RESPONSE TO 'SOCIAL RENTS IN 2015/16' CONSULTATION **APPENDIX I**

Our ref: IW – IW-2587
Consultation: Rents for Social Housing from 2015/16 consultation

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Deputy Leader of the Council and Cabinet Member for Housing

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20th December 2013

Dear Sir or Madam,

Re DCLG consultation: Rents for Social Housing from 2015/16 – Southwark Council response

Thank you for the opportunity to respond to this consultation. Please find attached our full response to the questions posed.

As London's largest social housing landlord, we agree that affordability and certainty regarding rent charges are of key importance for social housing tenants and housing applicants in the borough, and recognise that within the proposal is the intention to minimise rent increases for tenants in difficult times. Even with nearly 2,000 council housing lets per year, demand for affordable housing in the borough continues to rise as evidenced by our housing waiting list which contains over 21,100 households.

We also support the principle of providing further stability for social housing landlords, and note the Government's desire that the proposal will feed into the aim of encouraging investment in new homes. Southwark Council fully supports the need to invest in new homes and our commitment to building 11,000 new homes over the next twenty five years is fully consistent with the Government's policy objective. There is also a keen focus on ensuring our homes are of the best quality possible, and currently Southwark is investing £326 million in our stock to make every home warm, safe and dry.

However, as set out fully in our response, we have serious concerns about the proposals. There are local authorities whose rents have already converged or will converge by the deadline, and it may be that these proposals may have a relatively minor impact in these authorities. However, in Southwark we have traditionally tried to keep rent levels low and the deadline for convergence will not be met. While we are not exceptional in this regard, particularly in London, these proposals could impact on Southwark far more than on some of our neighbouring authorities.

Whilst on the face of it the change in policy removes a significant inflationary factor for individual tenant's rents, we are particularly concerned that it introduces uncertainty into the rental income projections that underpin self-financing business plans where councils, such as Southwark have not been able to achieve rent convergence by the stated date and have plans predicated on the basis that convergence would continue to fruition beyond 2015/16.

Over the next four years from 2014/15, the gap between actual average rents and those assumed by government as part of the self-financing settlement, generates a £60.3 million shortfall of income against government assumptions. Restricting rent rises to CPI + 1 percent from April 2015 onwards, would only serve to exacerbate this shortfall in rental income by a further £15.1 million over the same time period. We also believe that the non-availability of waivers for council providers introduces further risks in to the self-financing system.

As detailed in our response, we do not support the removal of formula rent caps without some other mitigation being made available to authorities in our position. However, notwithstanding our reservations regarding potential impacts of the consultation's other proposals, we recognise that fixing rent increases at CPI + 1 percentage point (for social rent and affordable rent) over a ten year period brings stability to the business planning process.

We do not believe that charging higher rent for high income social housing tenants will generate significant revenue for Southwark to invest in new social housing for the reasons set out in more detail below. The Council believes the way to deal with the problem of scarce social housing resources is to build new housing, either alone or in partnership with others.

If you require any further information to that contained in our full response, please do not hesitate to contact us.

Yours sincerely

Ian Wingfield

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Southwark Council response to Department for Communities and Local Government Consultation – Rents for Social Housing from 2015/16

When introducing the proposals outlined in this consultation, Housing Minister Kris Hopkins stated that the aim was to offer a deal which will give a decade of strong protection for social tenants. He also highlighted the aim of giving greater stability for landlords, as it would enable them to use this certainty to predict their likely revenues and invest in new homes.

As London's largest social housing landlord we are very aware of the need to meet the demand for good quality housing which is affordable for residents. We recognise that within the proposal is the intention to minimise rent increases for tenants in difficult times. Even with nearly 2,000 council housing lets per year, demand for affordable housing in the borough continues to rise as evidenced by our housing waiting list which contains over 21,100 households. Southwark's 2008 Housing Requirements Study also found that 47 percent of households had incomes of £15,000 or less per annum, and that the median household income for Council renters was £9,100 compared to £16,800 for all households in Southwark. We recognise that affordability and certainty regarding rent charges are of key importance for housing applicants and social housing tenants in the borough.

We also support the principle of providing further stability for social housing landlords, and note the Government's desire that the proposal will feed into the aim of encouraging investment in new homes. Southwark Council fully supports the need to invest in new homes and our commitment to building 11,000 new homes over the next twenty five years is fully consistent with the Government's policy objective. Whilst affordability is a major concern in Southwark, there is also a keen focus on ensuring our homes are of the best quality possible. Currently, Southwark is investing £326 million in our stock to make every home warm, safe and dry.

