

BUSINESS SUPPORT OVERVIEW AND SCRUTINY COMMITTEE

26 AUGUST 2014

NEW RENT SETTING POLICY 2015

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Summary

This report provides details of the Government's new rent setting guidance for Social Housing that will be effective from April 2015.

The report sets out the main changes to the current mechanisms and formulas for increasing rent and changes in terms of those that will affect households who have taxable income of more than £60,000 per year.

The report sets out the potential impact on the income stream of the Housing Revenue Account.

This report will be formally submitted to Cabinet on 30 September 2014.

1. Budget and Policy Framework

1.1 The Council is required by law to carry out a review of council rents from time to time and to ensure that the Housing Revenue Account does not fall into a deficit position. The rent policy determines the income to the Housing Revenue Account a ring fenced budget which drives the 30 year business plan.

2. Background

2.1 Since 2001, rents for social housing ("social rents") have been set based on a framework set by Government. The framework creates a "formula" rent for each property, which is calculated based on the relative value of the property, relative local income levels, and the size of the property, and landlords are expected to move the actual rent of a property to this formula rent, over time. An aim of this formula-based approach is to ensure that similar rents are paid for similar social rent properties.

2.1.1 Annual changes in social rent levels have been based on this framework. Weekly rents are expected to increase by up to RPI + 0.5 percentage points annually, plus up to an additional £2 where the rent is below the formula level for the property. At the 2010 Spending Review, the Government extended this policy for social rent increases to 2014/15.

- 2.1.2 At the 2010 Spending Review, the Government also introduced “affordable rent”. The Government’s policy is that landlords can let properties at affordable rent (up to 80 percent of local market rent, including service charges) where they have in place an agreement with the Homes and Communities Agency, Greater London Authority (for new housing in London) or the Department (for new housing under the Right to Buy replacement policy) to provide new affordable housing.
- 2.1.3 Within the terms of the Government’s affordable homes programmes, specifically existing vacant properties, can also be “re-let” at affordable rent. Affordable rents are currently expected to increase by no more than RPI + 0.5 percentage points annually. The Council has chosen currently not to pursue this option.
- 2.1.4 The Council does however reset housing rents to the current formula rent where a vacancy arises (void) before it relets the property. As at April 2014 there were 66 properties, which had not yet met the formula rent levels. This is expected to improve throughout 2014/15.
- 2.1.5 Affordable rent is designed to maximise the delivery of new affordable housing by making the best possible use of Government investment. It allows us to deliver more new affordable homes for every pound of upfront Government investment, ensuring more people in housing need are able to benefit from a sub-market rent.

Current HRA Business Plan

- 2.1.6 The HRA Business Plan is currently being revised and a final revised version will be in place within a few months once Members approval is obtained to the future rent setting policy from 1 April 2015.
- 2.1.7 The current plan is based on charging of Social Housing Rents for all households and has identified that the current plan is sustainable to maintain existing services and maintain the Decent Homes Standard for the next 30 years at the time it was produced. The current plan shows a healthy income into the HRA and therefore a change to rent charging structure is not currently needed to maintain it.

2.2 The New Rent Setting Policy from April 2015

- 2.2.1 From April 2015 the Government has set out new guidelines for social housing providers who rent property on social rents.

From April the Council is asked to consider the following four key strands of the changes:

- Rental increase for tenants with taxable income over £60,000
- New framework for rental increases for households with income of less than £60,000
- Option of charging affordable rent for new builds that the Council provides using the 1-1 replacement monies arising from the 100% right to buy receipts

- The option of charging affordable rent for existing stock that is let at social housing rent

2.2.2 The new policy framework will require the Council to increase social housing rents using Consumer Price Index (CPI) based on the preceding September's figure plus a maximum of 1%. This is in place of the current framework that is based on RPI plus 0.5% plus an additional maximum £2 to achieve rent-restructuring targets.

2.3 Bedroom Size

2.3.1 The Government Guidance also sets out the need for bedroom classification. Members received a budget report in February 2012 regarding the rent setting of some properties in Beatty Avenue and Cornwallis Avenue. In this report the opportunity was taken to clarify the rent setting of properties where there was a room on the ground floor that was being used as a bedroom (commonly known as PODS).

