States of Jersey
States Assembly

États de Jersey
Assemblée des États

Health, Social Security and Housing Scrutiny Sub-Panel

Housing Transformation Programme Review

Presented to the States on 15th April 2013

S.R.6/2013

CONTENTS

CHAIRMAN'S FOREWORD

The Housing Transformation Programme is a complex package of reforms which has required a great deal of analysis, thought and discussion. The Sub-Panel has carefully considered the moral issues behind the Housing Transformation Programme and its consequences and we have attempted to consider and work through alternatives to better understand why the Minister has reached some of the conclusions he has.

We are grateful to the Department for their frank engagement with us. They have listened to our views and, in particular, reacted to the points we raised in our Interim Report (S.R.5/2012).

One aspect of the Housing Transformation Programme has already been introduced, and the creation of the single Housing Gateway has been a success by simplifying the entry process. However it can be said that it has masked the true extent of the housing waiting list due to the narrow criteria imposed by the department. Having said that, if the criteria were broader, the island would not have sufficient capacity to home those who would become eligible, due to the pressure on the existing housing stock.

In accepting this model, we feel strongly that further work needs to be carried out in conjunction with other housing providers to further enhance the offering to islanders. At present there are almost 150 families on the tier 1 waiting list (most categorised as in need, i.e. virtually homeless) and another 350 in lesser need. These proposals will create a net gain of only 287 new social housing units over the next 30 years. This is clearly not sufficient to deal with current need, let alone future need.

Our report makes a number of recommendations, which we hope will assist the Minister in his work and we urge him to accept them. In particular we support a different approach to regulation, one that would be more suited to Jersey's size. We would also like to see a proper definition and shared understanding of the purpose of Social Housing, in order to provide a better focus to policy creation and decision making.

This review has been labour intensive and I am particularly grateful to Senator Breckon and Deputy Le Bailly who joined the Sub-Panel team and have made excellent contributions. Deputy Reed too took on this extra responsibility, launching into it with his usual hardworking and focused attitude. We have been very capably guided by our Officer Fiona Scott and expert adviser Abigail Davies, who have worked assiduously to provide invaluable and first class support.

Deputy Kristina Moore

Chairman, Health, Social Security and Housing Scrutiny Sub-Panel

TERMS OF REFERENCE

1. To determine whether the policy proposals contained in the White Paper are the most appropriate and able to address the range of issues identified by the Housing Minister and his Department.

2. To examine how the responses to the Green Paper were analysed and reported.

3. To consider the financial and other implications associated with the policy proposals.

4. To consider the findings and recommendations of previous scrutiny reviews on the subject.

5. To identify changes to the overall Social Housing structure and consider whether the policy proposals will address known housing issues.

SUB-PANEL MEMBERSHIP

The Health, Social Security and Housing Sub-Panel comprised the following Members:

Deputy Kristina Moore, Chairman

Senator Alan Breckon, Vice-Chairman

Deputy James Reed

Deputy John Le Bailly

Expert Advisers

The Panel appointed the following expert advisers

Mr Steve Partridge

Ms Abigail Davies

Steve Partridge, CPFA, is the Managing Director of CIH Consultancy, a role which leads their work on financial consultancy and training and also comprises senior financial policy advice for the Chartered Institute of Housing.

Abigail Davies is Assistant Director of Policy and Practice at the Chartered Institute of Housing. She leads the policy and practice team, whose aims are to champion and support the housing profession and help to shape housing and communities policy and practice at national, local and organisational levels.

EXECUTIVE SUMMARY

This review considers the Housing Transformation Programme as set out in P.33/2013, "The Reform of Social Housing" and the accompanying Full Business Case R.15/2013. The Housing Transformation Programme represents a major change in approach to social housing that has been in development since 2009.

Jersey's social housing sector faces unique challenges and opportunities deriving from its physical size, history, finance structures and governance and regulatory practices. These include the high cost of renting and buying property, the lack of mobility across tenures, a reliance on the planning system to deliver new affordable housing and the lack of supply of affordable and social housing in the face of increasing demand. Furthermore the absence of a clear policy framework and regulatory structures have presented challenges for maintaining and investing in the States social housing stock, leaving over a quarter falling short of the decent homes standard.