We do not believe that charging higher rent for high income social housing tenants will generate significant revenue for Southwark to invest in new social housing for the reasons set out in more detail below.

There are local authorities whose rents have already converged or will converge by the deadline, and it may be that these proposals may have a relatively minor impact in these authorities. Within Greater London for example, at least nine boroughs were within 2.5 percent of their target rent with two years of convergence remaining. However, as set out in the following response, in Southwark we have traditionally tried to keep rent levels low and the deadline for convergence will not be met. We are not alone in this regard, since in 2013/14, five other London boroughs had greater than 7.5 percent gaps to bridge between actual and target rents, and in four cases this was still in double digit terms. We therefore have concerns that whilst we are not exceptional in this regard, these proposals could impact on Southwark far more than on some of our neighbouring authorities.

Southwark has complied with governmental rent restructuring policy since the publication of "***The Guide to Social Rent Reforms in the Local Authority Sector***" by the then Office of the Deputy Prime Minister (now DCLG) in 2003. We have unpooled service charges for tenants (2004 onward); applied average rent ceilings (2006 and 2007), revised guideline rents (2009) and changed national convergence dates when required by central government. Throughout the policy we have applied annual affordability limits and formula rent caps – as advised by DCLG and in the former case previously refunded centrally – to mitigate the effects of the policy on individual tenant rent rises. As a consequence our actual rents are some distance from convergence.

This is a combination of historically-low rent levels, but also because of adherence to the policy. It is troubling that strictly following government guidelines could disadvantage us to such a degree.

Q1. What are your views on the Government's proposed policy on social rents from 2015/16?

The proposed new policy is a paradigm shift from that set out in the self-financing settlement. Government set out their assumptions regarding rent levels post-settlement in their covering letter with the draft settlement determination papers issued on 21 November 2011 – only two years ago. The relevant passage is quoted below:

> "*The draft determinations and the [settlement] models set out the self-financing policy and methodology. Key components in the self-financing valuation model are:*
>
> ***Assumed rental income****: As described in both the February and July 2011 policy documents, national social rent policy is that rents in the council housing sector should converge with those charged by housing associations by 2015-16, followed by rent rises at RPI + 0.5% per year after this, in line with housing associations. In valuing each local authority's housing business we have assumed adherence to this rent policy.*
>
> *In keeping with previous years, we will base next year's rent rises on RPI inflation in the previous September, combined with a convergence factor to reflect the number of years to rental convergence with the housing association sector.*"
>
> *Source: 'Consultation on the draft determinations to implement self-financing for council housing', CLG 21 November 2011*

Whilst on the face of it the change in policy removes a significant inflationary factor for individual tenant's rents, it introduces uncertainty into the rental income projections that underpin self-financing business plans where councils, such as Southwark have not been able to achieve rent convergence by the stated date and have plans predicated on the basis that convergence would continue to fruition beyond 2015/16.

Following formula rent policy for 2014/15 gives rise to an average rent increase of 5.4 percent to £101.61 per week for Southwark tenants. This compares to the average formula rent target for Southwark for 2014/15 of £108.80, a shortfall of £7.19 (7.1 percent), highlighting the extent of the gap between actual average rents and those assumed by government as part of the self-financing settlement. Over the next four years, this gap generates a £60.3 million shortfall of income against government assumptions. Restricting rent rises to CPI + 1 percent from April 2015 onward will only serve to exacerbate this shortfall in rental income by a further £15.1 million over the same time period. Taken cumulatively, the Spending Review proposals create a greater loss of spending power (£75.4 million) over the same period – as the table below sets out.

	'Converging' Rent (current policy)		**Consultation Rent (CPI+1% from 2015/16)**		**Formula Rent (settlement position from 2015/16)**		**Rent Foregone p.a.**	
	Average	**Rent Debit**	**Average**	**Rent Debit**	**Average**	**Rent Debit**	**Currently assumed**	**New level**
2014/15	£101.61	£200.8m	£101.61	£200.8m	£108.80	£216.4m	£15.6m	£15.6m
2015/16	£106.26	£207.8m	£104.65	£204.7m	£112.07	£222.9m	£15.1m	£18.2m
2016/17	£110.44	£214.8m	£107.79	£209.6m	£115.43	£229.5m	£14.7m	£19.9m
2017/18	£114.57	£221.5m	£111.03	£214.7m	£118.89	£236.4m	£14.9m	£21.7m
Cumulative							£60.3m	£75.4m
Net change								**£15.1m**

CPI assumed at 2% for next three years

It is disappointing that whilst the consultation acknowledges in paragraph 45 that there are non-convergence issues generated by the application of previous rent policy, particularly affordability limits, assistance appears only to be made available to private registered providers (paragraph 47) and not to local authorities. It is proposed that a provider experiencing difficulties apply to their regulator for a time-limited waiver of the social rent policy (presumably to allow them to further converge rents), and it is difficult to see on what grounds this concession should not be extended to council providers in the same situation. **The Council opposes this approach**, and believes that the non-availability of waivers introduces further risks into the self-financing system, which undermines the principle of self-financing.