2.3.2 Members agreed that properties would be classified in terms of bedroom size, in these houses, for rooms above the ground floor only.

2.3.3 Officers intend to follow this process for the rest of the stock (except where the property is on one level) approval for the rent setting policy from 1 April 2015. It is not anticipated this will have a detrimental effect on income streams as this is fundamentally the process for charging rent now.

2.4 Affordable Rent and Households with Taxable Incomes exceeding £60,000

2.4.1 The new guidance also sets out new criteria for rent setting for those households where there is a taxable income of £60,000 or more. The Government believes that local authorities should be able to charge those in social housing with high taxable incomes a fairer level of rent to for their homes.

2.4.2 It is designed for local authorities to make best use of social housing. It aims to give additional income to invest in new social housing – helping more people in housing need – and would help ensure sub-market rents are being provided only to those tenants who clearly need them.

2.4.3 As a result, the Government does not expect local authorities to adhere to its social rent policy expectations in relation to social tenants with high taxable incomes. It encourages local authorities to implement rent policies for social tenants in these circumstances that reflect the aims outlined above. Where they do so, they expect them to follow some general principles.

2.4.4 This criteria will affect joint tenants, or where there are more than two tenants the income will be based on the two highest incomes. This criteria does not include the income of household members. It does however include the income of tenant's spouses, common law partners and civil partnership partners.

2.4.5 Officers do not currently have robust financial data about tenant's incomes and therefore the impact on this change currently is unknown. However approximately 70% of existing tenants are in receipt of either full or partial housing benefit which would indicate they do not have a taxable income in

excess of £60,000. This means that the immediate potential impact would affect 1,000 tenants whose income data is unknown.

- 2.4.6 The guidance from the Government states that the onus is on the tenant(s) to inform the Council of their income. It is unclear currently what action will be taken if a tenant fails to declare their income. Guidance is currently awaited.
- 2.4.7 The guidance does advise local authorities that it expects discretion whereby a tenant has faced financial hardship since declaring their income above £60,000 based on up to 12 months earlier, maybe as a result of redundancy and this could result in mid year rent decreases for some tenancies.
- 2.4.8 This policy also fits with the Government's agenda of flexible tenancies which was implemented by the Council for its own stock with effect from 1 April 2014. This is whereby tenants no longer have a secure tenancy for life but it allows Officers to review at the end of the 5 year period the need for social housing remains at that time. Lifestyles and household make up change as does income at the time of letting property and charging affordable rents for households with a taxable income of £60,000 supports this policy too.
- 2.4.9 The guidance also sets out that rents should be reset back to social rents initially when a tenant who has been charged affordable rent moves out and the property relet.
- 2.4.10 The allocations policy currently states that generally applicants cannot join the Housing Register if they have a high level of assets. A high level of assets is considered as more than £50,000 or an income of more than £50,000. It is therefore anticipated that the new rent policy will not impact greatly on new tenants. It is currently anticipated that there are 10 households on the Housing Register, where for exceptional circumstances they have been accepted and their application is live.

2.5 Affordable Rents for Council New Build Properties

- 2.5.1 Affordable rent allows local authorities to set rents at levels that are typically higher than social rents. The intention behind this flexibility is to enable them to generate additional capacity for investment in new affordable housing.
- 2.5.2 The guidance advises that 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 or Greater London Authority, under the Government's affordable homes programmes; or
 - Where the Homes and Communities Agency or Greater London Authority 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.

Only the last criterion currently applies to Medway Council.

2.5.3 Whilst arrears have been maintained and reduced in the last 18 months a change in framework for charging rent may have a detrimental effect particularly on working households as affordable rent is generally higher than Social Housing rent.

The option of charging affordable rent for the new build stock can also be considered whilst retaining rents for the existing stock at Social Housing Rent levels. Through analysis though Officers have identified this approach could mean that this might be a barrier to households downsizing. It is possible that a single occupant wishing to downsize from a 3 bed dwelling and moving to a one bed new build bungalow would pay a higher rent charge if the new build property was charged at affordable rent. It is therefore not an attractive proposal to have two differing rent levels for the Councils housing stock currently.

