Rent setting for social housing tenancies

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Section Social Policy Section

Chapter 10 of the Housing Green Paper, *Quality and Choice: A decent home for all*, (April 2000) focused on the need to develop a fairer system of affordable rents in the social housing sector. Rent restructuring has been in place since 2002 and the initial aim was to achieve the alignment of social sector rents by 2012. This note gives background to these proposals and provides information on progress to date.

Contents

1 Background

The different rent levels charged by councils and registered social landlords (RSLs)[1] reflect when and where social housing has been built over many decades, the many changes in the capital and revenue subsidies that have been given to social landlords and the different rent policies pursued by individual social landlords. The Government wishes to see an end to 'arbitrary' differences between the rents of similar properties in a locality and between similar properties in neighbouring areas:

> For example, in a report published in 2000, the Chartered Institute of Housing cited two adjoining London boroughs where one charged £15 more each week than its neighbouring borough for properties of a very similar standard. And in a large southern city there was a £24 gap in the rent charged each week by the local authority and a local registered social landlord for otherwise similar three bedroom homes. Tenants see that it is unfair when there is no apparent explanation for the pattern of rents in a locality, whether in terms of relative property quality, relative attractiveness of location or relative running costs.[2]

The then Minister for Housing, Sally Keeble, outlined the rationale behind rent restructuring in an adjournment debate in December 2001:

> Our policy on rent restructuring is part of the Government's wider housing agenda. The aim is to close the gap between rents in different sorts of social housing and, as my hon. Friend said, to pave the way for greater choice for social housing tenants. That applies not just to different council properties in the same area but to different sorts of social housing tenure, because at present the perception that housing association rents are high can be a bar to people who might consider applying for that sort of housing. We want a sensible structure of rents so that tenants can choose whether to pay more for a better property or to save money by choosing a less popular property. To achieve that, we are establishing a common basis for social rents throughout England by linking rents to both the value and size of the property and to manual earnings in the area. The new rents must be affordable and we are linking them to local earnings to ensure that. They will not be market rents. Rents in the social sector throughout most of the country will generally remain well below what a tenant would pay for the property from a private landlord. I said that that will apply throughout most

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1 Also referred to as housing associations.

2 Housing Green Paper, *Quality and Choice: A decent home for all,* April 2000, para 10.13

> of the country, because some areas have very low demand and different trends in property prices.[3]

2 Government rent setting policy

Government policy is that all social landlords (local authorities and housing associations) should offer similar rents for similar properties, whilst maintaining substantial discounts to market rents.

Preparing for restructuring involved calculating the 'formula rent' which is the target rent figure for each individual council and housing association home for ten year's time (i.e. by 2011/12). The formula rent is based on a combination of individual property values and average earnings in each area.[4] Each year the Department (now Communities and Local Government, CLG) suggests a "guideline" rent level to which councils should move their present rents in order to help them eventually reach their formula rents at the end of the ten year period in 2011/12.

CLG includes information for local authorities on proposed national guideline rents in the draft Housing Revenue Account determination which is usually issued at the end of each calendar year. The formula for calculating guideline rents is not contained in legislation - for local authorities the formula is RPI + 0.5% plus £2 per week. The reference point for RPI is the September in the year preceding the start of the financial year to 31 March.

The consultation paper, *The Reform of Council Housing Finance*, published in July 2009, contains the following summary of Government rent setting policy:

> 2.23 The rent formula was established by Government[5] to gradually bring about this policy, with actual rents moving towards a national formula rent that 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 have been increased each year since 2002 at RPI +0.5%.
>
> 2.24 The original objective was that actual rents would converge to within 5 per cent of formula rents by 2012, by applying annual increases above or below the increase in formula rents, but subject to a maximum annual increase in actual rent of RPI+0.5%+£2 per week. (The £2 is therefore the maximum annual 'catch-up' for rents which are below formula.)
>
> 2.25 The HRA subsidy system requires Government to make assumptions each year about the rental income of every council landlord and to take a view about progress towards restructuring for each council. This has led to complex calculations within the subsidy system, using trajectories for each council based on their actual rents at the start of the restructuring process.
>
> 2.26 In addition, mechanisms have been introduced to compensate landlords for charging rents below the guideline rent, if moving to the guideline rent would breach aspects of the overarching rent policy. These have included a cap on actual rent rises of RPI+1/2%+£2, and a ceiling on individual rent rises which have, from time to time, been included in the annual subsidy determination itself.

