City of Westminster

Appendix 5

Bressenden Place
London
SW1E 5DU

19 November 2015

Dear Sir/Madam,

Pay to Stay Consultation: Westminster City Council's Response

Please find attached Westminster City Council's response to the Pay to Stay consultation, which sets out our detailed response to the technical issues raised. Overall, we support the Government's aim to implement a Pay to Stay approach to encourage the most efficient use of social housing and so that high earners are not subsidised by the public purse through the provision of social housing. Indeed, we have already started to introduce a policy of this kind for new fixed term tenants in Westminster, with rent reviews at the end of their fixed term.

We also support the Government's wider welfare reform objectives which have employment and self-reliance at their heart and it is our view that the policy must be carefully designed to ensure that it does not have any unintended consequences such as disincentivising employment or increasing the benefits bill, particularly in high value areas in central London. There needs to be checks in place to prevent excessive rent increases in areas like Westminster and high market rent levels in high value areas should be one of the factors taken into account in setting the levels of rent that are charged to high income tenants. If we are to help lower paid workers, a higher income threshold than the suggested £40k might be needed in London and we suggest that the threshold above which increased rents have to be paid should be set for central London by reference to the household eligibility income threshold for intermediate housing set by the Mayor in his London Plan. In addition, rent increases in high value areas like Westminster should be framed so that no more than 40% of net household income is spent on rent which would provide an additional mitigation of any disincentive to work.

We are also concerned that the introduction of Pay to Stay may have further unanticipated consequences for other housing priorities, such as supported housing and the development and extension of intermediate housing products (both intermediate rent and shared ownership). In practice, intermediate housing is the main way in which working households on lower incomes in high value areas like Westminster can be helped onto the housing ladder and move onto other tenures as part of their housing journey. This is becoming a pressing priority for central London boroughs like Westminster, where the shortage of affordable housing is increasingly raised as an issue by local employers. If Pay to Stay applies to those in intermediate housing (as the link in the Housing and Planning Bill to the definition of "social housing" in the Housing and Regeneration Act 2008 suggests), there is a real possibility that the role of this form of affordable housing could be undermined in places like central London.

Like housing associations, local authorities should be able to keep at least a proportion of the increased rent income to reinvest in affordable housing to meet the range of housing needs and related statutory duties. This is particularly important in light of other changes which will impact on our ability to deliver social housing, including the 1% rent reduction and requirements in the Housing and Planning Bill to dispose of high value voids. At the very least, any local authority payment to government should be based on actual income generated, rather than an estimated one.

Furthermore, due to the complexities of getting a scheme up and running before April 2017, we suggest that it is first piloted in a few local authorities across the country to test its implications in different areas and housing markets and put in place any transitional arrangements that need to be made for a national rollout. It would also help to understand the implications of a minimum income threshold, particularly in London. We would be pleased to be involved in the discussions about this, particularly in light of our unique housing market in central London and would welcome the opportunity to discuss this with your officials further.

For further information about our response or if you would like to discuss anything in more detail, please contact Sarah Monaghan, Principal Policy Officer on 0207 641 2286 or smonaghan@westminster.gov.uk

Yours faithfully,

Cllr Daniel Astaire
Cabinet Member for Housing, Regeneration, Business and Economic Development

Pay to Stay: Fairer Rents in Social Housing Consultation
Westminster City Council Response

Q1: Supporting work incentives

Views are invited on:

- **How income thresholds should operate beyond the minimum threshold set at Budget, for example through the use of a simple taper / multiple thresholds that increase the amount of rent as income increases**
- **Whether the starting threshold should be set in relation to eligibility for Housing Benefit.**

It is Westminster City Council's view that in high value areas where market rents are extremely high, the threshold above which increased rents have to be paid should be set by reference to the household eligibility income threshold[1] for intermediate housing set by the Mayor in his London Plan. However, if the £40k threshold for London is retained, it is our view that a simple taper that would increase rents gradually as incomes grow would be the simplest, fairest and most transparent method to administer this policy. It would also be the most effective way of preventing arbitrary 'cliff edge' thresholds from being introduced into the system which could disincentivise people to work or increase their in work earnings over time and undermine the Government's wider welfare reform objectives which have employment and self-reliance at their heart. The taper should be shallow for those families who have lower incomes and who may be disincentivised to work with the introduction of a significant jump to market or near market rents, but could be steeper for those who are on much higher incomes.