A comparison exercise has been undertaken to ascertain the differing rent levels between charging a social rent as opposed to an affordable rent for the new build properties that are soon to be constructed as follows:

Comparison Chart for Weekly Rent Charging New Build Council Homes

Address	Property Type	Affordable Rent Charge	Current Social Rent Charge	Market Rent	Average Rent
Buttermere Drive	2 bedroom house	£120.00	£90.69	£150.00	£90.69
Beechings Way	2 bedroom house	£140.00	£101.26	£15.0.00	£90.69
Westerham Close	1 bedroom bungalow	£130.00	£104.00	£160.00	£77.22
Beatty Avenue	1 bedroom bungalow	£104.00	£76.80 plus £5 service charge	£130.00	£77.22
Beatty Avenue	2 bedroom bungalow	£120.00	£91.80	£130.00	£86.48

2.6 Limit on Rent Changes

2.6.1 Limit Rents are used to calculate the amount of housing benefit each local authority receives from the department of work and pensions (DWP) under the rent rebate subsidy limitation scheme. Each year the authority is set an average weekly limit rent.

2.6.2 If the HRA outturn average weekly rent is more than the limit rent set, then it will be deemed that Medway's rents are too high. The DWP will only pay Medway Council a percentage of the Housing Benefit owed up to the limit rent on for HRA properties. The shortfall is payable by the HRA to the authority

2.6.3 2014-15 limit rents are expected to converge with 2014/15 formula rents. The HRA is not expecting to pay any rent rebates in 2014/2015.

2.6.4 From April 2015, limit rents will increase by CPI + 1%.

- 2.6.5 If actual rents are increased below the CPI + 1% formula then the HRA will lose rental income which it can't recoup in future years because; If actual rents are increased above the CPI + 1% formula then the HRA will have to shoulder the costs of rent rebates.
- 2.6.6 Affordable rent properties are excluded from the rent rebate subsidy scheme but instead are subject to the local authority housing rates.

2.7 Administration of Letting and Rent Setting from April 2015

- 2.7.1 The Government has implemented a process to allow properties let on affordable rent terms by local authorities to be treated outside of the Rent Rebate Subsidy Limitation scheme, subject to meeting a set of criteria set out in the guidance including a signed letter by the Section 151 Officer.

Administration of letting and rent setting from April 2015

- 2.7.2 As a result of the potential that either existing tenants or potential new incoming tenants bidding for properties via the Homechoice scheme – may have taxable income above the £60,000 threshold, the vacant properties will need to be advertised with two rents – a social rent and an affordable rent. This is because until the property is successfully let it will be unknown as to the income basis of the tenant.
- 2.7.3 The annual rent setting processes will also need to be done twice by officers. Once for those on social rents and again for those being charged affordable rents.
- 2.7.4 There will also be additional management of rent accounts needed as a result of the potential for mid year rent adjustments whereby a household initially charged affordable rent due their income exceeding £60,000 are facing a change in circumstance and financial hardship.

2.8 Right to Buy One for One Replacement Receipts

- 2.8.1 In February 2013 the Council signed a section 11(6) of the Local Government Act 2003 agreement with the Secretary of state to retain additional Right to Buy receipts for investment in new affordable social housing.
- 2.8.2 As at April 2014 the Council has retained £0.268m. The Council can either provide the social housing through the HRA or pass the funds to another social housing provider who must provide the social housing. The Council would however still retain administration responsibility of these funds
- 2.8.3 If any of these funds are not used to supply social housing or are not spent within 3 years; they must be repaid to the Government with interest. Only 30% of a social housing scheme can be funded from Right to Buy receipts whilst the other 70% must come from other sources.
- 2.8.4 On 17 October 2013 the Council approved a HRA new house building development program of £5.5m to increase to £8.560m over four years to be funded from HRA borrowing headroom.
- 2.8.5 Officers proposed that Members approve the use of Right to Buy capital receipts of £0.268m, and any future retained receipts within the new

housebuilding project timescale, to part fund the HRA new build development program – and thereby maximise the match funding potential of the project.