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3 HC Deb 5 December 2001 c135WH

4 Property values are weighted by 30% in this calculation with a 70% weighting on local earnings.

5 See *The Guide to Social Rent Reforms in the Local Authority Sector*, ODPM, 2003

The rent influencing regime for housing associations is governed by their regulatory body, the Tenants Services Authority (TSA, previously the Housing Corporation). In October 2001 the Housing Corporation published guidance for associations, *Rent influencing Regime: Implementing the Rent Restructuring Framework,* which stated:

> The Corporation expects each association to have an initial plan ready by April 2002. We will not call in plans from those who expect to achieve target rents by 2012; but we shall monitor progress through regular returns and the lead regulation process. Any association which is experiencing difficulty in establishing such a plan should speak to its lead regulator. The guidance recognises that there are potentially over-riding concerns, and plans will need to reflect them. Smaller associations should also plan to achieve target rents to the same timescale. But the scale and nature of any planning should be commensurate with the scale and nature of the association.

CLG issued a direction to the Tenant Services Authority under section 197 of the *2008 Housing and Regeneration Act* in November 2009 which includes standards about levels of housing association rents.[6] The TSA issues annual guidance for associations on the implementation of the rent influencing regime. The latest guidance was published in November 2009.

3 Recent developments (2007 onwards)

3.1 Rent setting 2008-09 and 2009-10

In August 2007 CLG issued a consultation paper, *Mechanism for setting Guideline Rents in Housing Revenue Account subsidy 2008-09 and 2009-10*, which included options on setting guideline rents predicated on a rent convergence date of 2011-12 or an extended date of 2016-17:

> **Andrew Stunell:** To ask the Secretary of State for Communities and Local Government when she expects to announce her decision whether to return to the basic rent restructuring formula with caps and limits or extend rent restructuring to reduce the steepness in the trajectory guideline and actual rent rises.
>
> **Caroline Flint:** Communities and Local Government consulted on the mechanism for the setting of guideline rents in the Housing Revenue Account (HRA) subsidy regime in August. The options consulted on were guideline rents predicated on a rent convergence date of 2011-12, or extending the convergence date to lower annual guideline rent increases. A decision on the preferred option (extending the convergence date to 2016-17, solely for the purpose of calculating guideline rents in the HRA subsidy system for 2008-09) was included in the HRA subsidy determination for 2008-09 which was issued in draft for consultation on 23 November 2007 and in final form on 15 January 2008.[7]

The proposal to extend the convergence date was welcomed by tenants' groups. Sam Lister, policy officer at the Chartered Institute of Housing, said that the proposals "were a sign that rent restructuring had slipped down the list of government priorities."[8]

In August 2008 the Department consulted on how the Housing Revenue Account (HRA) subsidy determination would be handled in 2009-10 and 2010-11. A key element of this consultation concerned guideline rents. As noted previously, Communities and Local

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6 http://www.tenantservicesauthority.org/upload/pdf/Directions_on_regulatory_standards.pdf
7 HC Deb 22 February 2008 cc1047-8
8 "Plans to align social rents by 2012 set for scrapheap", *Inside Housing,* 7 September 2007

Government includes information for local authorities on proposed national guideline rents in the draft HRA determination which is usually issued at the end of each calendar year. The reference point for RPI in the formula for setting guideline rents is the September in the year preceding the start of the financial year to 31 March.

