

London Borough of Tower Hamlets

Housing Policy and Affordability Commission

Briefing Paper 2

The legal framework and grant conditions attached to rent setting for both the Council and Registered Providers

This paper sets out the background to current and future rent setting on both existing and future social housing covering both Council and Registered provider stock

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1. Existing position - Registered Providers – New Build

Current guidance for rents for new affordable homes is set out in the GLA Funding prospectus for London. This prospectus covers the GLA investment of £1.25bn to deliver affordable homes in London for the 2015-18 investment round.

The guidance states that around 40 per cent of the affordable homes delivered will be for flexible low cost home ownership, with 60 per cent of the homes for Affordable Rent. The Affordable Rent product will be split equally between Discounted rent, for households unaffected by the benefit cap, preferably targeted at working households, with rents up to 80 per cent of market rent; and Capped rent, with properties let at lower levels, to households in greatest need or for households who are affected by the benefit Cap who may wish to downsize.

Registered Providers are also expected to set a proportion of rents for relets at Discounted rents. It is estimated by the Chartered Institute of Housing that 11000 RP homes will be relet at affordable rents between 2015 and 2019.

Despite the qualification of 'up to', the reference to 80% of market rent in the definition of affordable rent has caused concern that such a rent might be applied to all units in a scheme. It is stressed that that this is a nationally set maximum figure and will not apply to all schemes which is why the affordable rent product has been effectively divided into two products

2. Setting rents locally – Court challenge

In March 2014, In LB Tower Hamlets, Islington, Camden, Brent, Enfield, Greenwich, Lambeth, Southwark and Hackney challenged the Mayor of London's plan to allow 'affordable rents' in new housing to be set at up to 80% of the market rate.

The nine councils argued that they should be allowed to set lower rent limits in new affordable housing – since rents at anywhere close to 80% of market levels would be unaffordable for many local people in London.

In her judgment, the Honourable Mrs Justice Lang DBE said: "All parties agree that more affordable rented housing is needed in London, at levels below 80% of market value, but they disagree about how best to realise this aim."

She ruled that the Mayor had acted within his power, and that the Mayor's Plan leaves it open to boroughs to fight for lower rents on individual developments, particularly in developments that are not funded by the Mayor.

3. Current LBTH position on Registered provider new build – POD rent guidance

Since 2011, Housing research company POD has been commissioned by LBTH to undertake research on the HCA's Affordable Rent product and to help the council identify levels of affordability in order to inform both Council and Registered Provider new build schemes. The initial research looked at online advertised rent levels for the four main postcodes that cover Tower Hamlets. For the affordability levels POD looked at:

- Rent levels as a third of gross equivalised household income (CACI PayCheck)
- Rent levels in light of average earnings and universal credit
- The effect of Affordable Rent for specific case studies

The results have been updated annually. In 2014 rents were set at the following level of market rents:

1-beds: 65%

2-beds: 55%

3-beds: 50%

4-beds +: 45 to 50%

In general Registered Providers have adhered to this guidance when negotiating rent levels on new schemes.

It should also be noted that by agreement with the GLA, Registered providers can 'flip' rents from social rents to affordable rent on existing properties once they have been relet after they have become void.

There is now concern that as local market rents have risen so much over the last four years that rents set at these percentages of market rent are not affordable to local people.

The table below shows the average rent for unfurnished comparable property types advertised online at the time of data capture in early 2015 by POD. Unfortunately there were limited comparable properties available for four and five bedroom flats, and much of what is available is at the very high or low end of the scale.

	1BF	2BF	3BF	4BF	5BF
E1	£ 353	£ 427	£ 589	£ 747	£ 669
E2	£ 347	£ 473	£ 558	£ 800	£ 750
E3	£ 292	£ 358	£ 559	£ 585	£ 850
E14 - North/South	£ 327	£ 388	£ 442	£ 507	£ 550
E14 - Docklands	£ 371	£ 435	£ 592	£ 882	-
Average	£ 338	£ 416	£ 548	£ 704	£ 705

The table below shows a comparison of average 2014/15 weekly rents in across different tenures in Tower Hamlets.

	1 Bed	2 Bed	3 Bed	4 Bed	5 bed
2015/16 LBTH Social Rents (assuming a 2.5% increase)	£99	£112	£126	£141	£157
2014/15 Social Rent Cap Levels (RPs)	£138	£146	£154	£162	£170
2014/15 POD Affordable rent levels	£206	£244	£266	£284	£312
2014/15 Local Housing Allowance	£255	£299	£351	£413	£413
2014/15 80% Market rents	£254	£354	£425	£484	£555
2014/15 Market rents	£317	£442	£531	£604	£694

4. Local Authority and Registered Provider - Current Rent setting regimes

Current Rent setting processes for Local Authorities and Registered providers are determined by central government for both existing social housing and new build properties.

Rent Restructuring – policy to 2014/15

Rent restructuring was introduced in 2002 in order to align council rents and housing association rents, so that similar social properties in the same location, although owned by different landlords, would charge comparable rents. Local authorities increased rents annually by a maximum of RPI + 0.5% + £2 per week, and the target date for achieving rent convergence was 2015/16.