3. Options

1	Do nothing Moving towards new rent increase framework policy.	<u>Advantages</u> None	<u>Disadvantages</u> The Council would be in breach of the Government Guidance around rent setting and not be following the new framework for increasing its rent charges annually. Loss of income to the HRA.
2	Affordable Rents for New Build	<u>Advantages</u> More income to HRA. Rent for properties would be inline with private rented sector.	<u>Disadvantages</u> Potential to increase void times and lack of bidding due to high rents. Potential for some tenants to pay increased rent for downsizing to smaller properties if they have to pay a top up.
3	Affordable rents for existing properties	<u>Advantages</u> Increased income to the HRA. Rent for properties would be inline with private rented sector.	<u>Disadvantages</u> Increased rental charge could put further financial pressures on tenants. Rent charge levels between neighbours could increase greatly.
4	Affordable rents for households with taxable income of more than £60,000	<u>Advantages</u> Reflects Government policy. Encourages home ownership and releases stock for those on low income. Rent for properties would be inline with the private rented sector.	<u>Disadvantages</u> HRA Plan less stable More administration for Officers. Properties to be advertised with 2 rents. Increased rental charge could put further pressure on tenants.

4. Advice and Analysis

- 4.1 Given the current economic climate faced by a majority of tenants and reflected by the fact that approximately 70% are in receipt of full or partial housing benefit and that the current HRA Business Plan (based on the current

income from social housing rents) shows a positive position, there is no need to change the rent policy for new build Council housing, the Council's existing housing stock and charge affordable rents.

- 4.2 The position regarding charging of affordable rents for households in Council stock where they have an income of more than £60,000 is considered appropriate.

5. Risk Management

Risk	Description	Action to avoid or mitigate risk	Risk rating
HRA Business Plan not robust in terms of income	Erratic income levels will mean that the known income stream from households with taxable income of £60,000 will fluctuate	Business plan to be produced assuming all tenants pay social housing rent	DII
Reliant on tenants to declare income	Tenants will not declare their income meaning lower rent levels charged	Annual income survey undertaken	DII
Increased debt and financial pressure on tenants due to increased levels	Arrears increase and wider aspects of financial exclusion arise affecting households well being	Financial debt management workshops supported by Officers and partners held	DII

6. Consultation

- 6.1 A tenant consultation meeting was held on 31 January 2014 around the budget and rent setting for 2014/15. They were advised that at that time the Government had recently closed a consultation exercise around the guidance now referred to in this report.
- 6.2 Prior to this in Summer 2012 members of the Tenant Scrutiny Panel had been advised about the Governments "Pay to Stay" paper that had been issued at the Housing Scrutiny Panel Meeting on 26 July 2012. They were provided with the list of questions set out by the Government around the consultation. Three members provided formal written feedback. Of these the general principle was that they agreed to the rent setting being higher for households earning more than £60,000. There were some issues about rent controls.
- 6.3 A further Tenant Forum was held on 4 August 2014 when final consultation on the policy was undertaken. There were no significant objections to the proposals within this report.

7. Financial and Legal Implications

- 7.1 The financial implications are contained within the body of this report.
- 7.2 Under Section 76 of the Local Government and Housing Act 1989, the Council is required, in advance of the financial year, to formulate proposals

which satisfy the requirement that, on certain stated assumptions the Housing Revenue Account for that year does not show a debit balance. The Council is obliged to implement those proposals and from time to time to determine whether the proposals satisfy the 'break even' requirement. If not, then the Council shall make such provisions as are reasonably practicable towards securing that the proposals, as revised, shall satisfy the requirement.