In *Handling of the Housing Revenue Account Subsidy Determination 2009–10 and 2010–11*[9] CLG asked authorities for views on how inflation rates should be assessed for the purposes of setting guideline rents:

> There are two practical options for the immediate future of rent policy over the next two financial years.
>
> Comments from stakeholders are welcome particularly on the following possibilities which have been discussed in detail above:
>
> Fixing and pre-setting guideline rent increases with reference to assumed inflation rates for 2009-10 and 2010-11 respectively; or
>
> Allowing guideline rent increases to follow their course to convergence in 2011-12 in line with the rent restructuring formula, using the forecasts of inflation in September 2008 and September 2009 for the respective financial year.
>
> Comments from stakeholders are also welcome on a possible option for limiting higher end actual rent increases.

Following this consultation process CLG issued a letter to all local authorities on 18 December 2008 in which it advised that a majority of authorities had preferred the first option in relation to inflation and setting guideline rents:

> Two options were presented for setting guideline rents; a majority of the representations received favoured the Department's preferred option of a fixed 6.1% increase in guideline rents, based upon the September RPI and creating a consequent delay in the convergence date. Ministers have now considered the comments and representations received and, subject to taking account of later information where necessary, they have decided to confirm the proposals in the consultation and to confirm that the Determination is calculated using the Department's preferred option for rent increases as noted here.[10]

It was therefore proposed that the September 2008 RPI figure of 5% would be applied to council tenants' guideline rent increases in 2009-10, this was not without controversy. Councils faced a backlash from tenants facing average rent increases of 6.2% at a time of falling inflation.[11]

The Government, when questioned on this issue, initially emphasised that it was up to local authorities to set their own rent levels and that the rent restructuring process contains provisions to protect individual tenants from excessive rent rises:

> **Jim Cousins (Newcastle upon Tyne, Central) (Lab):** If she will suspend or reduce the formula guideline rent increases for council tenants for 2009-10.
>
> **The Minister for Housing (Margaret Beckett):** The subsidy determination to which my hon. Friend refers includes additional measures, aimed at maintaining affordability

9 http://www.communities.gov.uk/documents/housing/doc/handlinghrasubsidy.doc
10 http://www.communities.gov.uk/documents/housing/pdf/hradeterminationsletter200910
11 "This is a ludicrous situation", *Inside Housing,* 23 January 2009

> for tenants, while addressing councils' ability to raise income. They include the pre-existing protection for tenants, which limits rent increases to retail prices index plus ±/2 per cent. plus £2. We are aware of the concerns now being raised about inflation and the fixed guideline rent increases. I am looking closely at the position to consider what action may be appropriate.
>
> **Jim Cousins:** I am grateful to my right hon. Friend for her reply, but she knows that council tenants throughout England face rent increases of between 5.5 and 7 per cent. That is a heavy burden and councils place the responsibility for it at the door of the Government's formula rent guidelines. May we reconsider the matter? Nine thousand tenants in the city of Newcastle pay full rent and the burden on them is especially heavy. They do not want to be in the Cabinet; they want to get through the week. Is my right hon. Friend willing to meet council tenants from Newcastle and me so that we can explore ways through that genuine difficulty for so many decent people?
>
> **Margaret Beckett:** Of course, I understand and appreciate the concerns that my hon. Friend raises—I am always happy to hear from him about such issues. I am well aware that local authorities tend to say that the instructions are the Government's—I suppose that that is inevitable. However, I am sure that my hon. Friend knows that, although the Government issue guidelines, it is for councils to determine the rents that they set. For example, last year, I believe that the guidelines suggested 5.7 per cent., but the rent levels were 5 per cent. Clearly, there is room for manoeuvre and councils have freedom to act and their own responsibilities. As I said, I am considering the position. A well meant desire to give local authorities certainty about action over two years led to issuing guidelines for two years. Obviously, this year's guidelines must stand, but I will re-examine the implications.[12]

A spokesperson from CLG was reported as stating that local authority rent increases should amount to no more than an estimated average of £3.95 per week and for over 60% of tenants these increases would be covered by Housing Benefit.[13]

Local authorities argued that if they set rent levels below the guideline rent this would only put off rent increases to a later date as the requirement for convergence with RSL rent levels by 2023 (a date which is likely to be brought forward if inflation continues to fall) would still stand. The second factor that militates against setting rents below the guideline is the fact that HRA subsidy assumes that authorities have increased rents by the guideline amount. Thus a lower rent rise does not increase the amount of subsidy an authority will receive, resulting, for those authorities in receipt of subsidy, in a budget shortfall. Negative subsidy authorities, i.e. those that pay surpluses on their HRAs to the Government for redistribution to authorities with deficits on their HRAs, argue that because their HRAs are in surplus they should not have to put up tenants' rent levels any more than they need to.[14] Additional information on the HRA subsidy system can be found in Library note SN/SP/4341.

