; and the increase in Right to Buy take up (which was perceived as a negative by many landlords).
- 3.90 Other issues mentioned were:
- The implications of the policy for consortia of private registered providers, within which all parties would be required to adopt a common policy.
 - That the Government should consider other innovative approaches to encourage or incentivise high income tenants to take up alternative accommodation, such as making interest free loans for deposits to buy a new home, or for local authorities to provide housing options advice to these tenants.

Section 4

Next steps

- 4.1 We are keen to ensure that best use is made of social housing, and that those tenants with high incomes, who can afford to pay a fairer level of rent, do so. As set out in the Budget, we therefore intend to allow landlords to charge market rents to those social tenant households¹ with incomes of more than £60,000 per year.
- 4.2 Specifically, we will take steps towards removing the regulatory controls preventing private registered providers charging market rents to social tenant households on incomes of more than £60,000 per year; and will set out revised rent guidance for local authorities. We will consult on these changes to regulation and guidance.
- 4.3 We also want to make sure it is the responsibility of these high income social tenants to ensure they are making a fairer contribution. So we intend to seek a legislative opportunity to place the onus on tenants earning over the threshold to declare their income, when parliamentary time allows.
- 4.4 All additional income arising from the policy will be available for reinvestment in affordable housing. We would generally expect providers to use it to help fund new affordable housing, helping to meet housing need.
- 4.5 We have carefully considered responses to this consultation, and we recognise that there are some specific issues to be addressed in implementing the policy, such as how income is to be defined. We will provide further details on how we intend to take forward our favoured approach, covering such issues, in our forthcoming consultation.
- 4.6 We announced in the Spending Round that social rents will increase by CPI + 1% for ten years, from 2015 onwards. Bringing this policy into effect will also require changes to regulation and guidance, which are subject to consultation.

¹ The consultation defined “household”, in this context, as “a single tenant earning at or above the agreed threshold or the two highest earning individuals whose joint income is at or above the threshold.”

Annex A

Updated estimates of High Income Social Tenants

5.1 Since the consultation document was published in June 2012, we have been able to improve the estimates of the number of households affected by the policy proposals using more recent data, which were not previously available. By combining new English Housing Survey 2010/11 data with the previously available data for 2009/10 and 2008/09, we have produced revised estimates, given in the table below.

Income threshold	LOW estimate of number of households	HIGH estimate of number of households
£100,000	1,000	5,000
£80,000	3,000	8,000
£60,000	11,000	21,000