In central London, a taper would need to be designed to prevent excessive rent increases for lower paid workers, which would become unaffordable and result in more tenants becoming eligible for housing benefit (the potential scale of the increased payments that some tenants would have to make is illustrated in Table 1). Our modelling shows that because social rents are relatively flat, an immediate increase to full market rents could lead to a dramatic increase for some tenants in Westminster. The Housing and Planning Bill indicates that regulations to set the increased rent levels may require the rent to be determined by reference to other factors. High market rent areas must be taken into account as one of the factors in setting the levels of rent that must be charged to high income tenants.

[1] Currently, you must have a gross household income of no more than £71,000 per annum when eligible to purchase or rent a one or two bedroom home or no more than £85,000 per annum when eligible to purchase or rent a family sized home (three or more bedrooms).

Table 1 - Westminster			
Beds	**Average Weekly Social Rent**	**Average Weekly Lower Quartile Market Rent (GLA rents map)**	**Percentage Increase**
0	£102	£260	155%
1	£120	£359	199%
2	£136	£475	249%
3	£150	£650	333%
4+	£173	£895	417%

Westminster supports the Government's aim to ensure that high earners are not subsidised by the public purse through the provision of social housing. We also support the Government's aims to reduce the benefit bill and encourage self-reliance. Therefore, it is important to ensure that the introduction of this policy does not have unintended consequences resulting in an increase to the benefit bill. This is a particular risk in central London, where more households may be moved into the housing benefit system because there is no maximum income threshold for housing benefit entitlement in social housing. For example, our modelling indicates that a couple with two children and net earnings of £582pw (c. £40,000 p.a.*)* would qualify for housing benefit of £156.28 a week on a rent of £344 and £260.28 a week on a rent of £448pw. Therefore, we suggest that the taper is developed so that higher income social tenants do not have their rent increased to the point where they become eligible for housing benefit.

The taper system should have the flexibility to respond to different household compositions and property sizes. We have designed our own Pay to Stay scheme to make the policy work in a central London context, where the threshold above which increased rents have to be paid is set by reference to:

- the household eligibility income threshold for intermediate housing set by the Mayor in his London Plan
- the size of the property, with higher income thresholds for larger properties
- a rent cap of 40% of household net income where the market rent would exceed 40% of the household's net income[2].

We believe these additional measures should be introduced if the scheme is to work in a central London context without putting other Government policy priorities at risk.

It is our view that Pay to Stay should not apply to households who receive housing benefit (or in future, those who receive the housing element of Universal Credit) because their income has already been assessed as requiring public subsidy to help pay their rent. Although we do not collect income details about our social housing tenants, we do have systems to identify which tenants receive housing benefit. Therefore, exempting these tenants could also reduce administrative costs and complexity and enable us to target

[2] This is in line with the London Mayor's Draft Supplementary Planning Guidance (May 2015) which suggests as a guide that affordable housing costs should not be more than 40% of net income

resources at assessing the remaining 30% of council tenants who do not receive housing benefit in Westminster. However, once Universal Credit is introduced, a mechanism will need to be introduced to provide local authorities with information about which tenants receive the housing element of this benefit.

Additionally, if higher rents must be set with reference to market rent, clear guidance must be provided on a consistent method for social landlords to calculate the market rent for a property. To avoid bringing more people into housing benefit entitlement and to minimise administrative costs, market rent should be defined as the Local Housing Allowance rate, which is currently used in the private rented sector.

Q2: Evidence of administrative costs

Based on current systems and powers that Local Authorities have, what is your estimate of the administrative costs and what are the factors that drive those costs?

It is important that any income generated by the Pay to Stay scheme is not outweighed by administration costs. As it is estimated that the scheme may only apply to a small minority of tenants, it must be structured in a way which ensures fairness but keeps administration as simple and cheap as possible, with a transparent review/appeals process that is not administratively cumbersome.

Local authorities must be able to cover all the administrative costs involved in the enforcement of the policy, as well as managing compliance and administering the additional payments to Government, so it can be implemented on a "no net cost" basis. The local authority payment to government should be based on actual income generated, rather than a centrally- estimated payment, as currently set out in the draft Housing and Planning Bill. As there is currently no accurate data on how many social housing tenants this policy will apply to, there is a risk that any estimate will be inaccurate and cause additional burdens for local authorities, particularly in the absence of any process for estimates to be challenged or reviewed. The payment must also factor in the additional amount of rent that is actually collected by providers, considering any increase in rent arrears associated with the policy.