Communities and Local Government issued the following Written Statement on 6 March 2009 under which authorities were allowed to bid for additional HRA subsidy if they were prepared to revisit their rent increases and reduce them. The national average guideline rent increase for 2009-10 was reduced from 6.2% to 3.1%:

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12 HC Deb 20 January 2009 cc616-7

13 "Rebellion brews over proposed rent hikes", *Inside Housing,* 16 January 2009

14 "This is a ludicrous situation", *Inside Housing,* 23 January 2009

Local authority guideline rent increases for 2009-10

> The Minister for Housing and Planning (the Rt Hon Mrs Margaret Beckett MP): Each autumn, after consultation, the Government publishes formal guideline rents so that Local Authorities know where they stand on Government subsidy on the Housing Revenue Account (HRA) system.
>
> Authorities are then free to make their own decisions on the actual rent level to set in their particular circumstances. Many authorities set actual rents below the guideline figure.
>
> Last year, the Government was pressed to give authorities greater financial certainty and responded by giving guidance for two years rather than one – which authorities appeared to welcome. However, since recent major changes in the economic situation, the Government is under substantial pressure from Local Authorities who would prefer us to reconsider the 2 year deal. I have already indicated that we will re-examine the guideline rents for the second year, 2010-11.
>
> More recently, we have also had increased pressure to re-examine the guideline rents already issued for this coming year. Under normal circumstances, this is not something that I would be prepared to contemplate.
>
> But, in, and only in the context of the present unprecedented global downturn, it is right that the Government offers real help to council tenants. I am therefore quite exceptionally prepared to offer authorities the opportunity to bid for additional subsidy, if, and only if they are preparing to revisit the level of rents set and reduce them by that amount.
>
> We are therefore halving the national average guideline increase from 6.2% to 3.1%. This will require the Department to issue new 2009-10 guideline rents for all Local Authorities. I am prepared to change the subsidy position of those authorities who reduce their actual average increase in rents in 2009-10 in line with the new national average.
>
> We will be inviting authorities to let us know whether they will take this up by around the end of April. They will be able to introduce the new rent increases as soon as is practicable for them.[15]

The reduction in the guideline rent increase was expected to produce average rent increases of for council tenants of £2 per week instead of £4 per week.[16] Local authorities welcomed this move but given that the announcement came so close to the date for implementing rent increases for 2009-10 (1 April 2009), most authorities had already sent out the necessary rent increase notifications to their tenants.[17] This resulted in questions about the administrative cost to local authorities of issuing new rent increase notifications and refunding tenants for increases:

> **Sarah Teather:** To ask the Secretary of State for Communities and Local Government what assessment her Department has made of the cost to local authorities of halving their proposed rent rise.
>
> **Mr. Iain Wright:** The Department has made no assessment of the administration costs to local authorities of reducing their proposed rent rises in 2009-10.