- 7.3. Under Section 24 of the Housing Act 1985, the Council can make such reasonable charges as it determines for the tenancy or occupation of its houses. The council is obliged, from time to time, to review rents charged and make such changes, as circumstances may require. The Council may increase the rent for its tenants by giving no less than four weeks' notice, pursuant to section 103(4) of the Housing Act 1985.
- 7.4. In recommending the adoption of a new policy for setting rents as proposed in this report, this Committee is exercising a public function and must therefore comply with the duties in section 149 Equality Act 2010 to have 'due regard' to the matters set out that section. Accordingly the Committee must have due regard to the need to eliminate discrimination, advance equality, and foster good relations between those with a protected characteristic (pregnancy and maternity, age discrimination, disability, gender reassignment, marriage and civil partnerships, race, religion or belief, sex and sexual orientation) and those who do not share it, and this must form an integral part of the decision making process in relation to the rent-setting. A Diversity Impact Assessment is set out in Appendix A.
- 7.5. The decision to adopt a new rent-setting policy is a decision for Cabinet

8. Recommendations

- 8.1 The Committee are asked to recommend to Cabinet
 - (a) To agree rents for existing stock will be based on the social housing rent formula of CPI + 1%.
 - (b) To agree newly built or acquired Council Housing rents will be based on the Social Housing Rents formula of CPI + 1%.
 - (c) To agree for households with a yearly income of £60,000 or more, their rent will be set based on affordable rents from April 2015.
 - (d) To agree that from April 2015 bedrooms will only be counted as bedrooms if they are not on the ground floor of a property unless the property is a one floor property such as a bungalow.
 - (e) To agree to continue to move properties to formula rent when void.
 - (f) To agree the retained 1-4-1 Right to Buy receipts, and any future retained receipts within the timescale for the new homebuilding project to be used to part fund the HRA new build programme.

Lead Officer Contact

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Background Papers

Links to previous reports:

<http://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=2934&T=10>

<http://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=2372&T=10>

Diversity Impact Assessment

(Appendix A)

TITLE <i>Name/description of the issue being assessed</i>	Social Rent Policy
DATE <i>Date the DIA is completed</i>	June 2014
LEAD OFFICER <i>Name of person responsible for carrying out the DIA.</i>	Michael Bull

1 Summary description of the proposed change

- *What is the change to policy/service/new project that is being proposed?*
- *How does it compare with the current situation?*

When setting rents local authorities are expected to have regard to guidance issued by Government on rent policy.

The new rent guidance proposes to:

- Allow landlords to let properties at affordable rent (up to 80 percent of the local market rent) that have been built from the income from selling a property. The increased rental income can be used for building more properties. This is optional and will not be pursued for reasons set out in the report.
- Charging affordable rent for households (tenant(s) and partners) with taxable income over £60,000. This is optional and recommended to be pursued because it is designed to make the best use of social housing for those in the greatest need and fits within the flexible tenancy policy of the Council.
- Future rental increases are to be based on the Consumer Price Index plus 1% as oppose to the current rent based on the Retail Price Index plus 0.5% and an additional maximum 2%. For properties that have not been converted to formula rent, (69 are not formula rent) the rent can be moved up when the property becomes void. A consequence of this change in policy is that we do not intend to extend the flexibility to increase rents by up to an additional £2 above the increase in formula rent, where the rent is below (for 69 properties) the rent flexibility level or rent cap, beyond 2014-15. The purpose is to help to control the housing benefit bill, a key priority for Government.

2 Summary of evidence used to support this assessment

- *E.g: Feedback from consultation, performance information, service user records etc.*
- *E.g: Comparison of service user profile with Medway Community Profile*

The new rent setting framework (raising rents by CPI as opposed to RPI) will now match the annual uprating of the majority of Welfare Benefits including Housing Benefit. Unless there is a change in the circumstances of a tenant they should continue to receive a similar level of entitlement to Housing Benefit as they have previously. Currently 70.4% of HRA tenants are in receipt of Housing Benefit, of which approximately half receiving full Housing Benefit and approximately half receiving partial Housing Benefit.

Due to the benefit cap (restricting benefit payments for a family to £500 per week), it

is unlikely that any of these households will be impacted if Medway Council charged affordable rents.

29.22% of our tenants pay their rent without a contribution from housing benefit. The new rent setting framework (based on CPI not RPI) will limit the increase in rent. These tenants age and disability is detailed below based on information available:

Age

20-29: 79
30-39: 124
40-49: 188
50-59: 155
60-69: 104
70-79: 67
80-89: 58
90-99: 7

Disability: 109

In the context of detailed information concerning the amount of existing tenants income, the definitive impact of charging “affordable rent” is unknown as Officers have not had the need to collate this information previously.