Regulation and guidance must ensure that there is a simple mechanism for landlords to determine the income of their tenants without incurring excessive costs in the process. This must include a simple annual calculation of the previous year's income, or real time income where it is lower. The current draft of the Housing and Planning Bill allows for HMRC to provide income information to social landlords for the purposes of administrating Pay to Stay. However, this is a power not a duty and there are no timescales associated with this. In order to make this workable, legislation must reframe this as a duty for HMRC and further regulation and guidance must clarify this process, particularly in relation to how HMRC's tax return deadlines will interact with social landlords' rent setting processes. All local authorities operate annual rent changes from every April and are legally required to give tenants 28 days' notice of any change in rent, which means that the rent calculation process must be completed by February of each year. The final deadline for online tax returns is 31st January. Although the exact verification process is unclear, we estimate that Westminster alone may need to send 300 - 500 cases to HMRC for assessment each year. We anticipate that meeting this timeline would create a resourcing issue and if HMRC are unable to verify incomes to meet councils' deadlines, it would not be possible to verify incomes prior to the annual rent review, which could lead to further administration costs and appeals. An automated process which would give social landlords controlled access to a database could be developed to make this process simpler.

Regulations must make it clear which types of income will be considered for the purposes of the policy, including whether capital will be included. It is the Council's view that calculations should apply to those named on the tenancy agreement and spouses/ partners living at the address. If calculations are extended to include other household members, this should be supported by a legislative mechanism to ensure that adult members of a household who are not on the tenancy agreement provide tenants with their income details. A proportion of other household member's income could be disregarded to take into account children of tenants who may be saving up for a deposit to buy their own home.

Estimated Administration Costs

In addition to the cost elements outlined in the Government's Impact Assessment, our estimate of potential administration costs for a Pay to Stay scheme, based on current available information, are set out below. As a minimum, in Westminster, the additional income from those eligible to pay a higher rent would have to be sufficient to cover the costs of administering at least 3,850 income checks per year (the amount of tenants not currently receiving housing benefit). However, the key factors that will drive administrative costs are the scope of the scheme and the complexity of the assessment process (both of which are elements of the scheme that have not yet been clarified) and if every household's income was assessed, this would increase costs significantly – our estimates show that a full housing benefit style assessment scheme could cost up to £600k in Westminster.

Start-Up Costs

The key start-up cost in addition to the annual administration costs would be developments to our housing database to include the creation of fields to record income details by household member, a rent calculator, taking into account the relevant taper, the ability to record case notes to accompany the assessment and creation of additional rent status codes to differentiate higher rent payers from social rent payers. Depending on the complexity of the scheme, the development of software could cost between £10,000 and £50,000 and take 18 months to develop. It is unlikely that the development of cost-effective new software system can be implemented in line with the target dates for implementation of this policy and it is not possible to start planning this work until the process is clarified in the regulations.

The other start-up cost which is likely to add to administration costs is the implementation of a system to calculate market rents, if the policy is implemented so that higher rents are to set in relation to the market rent. A system for calculating the market rents of social housing properties will need to be introduced and Government will need to give clear guidance on how this should be calculated. Depending on this guidance, an additional system to calculate rents would need to be included in start-up costs, which would also have on-going costs associated with it.

Estimated annual administration costs

Type of Cost	Tasks	Costs of scheme for non-HB tenants (3,825 tenants)	Costs of scheme for all tenants (12,000 tenants)
Letters: postage & printing	• 2 full post outs (one letter confirming assessment in advance of rent increase) • 2 partial post outs – chasing letters (85% and 75%) • Letters would be separate to the annual rent review notification letter to deal with queries and minimise the need for an influx of formal appeals in March when rent review letters are sent out.	**£8,262** (60p per letter)	**£25,920** (60p per letter)
Staff time	• We anticipate that the response rate to letters would be poor and it would be necessary to make further efforts to contact tenants. • Staff time would include phone calls and home visits those unable to visit our offices. • Checking data/ completing assessment process and liaising with HMRC on verification • Applying a rent increase • Dealing with appeals and changes to income	**£85,000** 2 full time staff, plus some management support of the new function	**£170,000** 4 full time staff, plus some management support of the new function
Additional staff time	• Dealing with influx of appeals and queries during March/ April	**£15,000**	**£30,000**
Legal costs	• Legal costs associated with action for non-payment of higher rent and tenants not complying with requests.	**£12,035.25** 1% of tenants not complying. Standard legal action @ £197 per case; 3 cases of contested legal action @ £1,500 per case	**£32,640** 1% of tenants not complying. Standard legal action @ £197 per case; 6 cases of contested legal action @ £1,500 per case
Total		**£120,297**	**£258,560**