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15 http://hcl1.hclibrary.parliament.uk/general_pdf/ministerialstatements/Mar0609/WMS1.pdf

16 CLG Press Release, "Beckett cuts planned council rent increases in half", 6 March 2009

17 Authorities are required to give tenants at least 28 days notification before implementing a rent increase.

> Local authorities asked us to reconsider the existing average guideline rent increases to help protect their tenants in the current difficult economic conditions. We have listened and responded quickly to their request. It is our intention that the funding available for the reduction to the national average guideline rent should be passed on in full to tenants in the form of reduced rent increases.[18]

For housing associations, the Tenant Services Authority advised them that they were not obliged to apply the full 5.5% guideline limit for rent increases in 2009-10:

> The all items RPI for September 2008 was 5% and therefore the guideline limit for rent increases in 2009-10 is 5.5%. This was published in Housing Corporation Circular 04/08 Rents, Rent Differentials and Service Charges for Housing Associations.
>
> Registered providers are reminded that there is no requirement on them to apply the full guideline limit to rent increases if they can remain viable based on lower rent increases. Some registered providers will opt to increase rents by less than the guideline limit in 2009-10. However, for others this will not be a viable option having already suffered the higher inflationary levels through the impact on their cost bases.
>
> The TSA is discussing with Communities and Local Government (CLG) the approach to future rent restructuring and in particular the implications for the guideline limit in 2010-11.[19]

3.2 Rent setting 2010-11

For local authorities the Government made a commitment to look again at the 2010-11 national guideline rent increase in the light of circumstances closer to the start of that financial year.[20] On 9 December 2009 CLG issued for consultation the draft HRA subsidy determination for 2010-11. The accompanying letter to all local authorities contained the following information on guideline rent increases:

> In February this year we promised to review the previously established average guideline rent increase for 2010-11 of 6.1%. As a result of that review we have decided to consult on an average guideline rent increase of 3.1%.
>
> Rents and rent restructuring
>
> Fixing the reduced guideline rent increase at 3.1% has been achieved by changing the convergence date. To achieve a specific guideline rent increase of 3.1% it has been necessary to use a convergence date (n) of 3 years.
>
> The key issue in this consultation concerns the average guideline rent increase for 2010-11. As you will be aware, the average guideline rent increase for 2010-11 established in December 2008 was 6.1%. After taking into account the continuing economic conditions, the September 2009 RPI -1.4%, and current rent re-structuring policy, the average guideline increase has been reduced to 3.1%.[21]

The consultation period ended on 25 January 2010 and the final HRA subsidy determination was issued on 3 February 2010.[22] The decision to aim for convergence by 2012-13 will mean that target rents may have to increase more steeply than had been expected:

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[18] HC Deb 18 March 2009 c1172W
[19] http://www.tenantservicesauthority.org/server/show/ConWebDoc.16647/changeNav/13640
[20] HC Deb 9 March 2009 c29W
[21] CLG, *Draft HRA Subsidy Determination 2010-11*, 9 December 2009
[22] CLG, *Final HRA Subsidy Determination*, February 2010

> In a December announcement, the government said rents for similar properties owned by different landlords must converge by 2012/13 rather than 2023/24. The change means target rents will increase more steeply than previously expected. Coupled with a drop in inflation, this means more homes' real rents will be lower than the target levels in 2010/11.
>
> Rhys Makinson, assistant director of finance for the London borough of Camden's housing department, said the gap between the authority's target and real rents would increase by £3 million in 2010/11.
>
> The government pays councils compensation to cover the difference between the figures, but hands over the money a year in arrears.
>
> The increase in properties affected means councils will be waiting for a larger sum of money than in previous years, which could cause cash flow problems for some authorities.
>
> The average increase target rent for Camden's homes was 4.1 per cent but it could only charge 1.4 per cent more because of the limits that have been set on rent increases.
>
> Mr Makinson said that the council would use its cash reserves to cover the difference until the government pays the compensation. 'It is a cash flow issue and how much of an issue it is depends on whether you have reserves in the housing revenue account to manage it, which we have.'
>
> He expected that councils, possibly including Camden, would lobby the government to see if they can persuade it to compensate them more quickly.
>
> Robin Tebbutt, executive director of finance at consultancy HQN, said some councils could have to dip into their housing revenue account reserves to tide them over until the government paid compensation.
>
> He added: 'Cash reserves are there for unexpected events and those events could come along and then they would end up not having any money for them.'[23]