Despite this, researchers at the Department of Communities and Local Government (DCLG) estimated that those households within the income threshold of £60,000 are between 11,000 – 21,000.

According to the last Census data, below are the median earnings in wards where there are Medway Council properties (Source: CACI 2012):

Gillingham North £27,100
Gillingham South £28,100
Rainham Central £36,800
Rainham North £31,900
Rainham South £35,100
Twydall £27,100

These figures are not tenure specific and according to the [Poverty Site](#), half of all people living in social housing are on low incomes compared to one in seven owner-occupiers.

Charging affordable rents for better off tenants is unlikely to significantly affect any new tenants. This is because Medway Council’s Allocations Policy states that applicants to the housing register will be excluded if their income is above £50,000. As a result there are potentially 10 applicants on the housing register with assets over this threshold (9 in Band C, 1 in Band B).

Were the Council to choose to charge affordable rent for its new build properties and not its existing stock, if a household transferred to a new build property the household may be charged more rent despite downsizing. This could deter tenants from moving. However, considering that it is likely that the majority of applicants downsizing wish to move due to the under occupation size criteria, housing benefit will still cover the costs of the rent entirely as the affordable rental charge will still be below market rent (within the LHA rate). It is not currently recommended that the Council charge affordable rent on its new builds.

The Government Guidance also sets out the need for bedroom classification.

Members previously agreed that only bedrooms above the ground floor will be considered as a bedroom.

3 What is the likely impact of the proposed change?

Is it likely to:

- Adversely impact on one or more of the protected characteristic groups?
- Advance equality of opportunity for one or more of the protected characteristic groups?
- Foster good relations between people who share a protected characteristic and those who don't?

(insert ✓ in one or more boxes)

Protected characteristic groups	Adverse impact	Advance equality	Foster good relations
Age			
Disability			
Gender reassignment			
Marriage/civil partnership			
Pregnancy/maternity			
Race			
Religion/belief			
Sex			
Sexual orientation			
Other (e.g. low income groups)	X		

4 Summary of the likely impacts

- Who will be affected?
- How will they be affected?

Officers' recommendations are not to implement the policy of charging affordable rents. Officers do recommend pursuing affordable rents whereby a tenant and their partner have a taxable income that exceeds £60,000.

In terms of the classification of bedrooms as only being on the first floor this is likely to be limited as traditionally this has been the policy of the Council, except in the circumstances of the "PODS" which has now been rectified.

A full audit of the properties will be undertaken prior to next year's proposed rent increases. There are known to be some properties at Forge Lane where bedrooms on the ground floor are charged as the properties being 4 bed. These will change from a 4 to a 3 bedroom property.

5 What actions can be taken to mitigate likely adverse impacts, improve equality of opportunity or foster good relations?

- Are there alternative providers?

- *What alternative ways can the Council provide the service?*
- *Can demand for services be managed differently?*

The guidance does advise Local Authorities that it expects the use of discretion when a tenant has faced financial hardship since declaring their income above £60,000 based on up to 12 months earlier, which could result in mid year rent decreases for some tenancies.

6 Action plan

- *Actions to mitigate adverse impact, improve equality of opportunity or foster good relations and/or obtain new evidence*

Action	Lead	Deadline or review date
If rents are increased due to earnings, the council will monitor and review the households affected – ensuring support is offered as a result of financial pressures	Income Manager	Ongoing

7 Recommendation

The recommendation by the lead officer should be stated below. This may be:

- *to proceed with the change implementing action plan if appropriate*
- *consider alternatives*
- *gather further evidence*

If the recommendation is to proceed with the change and there are no actions that can be taken to mitigate likely adverse impact, it is important to state why.

Proceed to Cabinet for decision

Undertake a review of property stock to ensure all properties are charged rent appropriately, given the proposed change in terms of bedrooms.

Undertake publicity campaign in terms of the new rent charging for households with incomes over £60,000

8 Authorisation

The authorising officer is consenting that:

- *the recommendation can be implemented*
- *sufficient evidence has been obtained and appropriate mitigation is planned*
- *the Action Plan will be incorporated into service plan and monitored*

Assistant Director

Stephen Gaimster

Date

12 August 2014