It should be noted that in keeping with social housing policy since 2002, these changes are not mandatory and authorities could choose their own course and set rents to converge. However, it is almost certain that this action would contravene the housing benefit limitation arrangements resulting in a financial penalty through the loss of rent rebate subsidy. The consultation avoids committing the Department for Work and Pensions in any way in this regard, even involving more helpful timescales on issuing limit rents for budget-setting purposes, which is a major weakness in the proposals as put forward.

Limit on Rent Changes

In what would be a significant departure from current council policy, the consultation paper (paragraph 46) (paragraph 2.3 of the Guidance) takes the policy of moving new-let properties straight to formula rent as a means of defraying the rental income lost by non-convergence. Southwark has previously resisted this on the grounds that it would create artificial rent differentials between neighbouring properties of an identical standard, and would therefore be inequitable and difficult to justify. As convergence of actual and formula rents approaches, this inequity reduces, but the Council will need to weigh the continuation of this policy against the opportunity to mitigate the loss of resources.

While **the ability to move to formula rent is welcomed on void re-lets**, there may be times when this could have impacts on other policy aims, such as making the best use of the stock. An under-occupying pensioner may not want to downsize if this would result in an increased rent. Therefore **some flexibility should be retained by local authorities**, where this flexibility would still result in increased numbers at formula rent through housing churn.

DWP Limit Rents

There is no indication put forward as to the operation of limit rents as set by the Department for Work and Pensions (DWP) in any future universal credit system, making evaluation of the interplay between the two impossible to predict. **A case can be made to abolish the limit rent mechanism entirely**, as part of the standardisation of approach between local authority and RSL sectors. Abolition would have the added benefit of removing any anomalous situations arising whereby moving a new-let property straight-to-formula would inadvertently exceed the limit rent. Local authorities are democratically accountable to their tenants and other residents, and this, as well as fitting the localist agenda, should act as a sufficient counterbalance to any impetus to raise rents unjustifiably.

Calculation of Rents

Paragraph 2.3 of the Guidance refers to the Government wanting social rents to take account of condition and location of a property, local earnings and property size (specifically the number of bedrooms in a property). It states that property size helps to ensure properties with more bedrooms have a proportionately higher rent, as would be expected. It could be questioned whether this should be the case in future. We have calculated that the benefit cap will affect larger households. With affordable rent, many councils and developers have considered the benefit caps, and in some cases this has resulted in family-sized properties having lower rents than other properties which are smaller. This has been to ensure that family-sized properties remain affordable for households who may potentially be unable to pay higher rents because this would take them above the benefit cap threshold.

Q2. Should the rent caps be removed? If you are a landlord, how (if at all) do the caps impact on you currently?

In the forthcoming rent year, we estimate that 983 tenancies will benefit from the application of formula rent caps, principally street properties, alongside one or two exceptionally high value blocks of flats immediately adjacent to the River Thames. In context, this is 2.57 percent of the total number of tenanted properties in Southwark. The total formula rent debit for 2014/15 is reduced by £1.1 million as a result (before any adjustments for stock loss or voids). In common with all other aspects of rent restructuring, the Council has always applied formula rent caps to qualifying properties.

The original argument for the application of the formula rent caps was to protect tenancies against the outlier effects of particularly high valuations, and without a general revaluation from the 1999 base this rationale has not changed. We accept that there is now an argument that these properties should contribute to the convergence gap noted in the response to Question 1 above to the fullest extent – i.e. be uncapped, since the "straight-to-formula" basis for all new lets is also expected to be a means of defraying the convergence gap. However, in some cases the individual increases in rents for these properties would be swingeing, and the Council does not wish to appear discriminatory in this regard, particularly with reference to our intention to remain a provider of good quality mixed social housing. We therefore **do not support the removal of formula rent caps without some other mitigation being made available**.

Q3. Do you agree with the move from basic rent increases of RPI + 0.5 percentage points to CPI + 1 percentage point (for social rent and affordable rent)?

Social Rents

Notwithstanding our reservations regarding the impact of the consultation paper's other proposals, a commitment by government to fix this inflation factor over a ten-year period is helpful (as paragraph 40 notes) and in contrast with other aspects of the consultation brings stability to the business planning process.

