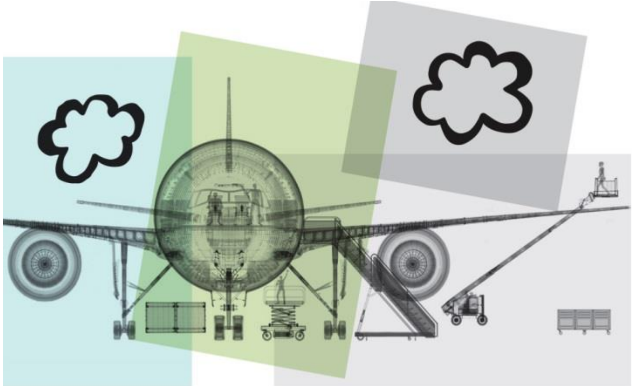

Written evidence submitted by Capsticks in response to the Pay to Stay consultation

Background

Capsticks is a law firm providing legal expertise and consultancy to clients in the social housing and healthcare sectors. Our social housing team is dedicated to providing specialist legal services to Registered Providers of Housing (“RPs”). We provide expert advice in all aspects of social housing and have offices in London, Winchester, Birmingham and Leeds. We represent a total of over 150 RPs across England and Wales.

We have prepared this submission following discussions with a number of our RP clients in response to the Pay to Stay consultation. As a result, the opinions expressed in this paper are not necessarily those held by Capsticks or any of its clients. This paper summarises our clients’ perspectives on the likely effects of the Pay to Stay Policy as currently presented, and what would be the most and least desirable outcomes.

Summary

The key points of our submission are as follows:

• The introduction of higher rents for high earners risks both increasing the housing benefit bill and reducing the ability of tenants on higher incomes to save in order to move into home ownership.

Recommendations:

• That a policy for data sharing should be agreed by RPs and HMRC: An obligation for tenants to advise their landlords of their income could be problematic and administratively expensive, creating risks of fraud, error and legal challenge.

• A taper should apply to increasing tenants’ rents, when their income is above £30k (£40k in London).

• That the Government permits RPs to set their own rents from 2020.

• That the Government considers setting distinctions for RPs in different geographical areas.

Charging higher rents to tenants with higher incomes

The Chancellor’s Budget proposed requiring social housing tenants earning over £40,000 in London and £30,000 out of London, to pay near market rents from 2017/18. The IFS estimate that this is likely to affect 10% of social tenants.

With reference to the Policy detail, further clarity around households affected and exemptions is clearly essential. One of the main concerns for some of our clients is that there does not appear to be any reliable information that they can access about residents’ income. This is going to be needed if they are to enforce the increase to market rent for High

Income Social Tenants (“HISTs”). If the onus is placed on the resident to declare their income, RPs will need to understand their responsibilities in enforcing this, and what action they can rely upon to do so. To what extent will RPs be responsible for policing this initiative if they are provided with erroneous information by tenants, or by HMRC?

Our clients have flagged that affordability of higher rents at these income levels could also risk increasing the housing benefit bill. Recent analysis by Savills found that all one bedroomed market rents in central London are unaffordable with a household income of £45,000, yet the majority of social housing tenants earning £40,000 will need more than a one bedroomed property. A family with two or more children paying market rent would still be entitled to significant help with housing benefit. Increasing rents for families in receipt of housing benefit will not have an impact on the household themselves as the increase will simply be met by more housing benefit. From a household’s point of view, raising rents could keep them dependent on housing benefit for longer, which may also make it difficult for those that might otherwise have been in a position to save for a deposit to buy their own home, even with a right to buy discount. We would agree that a taper would help address this.

One of our clients has provided an example:

A couple with three children living in an affordable rented 3 bedroomed property at £206 a week which is around 65 per cent of market rate, would still be entitled to £55 housing benefit. If rents were increased to 80 per cent of the market, their housing benefit entitlement would go up to around £100 a week and they would remain entitled to around £30 a week when earning £50,000.

Conversely, some RPs in the Midlands and the North have indicated to us that market rents are not significantly higher than affordable rents in their areas. As such, they anticipate significant administration costs in implementing this policy, but do not expect to receive much additional rent.

The Government is yet to set out details about how it proposes this to work in practice but it may prove difficult to implement without increasing complexity and administrative costs. The introduction of Universal Credit aims to simplify and reduce the number of places people have to report income changes. For tenants still entitled to help with housing costs, an obligation to report pay increases to their landlord could add complexity and undermine the principles of Universal Credit. The most straightforward way to administer this policy might be for data sharing to be agreed with HMRC.

One of the aims of Universal Credit is to incentivise work. Gains from earning an extra pound should be consistent across different hours or earnings points, thereby avoiding people earning an extra £1 and losing most of it in reduced benefits. Some of our clients are concerned that the “pay to stay” policy risks creating a cliff edge, whereby a family receiving a small increase in earnings loses more than they gain as a result of a significant rent increase.

Conclusion

There is clearly a need for creativity and flexibility in these uncertain times and our clients recognise that the traditional approach to housing management and development activities will need to change and adapt, for example via fixed tenancies. The issue of affordability is a concern to RPs, and our clients are undertaking an exercise on credit ratings and tenancy sustainability to establish if this should have any greater prominence as part of their selection and allocation process.

For more information please contact:

CHRIS GROSE

Head of Housing Advisory Services

020
chris.grose@capsticks.com

SUSIE ROGERS

Partner

020 8780
susannah.rogers@capsticks.com