Considerable concern was expressed by associations in response to the forecast for negative inflation (RPI) in September 2009. Translating negative inflation into the formula of RPI + 0.5% would mean associations having to reduce their rents in 2010-11. Associations argued that this would impact on their ability to service loans and raise finance for new development. In fact in 2007 the representative body of housing associations, the National Housing Federation (NHF), called on the Government to give associations greater scope to increase tenants' rents. In a letter to the then Minister for Housing, Yvette Cooper, the NHF argued for a move to rent setting based on RPI + 1% instead of RPI + 0.5%. The basis of this claim was the need to boost the borrowing power of housing associations.[24]

An article in *Inside Housing* Magazine of 20 February 2009 expressed concern about the impact of negative inflation on housing associations:

> The rent formula is also causing concern among housing associations, who have warned that the possibility of negative inflation this autumn could force them to lower rents, dragging down their income levels.

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[23] *Inside Housing*, "Councils face new year rent headache", 8 January 2010
[24] "Federation urges Cooper to allow bigger rent hikes", *Inside Housing,* 20 April 2007

Gavin Smart, assistant director at the National Housing Federation, said it was in discussions with the Tenant Services Authority and the government to press for a ‘rent floor’, which would allow associations not to reduce rents if inflation fell below zero.

The NHF was disappointed with the stance the TSA had taken on the issue, Mr Smart said. ‘It is likely that members might have to cut back on tenant and neighbourhood services and investment and improvement of their existing homes in order to make ends meet.’

A TSA spokesperson said: ‘The TSA recognises the potential risk of deflation and is working very closely with the CLG in thinking through what it might mean for the sector.[25]

The TSA issued a further notice in March 2009 in which it recognised that inflation in September 2009 might be much lower and that there was a need to ensure the financial viability of associations:

We would remind Housing Association landlords of the guidance we issued last month stating that the rent formula permits a maximum rate of increase. It is for landlords to set their rents within this maximum taking account of the impact on tenants and future tenants and landlords' financial commitments, which include their commitments to invest and raise service delivery for the homes they currently own and their commitments to build much needed new homes.

We are keen to ensure broadly consistent outcomes over time for social tenants regardless of who their provider happens to be. In this light, we note that the inflation escalator used in the rent formula for next year could be much lower than this year if current inflation trends persist. We welcome the Government's commitment to work with us in monitoring the potential impact of these developments on the guidance for rent levels that should apply in 2010/11 - both in terms of its potential impact on tenants' bills and the viability of Housing Association's business plans.[26]

In July 2009 CLG published a consultation paper on the draft directions which would apply to the TSA. This consultation related to the regulatory standards that the TSA will operate in relation to rents, standards of accommodation and tenant involvement. On rents, the draft direction provided:

34. Most commentators expect the level of inflation (RPI) for September 2009 to be negative, and as a result rent rises in 2010-11 based on that figure are likely to be much lower than in 2009-10. This creates potential problems for landlords. RSL business models and financial arrangements are not the same as those of local authorities, although both types of body are not for profit organisations. RSLs depend on rental income to provide funding for management services, carry out promised improvement programmes and raise private finance to build new social homes. If the formula were applied in the usual way where inflation was strongly negative, there would be a sharp drop in rental income for a significant number of RSLs, with implications for services to tenants and the new development of social housing.

35. For this reason, the Secretary of State has decided to consult on a change to the formula to permit a floor of minus 2 per cent on increases to rent levels in 2010-11. This means that where the application of the RPI + 0.5 per cent formula would normally lead to a fall in rent levels of more than 2 per cent, registered providers would not be obliged to reduce the rent by more than 2 per cent.