For the 2014/15 rent-setting, these two factors were identical at 3.7 percent. Whilst there is an historical tendency for CPI to be lower than RPI, as housing costs – the principal difference in measurement – outstrip headline inflation, this is rightly reflected in the increased top-up figure applied to the base percentage. Over time, the degree of volatility attached to CPI seems to be less than that of RPI, and greater stability is a strong argument in its favour. It appears that CPI is the preferred mode of inflation to be used across the public sector, and coupled with the downgrading of RPI as an indicator by the Office of National Statistics, **the Council has no formal objection to this change in basis**.

We would not, however welcome the factor reverting to simply CPI after the end of the ten-year period covered under the Spending Review announcement as this would once more cause fundamental downward shifts in HRA income assumptions contained in the business plan.

Affordable Rents

Paragraph 3.15 of the Guidance states that: "*On each occasion that an affordable rent tenancy is issued for a property – whether it is let to a new tenant, or an existing tenancy is re-issued – local authorities should re-set the rent based on a new valuation, to ensure it remains at no more than 80 percent of the relevant market rent*". Paragraph 3.17 states that "*This expectation overrides the CPI + 1 percentage point limit on rent changes.*"

This does not really deliver the Government's aim to "*Protect social tenants from excessive increases in rents*". In effect this Guidance protects traditional social rented tenants while providing no protection for affordable rent tenants from what could be significantly increasing housing market prices. It also fails on the other policy aim to "*Enable tenants to understand their future housing costs better.*"

We also have concerns that in general providers will be expected "to utilise the flexibility to charge rents of up to 80 percent of market rents to maximise financial capacity." We have a significant need for social rented housing, and rents at 80 percent of the market rent are unaffordable for most applicants on our housing register due to high house prices in the borough. While we are working with housing associations and developers to develop properties which have rents at lower proportions of market rent in order to meet identified need in our borough, the Mayor of London is attempting to restrict our ability to control levels of market rent on new developments through planning policy.

The Guidance (1.8) also states that *"Affordable rent is designed to maximise the delivery of new affordable housing by making the best possible use of Government investment."* It could be argued that this may not necessarily make the best possible use of Government investment if the ongoing cost of the higher rent on the welfare budget is taken into consideration. Market rents are currently rising considerably. As registered providers increase their rents to reflect this, this will get worse. Therefore, developing homes for traditional social rent may be a better investment in the longer term.

Comment on the Policy on rents for social tenants with high incomes – 'Pay to Stay'

As stated in our response to the Pay to Stay consultation, we question whether this proposal will give landlords "*additional income to invest in new housing*". In a borough like Southwark with 38,364 local authority renter households at 1st April 2013, concerns about the proposal include the following:

- the scheme would be **complex and costly to administer** e.g. upgrading rent systems, tenant income and rent details
- numbers affected would be small and any **financial returns would be unlikely to generate significant income to cover the costs of administering the scheme**
- any **extra income would be unpredictable** as the number of affected tenants might reduce over time (e.g. move out, exercise the right-to-buy, etc.)
- **appeals could lead to further costs for the Council and tenants**, and in the meantime, arrears might accrue
- higher rents **could lead to increased numbers of right-to-buys**, thereby reducing supply of affordable housing and rental income
- the scheme **will not contribute to increasing the supply of affordable homes**
- **our preference is for mixed and balanced communities to encourage aspiration and betterment** – this scheme could potentially disincentivise employment / increasing household incomes.

The Guidance states in paragraph 1.16 that it is the Government's aim for rent policy to protect social tenants from excessive increases in rents. Last year the monthly social rent for a two bed council property was approximately £400. The market rent for a two bed in Southwark is currently £1,842 per month. Therefore it would be hard to argue that this was not an excessive increase in rent. Assuming that 30 percent of household income could be used towards rent costs, an annual income of £73,680 would actually be required to make paying the market rent affordable. The issue is even more stark for three bed properties where the average market rent is currently £2,275. This would require an annual income of £91,000. The percentage of market rent in Southwark for a three bed that the £60k earning household could actually afford is 66 percent of market rent. Therefore these tenants would still be tenants who clearly need a sub-market rent, as referred to in paragraph 4.2 of the Guidance.

Chapter 4 of the Guidance needs to make clear whether the Pay to Stay proposals refer to tenants in affordable rent properties as well as those in traditional social rented properties.

Q4. Do you agree with the definition of "household" proposed?

