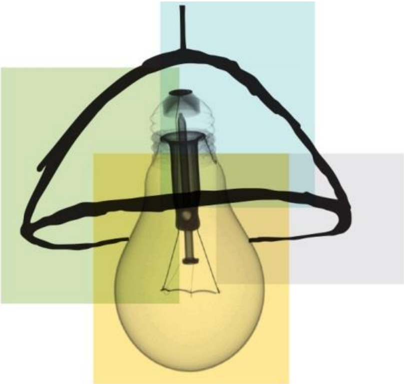

Written evidence submitted by Capsticks in response to the Welfare Reform and Work Bill

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 Welfare Reform and Work Bill. 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 Bill as currently presented, and what would be the most and least desirable outcomes.

Summary

The key points of our submission to the Committee are as follows:

- Our clients have concerns that the proposed 1% rent reduction until 2020 will have a significant impact on building more homes and the delivery of services to tenants.
- 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 supported housing is excluded from the 1% rent reduction
- That the Government should clarify exemptions from 1% rent reduction
- 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.
- That the Government permits RPs to set their own rents from 2020.

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The effects of the reduction on rents on housing associations

The Government has set a significant challenge to the social housing sector in reducing rents by 1 per cent each year for the next four years whilst expecting RPs to continue to build. Our clients have universally confirmed that they are committed to meeting this challenge by revisiting their business plans and exploring efficiency savings. However, some have indicated that they will not be able to build as many homes as they had originally planned because it simply isn't financially viable. We have provided two examples of this, received from our clients:

"We have estimated that the change in rent policy will reduce our expected borrowing capacity in 2020 by over £230m. Based on the current levels of debt financing for new social housing, the changes effectively risk reducing our development capacity by c.1600 new homes."

"We know that our income will reduce by c15% over the next four years and, whilst we are in a financially strong position, we have decided to make more significant budget cuts in 2016/17 to avoid 'drip-feeding' changes over that time. We have brought forward our budget process in order that we can consider the cuts carefully and to understand the impact that this has on our Business Plan. We will review our Corporate Plan once the final budget position is approved in October as we recognise that our targets and objectives will need to change as a result."

Many of our clients would like clarification on 'exclusions' from the rent decrease, in particular confirmation that supported housing be excluded from the rent reduction. Developing supported housing is more costly, because buildings and related service provision need to be tailored to the client group's needs. Clients have indicated that their supported housing schemes that are currently in development stack up financially only without the rent reduction.

We have been told that many tenants in receipt of housing benefit will not see the benefit of a rent reduction. In fact, it appears that the financial loss to RPs could have a significant impact on services provided to tenants, such as quality of maintenance services, effective housing management and community initiatives. As described above, the majority of our clients are reviewing their business plans to find efficiency savings. Whilst this can have a positive impact as it challenges RPs to deliver efficient services, the knock on impact could mean that RPs resort to just core service delivery which would have a significant impact on effective partnership working, resident opportunities to engage with RPs and social economic improvements. Our clients are adjusting their business plans to focus on delivering home ownership as a key priority, but as charities many are also keen to maintain the social value that they contribute to local communities.

The National Housing Federation (NHF) estimates suggest that the reduction will result in a loss of almost £3.85bn in rental income over the four years. Over the forecast period, the NHF assumptions suggest that at least 27,000 new affordable homes won't be built as a result of the change.

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 Pay to Stay rent charges. 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.

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.

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.

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.

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