In May 2014 the government published its '*Guidance on Rents for Social Housing*' for April 2015 onwards – the updated rent policy was intended to apply for 10 years, and is summarised below:

- Rent restructuring ended in 2014/15 rather than in 2015/16
- There was an expectation that new tenancies will be let at 'formula' rent
- Future rent rises will be linked to CPI (Consumer Price Index) rather than RPI (Retail Price Index)
- The rent caps would remain, and would increase annually by CPI +1.5%
- Social tenant households with incomes over £60,000 could be charged market rent levels (at the discretion of the Council)
- Rent rebate subsidy limitation would remain in place (until any replacement following the introduction of Universal Credit)

Rent Restructuring – policy from 2015/16

The government's revised rent policy advised that from 2015/16, rents in the social sector should increase by CPI + 1%. This meant that rent convergence ended a year early, in 2014/15.

Impact on the HRA of ending rent convergence in 2014/15

The Council's HRA modelling assumed that it would aim to achieve rent convergence by 2015/16. The estimated impact of ending rent convergence a year early was a loss of over £1 million of rental income, and an anticipated cumulative loss of £18m (including inflation) over the 10 year period of the policy.

5. Summer Budget 2015

In July 2015, the government announced it will reduce rents in social housing in England by 1% a year for 4 years, requiring Housing Associations and Local Authorities to deliver efficiency savings. This will mean a 12% reduction nationally in average rents by 2020-21 compared to current forecasts.

The net impact of the summer budget changes is that by 2019/20 the average rent will be 12% lower than previously assumed and will equal a loss of £24 million over 4 years. If no mitigation is made then the shortfall in capital resources would be £130 million over 30 years.

6. Housing and Planning Bill 2015 – existing tenants

Pay to Stay

The Government's view is that tenants in social housing should not always benefit automatically from subsidised rents, identifying that there needs to be a better deal in the social housing sector with housing at subsidised rents going to those people who genuinely need it.

On that basis, the Government has decided that social housing tenants with household incomes of £40,000 and above in London, and £30,000 and above in the rest of England, will be required to pay an increased level of rent for their accommodation if their rent is currently being subsidised below market rent levels, i.e. at a social or affordable rent. It is expected that the increased level of rent would be at market or near market rent.

As set out in the consultation document 'household' means the tenant or joint tenants named on the tenancy agreement, and any tenant's spouse, civil partner or partner where they reside in the rental accommodation. Where several people live in the property the highest two incomes should be taken into account for household income. It is thought that this could require changes to the tenancy agreement to take into account high earners not named on the Tenancy Agreement

The regulations are expected to 'encourage timely declaration of income information by providing that if a tenant fails to declare income in accordance with the Regulations, the tenant's rent will be raised to maximum HIST levels'. The regulations will allow for a right to appeal. Income means taxable income in the tax year ending in the financial year prior to the financial (i.e. rent) year in question.

Money raised by local authorities through increased rents will be returned to the exchequer to contribute to the deficit reduction, whereas Housing Associations will be able to use the additional income to reinvest in new housing.

69% of tenants of Tower Hamlets Homes are in receipt of Housing Benefit so there is an assumption that these tenants will not be classed as HISTs. That will leave around 3600 tenants whose incomes will need to be established and rents adjusted or not according to the information received.

If the scheme is introduced it is suggested that tapers are introduced and in principle a tapering system would seem a 'fairer' approach in the implementation of this Policy; however any benefit to the introduction of a taper could be offset by an increase in the costs to administer such a system.

The scheme also suggests that the increased level of rent would be at market or near market rent. As set out in the table below increasing rents to such levels in Tower Hamlets would likely to be beyond the reach of anyone earning at least £50k per year, if not more.

An alternative method could be to suggest restricting the amount of net earnings a HIST should spend on rent. A maximum level could be suggested e.g. 33% of net income maximum contribution.

Therefore a tenant in a two bedroom flat who earns over £40k and takes home £30k could be expected to pay £10k per year in rent - £192 per week, just over 50% of a local market rent in LBTH. This would compare to an existing rent of £112 per week and a market rent of £416 per week which would represent nearly 70% of their annual income.

	1 Bed	2 Bed	3 Bed	4 Bed	5 bed
2015/16 LBTH Social Rents	£99	£112	£126	£141	£157
Market rent	£388	£416	£548	£700+	£700+

Rental Income

In theory there should be no impact on HRA rental income if Local Authorities are simply to act as agents of government and pass on the difference between social rent and the market rent to the Treasury.

Stock Levels – Increase in RTB Applications

If households' rents are increased to market, or near market levels there could be an increase in the number of tenants submitting Right to Buy applications, as paying a mortgage may be cheaper than paying market rent.

7. Registered Providers – Target Rents

The setting of social housing rent levels is largely determined by government policy which is set out in a Direction to the Regulator and that Direction is implemented in the Homes and Community Agency Rent Standard. HCA provides guidance which gives practical details of how social rents, affordable rent and other forms of social housing rents are set. It provides details of applicability of the standard and the approach taken to various aspects of exemptions and other issues.

A rent formula was established in 2002, 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 being occupied. These formula rents were increased each year by the Retail Prices Index (RPI) + 0.5%.

Over time this principle was incorporated into guidance, known as the Rent Standard and also known as 'Target Rents' requires that private registered

providers shall charge rents in accordance with the objectives and framework set out in the government's direction to the regulator. It is a regulatory requirement that private registered providers keep their annual rent increases to no more than the limit specified.

2015-16 rent increases (for both affordable and social rent) took place under the new arrangements of a guideline limit of CPI+1%. This replaced the previous limit of RPI+0.5%. The +£2 per week (upward convergence) was no longer permitted unless allowed by a waiver from the regulator and movement to formula (target) rents (or any permitted tolerance above) was only allowed upon change of tenancy at a re-let.

The summer budget 2015 announcement requiring rents in social housing in England to be introduced by 1% a year for 4 years, also applies to Housing Associations.