We believe the definition could be a potential area for dispute, which could result in arrears for tenants, and reduced income and possible costs for local authorities. Concerns include the following:

- a sense of unfairness if some tenants have to pay the higher rent when other households with high earning members not included in the definition are unaffected
- disputes about whether a person is actually the partner of the tenant
- more clarity around when a partner's income is taken into account would be helpful - they may not have been living at the property nor in the relationship the year before
- greater clarity around residency would help – the Guidance does not refer to the named tenant's residence nor to how residency is defined (length and type of residency, e.g. if a partner is working away most of the week).

The proposal does not take into account household size nor the number of dependants, with possible implications in terms of affordability. We note that that access to Government-funded affordable home ownership schemes in London does take household size into account, in the current scheme and in the draft London Housing Strategy.

Q5. Do you agree with the definition of "income" proposed?

Generally, we agree with the proposal to define income as total taxable income. However, the threshold is likely to be complex to administer and disputes could arise whatever income assessment method is applied:

- tenants will presumably be expected to monitor their household income to see if it is on or above the threshold, and take this into account when planning for future rent payments - there could be a particular issue where household members have variable employment and incomes throughout the year
- other issues might include accountancy costs if self-employed, tensions within households over which incomes are to be included, less family support for vulnerable tenants if some household members move out, and management issues if higher rent is payable for neighbouring properties
- the proposal could also act as a disincentive in that, if the rent was to automatically increase to market rent, the tenant could decide to work fewer hours and be better off due to reduced rent.

This proposal does not appear to take affordability into account, with no link between incomes and the proportion of market rent payable, although there is an acute lack of affordable housing in Southwark and London. Market rents can differ significantly by postcode, even within local authority areas, and we have concerns that a one size fits all approach will not work. Also with regard to the £60k threshold, we note that access to Government-funded affordable home ownership schemes in London is at a higher threshold than the national level, as a maximum household income is £74,000.

Q6. In particular, should capital be included and if so, how?

This would further complicate the scheme and could potentially increase the administrative burden on landlords.

Q7. Do you agree with the income period proposed?

The fact that the income for the 2013/14 tax year would guide the rent payable in the 2015/16 rent setting year is far from satisfactory:

- making an assessment based on the income from the previous tax year would be complex to monitor and administer, with the potential for dispute and costs for the Council, as well as concern for tenants and possible build up of arrears
- tenants may not be aware that their household income (as defined) is on or above the threshold
- it is difficult to see how a higher rent level could apply retrospectively, as incomes and household composition may have changed by the time of implementation - this could make planning ahead difficult for tenants, and the Council in terms of future expenditure although the sums involved may be small.

The consultation states (paragraph 91) that a landlord would need to give the tenant reasonable notice before the new rent came into effect, and that the landlord could decide whether to charge the tenant up to full market rent. However, the Guidance is silent on how the threshold should be applied with regard to the higher rent coming into effect – should the rent increase be phased in or 'big bang'? If a household income went above the threshold by a marginal amount, would there be a substantial increase in rent due, possibly cancelling out any increase in household income?

Q8. What are your views on the proposed self-declaration approach?

A system based on self-disclosure has inherent weaknesses, particularly when there is no benefit for tenants. Non-disclosure would be an ongoing concern, as the system would already be complex to administer and making adjustments for income variations would add to this. Our concerns include the following:

- will tenants be expected to check their household income against the threshold, potentially a complex task e.g. people may move jobs or in and out of work, or be self employed - even with regular monitoring of income via a link with HMRC, rent adjustments could be complex with arrears accruing, particularly if backdating was problematic and involved large differentials in rent levels
- disputes might also arise within households regarding self-declaration, with possible consequences e.g. homelessness, family break-up, loss of support within households

- the benefit of a two-stage process is not clear, as until the second stage is introduced, the expectation that tenants will submit details of incomes is likely to be at best partially fulfilled; without a legal basis, during a first stage, it might be that landlords would be able to charge a higher rent but still be waiting for clarity and certainty
- further clarity is required regarding the legal issues relating to this proposal e.g. what sanctions are envisaged, would the onus be on the landlord to take action incurring legal costs, if the household failed to declare their income?

The above is likely to result in an increased administrative burden for landlords with resultant costs. The consultation does not make clear if the above requirement applies to all social housing tenants regardless of whether their landlord is actually implementing Pay to Stay policies. In this case, local authorities might have to record information which they had decided not to act on, so there would be costs without any additional rental income being generated.

Q9. Do you agree with how we propose to treat historic grant?

The consultation refers to how any additional income arising from the policy should be spent. We agree that local authorities should be encouraged to invest in social housing and are supportive of policy initiatives which seek to keep money within the borough.

In general we support the proposals regarding historic grant except when the property is in a local authority area where the local authority has an agreed strategy to invest in new affordable housing supply, in which case the recycled grant should be passed to the local authority for re-allocation.