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25 http://www.insidehousing.co.uk/story.aspx?storycode=6503180

26 http://www.tenantservicesauthority.org/server/show/ConWebDoc.17555

> 36. The rationale for the proposed floor of minus 2 per cent is to protect registered providers from a particularly sharp drop in rental income, and also to give them certainty about the minimum amount of rental income they can expect next year.
>
> 37. We recognise that some housing associations are concerned about the prospect of any nominal-terms reduction in rental income next year. Indeed, we considered the case for a floor of 0 per cent that would have allowed registered providers to freeze their rents in the event of deflation in September 2009. However, we had to balance these concerns with the interests of rent payers and the potential impact on the public finances of higher rent increases than would have arisen from the application of the normal formula. We also had to take account of the fact that housing associations were able to set relatively high rent increases for 2009-10 due to the level of RPI inflation in September 2008.
>
> 38. Alongside the proposed rent floor, TSA will continue to work with any individual registered providers who are in financial difficulty. Where the application of the rents standard would cause a provider to be unable to meet other standards, particularly in relation to financial viability, TSA can – where necessary – give the provider an extension to the period over which the requirements of the standard need to be met.
>
> 39. We have considered the likely costs of the proposed minus 2 per cent rent floor, compared to a scenario in which there was no floor. It is important to note that the floor would have no effect if RPI inflation in September 2009 was minus 2.5 per cent or higher. For example, if RPI inflation in September was minus 2 per cent, the floor would not have any effect. However if, as was forecast in Budget 2009, RPI inflation was minus 3 per cent, the floor would come into effect. In that scenario, we estimate that the cost to those paying rents would be around £391m more over ten years (NPV) than if there was no rent floor. Approximately two thirds of this total would be met by housing benefit.
>
> 40. The proposed direction imposes a rent floor for one year only, but the Government does not rule out proposing a floor for future years should it be necessary – this would be achieved through another direction.[27]

The consultation period closed on 9 October 2009 and the final directions were issued by CLG in November 2009 under section 197 of the *2008 Housing and Regeneration Act*.[28] The TSA published its guidance for associations later in November 2009:[29]

> The proposed TSA standard on rents is planned to come into effect from 1 April 2010. That proposed standard, set out as a result of a CLG direction, continues the principles of rent restructuring previously published and it is therefore a regulatory requirement that housing associations should keep their annual rent changes to no more than the set guideline limit specified by the TSA. This is subject to the requirement that an individual rent does not change by more than £2 a week, in addition to the guideline limit — ie RPI+0.5% plus £2 per week, in any one year. **CLG has made it clear in its direction that it expects guideline rents limits to track RPI whether that be upwards or downwards.**[30]

The guidance sets out the circumstances in which the TSA may grant an extension to compliance to an association:

[27] CLG, *Directions to the Tenant Services Authority,* July 2009
[28] CLG, *The Directions on Regulatory Standards*, 10 November 2009
[29] TSA, *Rents, rent differentials and service charges 2010-11*, November 2009
[30] *ibid*

> The TSA board has agreed that we will take into account the following when considering the case for extensions where complying in full with the restructuring formula would cause:
>
> - a breach of covenant or other loan default before March 2013, or
> - existing loan facilities to be exceeded by March 2013, or
> - significant tenant promises to be broken where these were part of a stock transfer deal
>
> Providing that all reasonable mitigating actions will be taken, including (but not exhaustively):
>
> - making full use of restructuring flexibility, including the 105% tolerance
> - cancelling or postponing uncommitted development projects
> - reprofiling major repairs programmes where possible
>
> Associations will be expected to submit a business case to the TSA for approval. This should be a base-case plan and must include scenarios demonstrating compliance with the criteria above, plus relevant highlights from covenants and rent plans. The association should focus on a short-term timescale and demonstrate that it has taken full account of any possible efficiencies and adjustments to their cost base.[31]

The National Housing Federation reacted angrily to the draft direction on rents claiming that cutting rents by up to 2% in 2010-11 would cost the sector £260m a year. It argued that this could reduce affordable housing development by 4,000 homes a year from 2010:

> Federation chief executive David Orr said: “We know that public spending is tight and you get a sense that in order to fund Building Britain’s Future the Government shook every sofa in Whitehall to see what fell out. But then, having accumulated enough to make an impact, they undermine the capacity of the people they need to deliver it.
>
> “Reducing rents by 2% next year won’t just leave a hole in capacity for one year, but for ever. Not everyone will pull back from building – they will find the cuts from elsewhere – but that hole in capacity translated into homes is 40,000 in a decade. That’s 40,000 safe secure places for 40,000 families to thrive.”
>
> The rent increases that housing associations can levy on their tenants are limited by a formula of September’s Retail Price Index (RPI) plus a half a percent each year. Despite the fact that the formula does not mention cuts at all, the Government says it’s being generous by limiting cuts to 2% against a Treasury predicted RPI of minus 3% for this September.
>
> “It means they’ll save about £109 million on housing benefit,” said Mr Orr. “But against a spend of almost £16 billion a year this is marginal. For the 40% of tenants who pay their own rents the average saving would be about £1.36 a week. But, the majority of tenants we’ve spoken to would rather keep their services and see new homes built than have reduced rents.[32]

[31] *ibid*
[32] NHF Press Release, 18 August 2009

3.3 The reform of council housing finance

The Housing Minister, John Healey, issued a Written Ministerial Statement on 30 June 2009 in which he announced an intention to publish a consultation document on the reform of council housing finance before the summer recess. He said that there is an "intention to dismantle the HRA subsidy system and replace it with a devolved system of responsibility and funding." The consultation paper, *Reform of council housing finance,* was published on 21 July 2009; consultation closed on 27 October 2009.

The consultation paper did not propose any changes to rent setting policy for local authorities but stated:

> It will be necessary to establish long term rent policy in advance of implementing any changes to the system for financing council housing. But we expect to deal with future council rent policy separately, in the context of the HRA subsidy determination for 2010-11 and a future direction by the Secretary of State to the Tenant Services Authority on council rents.[33]

The analysis of rents carried out as part of the review was published alongside the consultation paper, a summary of which is reproduced below:

> The aim was to provide an analysis of the affordability and relevance of the rent formula in social housing today.
>
> HEADLINE FINDINGS:
>
> The analysis was split into five parts:
>
> (i) Social rents and economic subsidies
>
> - this compared current rent levels compared to the rent level the properties would raise in the open market
> - LA tenants pay a rent of about 62 per cent of the level of the market value of the LA property. This is equivalent of total annual economic subsidy of £3.7bn
> - the equivalent RSL figures are 67 per cent and £3.4bn
>
> (ii) Social rents and affordability
>
> - compares the affordability of social rents across a range of household types and rent levels
> - concludes that affordability of social rents have not changed much over time
> - there is no tipping point where a rent level becomes unaffordable, it is a gradual process
> - the only real change happens when the tenant's earnings rise above the housing benefit threshold
>
> (iii) Costs and savings from higher rents
>
> - analysing the impact of higher rents on the housing benefit bill and wider economy

[33] CLG, *Reform of council housing finance,* July 2009

- at present 67 per cent of tenants receive housing benefit; if rents were increased by 10 per cent this percentage would rise to 68 per cent or an extra 50,000 people

- the rent rise would also have a wider impact on the economy; a 10 per cent rise in social rents would increase RPI by 0.25 per cent

- a higher rent is likely to increase worklessness with an increased earnings threshold required to escape housing benefit

(iv) Regional and size differentials of social rents

- compared changes in differentials in social rents by region and size of household between 2001 and 2007

- regional differentials had stayed much the same over the period

- in the LA sector differentials in rents between two and four bedroom homes increased over the period. However when compared to the differential in the private sector and with capital values, the difference between rents in two and four bedrooms homes was still small

(v) The structure of rent policy

- this paper discussed the implications and relevance of the various aspects of the current rent formula

- it recommended that 1999 earnings data could be updated, however it would have to use data from ASHE on lowest decile regional earnings by place of residence. If it was updated it would adjust the rent differentials between regions slightly, it is likely the weighting in London would increase

- for capital values, the differentials vary from year to year. Depending on which year is chosen will impact what the differentials between regions will be.[34]

On 25 March the Minister announced detailed plans to reform the council housing finance system in England with a view to dismantling the Housing Revenue Subsidy system. Full information can be found online.[35]

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[34] The full analysis can be found in *Analysis of rents for the review of council housing finance.*

[35] http://www.communities.gov.uk/housing/decenthomes/councilhousingfinance/