The Housing Transformation Programme is intended to be a response to Strategic Priority 14 ("Adequately House the Population") within the States Strategic Plan 2009 – 2014 (P.52/2009), which directed the Minister and Housing Department to: support the development of affordable housing; define a new 'Jersey standard' for social rented accommodation; continue to upgrade and improve older States homes to meet the new 'Jersey standard'; implement proposals for the regulation of all affordable housing providers including common waiting lists and allocation criteria; and to establish a gateway for all affordable housing to ensure that existing and future stock is targeted to deliver maximum benefit.[1]

In this review the Sub-Panel has attempted to establish whether the framework and infrastructure for future policy development and regulation is proportionate to the housing needs in Jersey and therefore represents value for money for both the States and Tenants. The Sub-Panel has scrutinised the principles underpinning the overall Housing Transformation Programme, as well as considering in detail proposals to reform social rents, to establish a Strategic Housing Unit, to establish a States-owned Housing Company to manage the stock, and the proposed introduction of a social housing regulator.

Housing Transformation Programme

[1] The Reform of Social Housing (P.33/2013) p.12

The Sub-Panel is concerned that a clearly agreed definition of the role and purpose of social housing in Jersey, including a clear commitment to an agreed approach and the parameters, has not emerged during the course of the Housing Transformation Programme's development. In the Sub-Panel's view, this creates risks to longer term delivery of objectives as definitions may shift in future depending on the political context. Reference to the proposed Housing Company as a "strategic investment" or "strategic asset" implies that the Housing Transformation Programme places greater emphasis on the social housing sector achieving maximal financial performance rather than fulfilling a moral or social obligation to house those who cannot afford accommodation on the open market. The Sub-Panel consider that retaining the Minister for Housing at the head of the Strategic Housing Unit will provide clear political accountability for the social housing sector, as well as coordinating strategic housing policy across all tenures.

Strategic Housing Unit

The need and desire for a coordinated, cross-tenure housing policy in Jersey was made clear during the Sub-Panel's evidence gathering, and as such the proposal to establish a Strategic Housing Unit to develop a robust Island Housing Strategy is welcomed by the Sub-Panel. The Sub-Panel has made several recommendations that would strengthen the SHU, clarify responsibilities, and remove the risk of it becoming marginalised due to lack of adequate resources, appropriate culture, and sufficient attention amidst competing political priorities.

Regulation of Social Housing

Having considered the evidence in detail, the Sub-Panel does not see the introduction of an independent social housing regulator as an appropriate first step to regulating a small social housing sector, and suggests that a voluntary approach would be more appropriate to the Jersey situation to begin with. Potential alternatives to regulation, including a Social Housing Charter, are discussed in some detail. The Sub-Panel would like to see more focus on how regulation, whether statutory or voluntary, can improve service delivery as opposed to deal with service failure. This is a subtle difference but an important change in mindset.

Details of proposals for statutory regulation are not sufficiently developed, and the Sub-Panel is concerned that the Assembly is being asked to sign up to too much in advance, especially given the level of power and control that would be created.

Return to a Near Market Rent Policy

Having consulted extensively with the Housing Department and its advisors on this issue, the Sub-Panel reluctantly accepts that the proposed return to a 90% rent policy is the only way forward given the unlikely availability of capital subsidies and the urgent need to redevelop and expand the housing stock. Additional interventions to monitor and offset the social and economic impact of the rent reforms are strongly recommended.

The Sub-Panel acknowledges that the business case for moving rents back to 90% of market levels are set out in some detail in P.33/2013, and accepts that concessions have been made with regard to the implementation of the new rent policy, particularly in only applying the uplift to 90% of market rents to new tenancies or re-lets. However, the Sub-Panel remains concerned about the moral case, the social and economic impact of the reforms, future challenges to the policy by public and politicians, and the risk of requiring additional policy interventions to offset consequences of the rent reforms.

Incorporation of States Owned Housing Company

The Sub-Panel is supportive of the creation of the States-owned Housing Company and its role in improving the quality and suitability of States properties. The Sub-Panel is satisfied that the Business Case underpinning the States-owned Housing Company is robust and notes the appointment of reputable advisors in the development of the Full Business Case.

Although the process by which the other options for the social housing stock were discounted is clearly explained, it is not obvious why a Trading Operation or Hybrid Trading Company were so willingly discounted. Particular concerns remain because the Sub-Panel identifies that uncertainties about the future level of rents, the low number of additional new homes arising from the Business Plan compared to assessed need, and the potential for financial arrangements underpinning the organisation to be re-negotiated in the future present real risks for the Company’s future viability. The Sub-Panel also disagrees generally with the policy of selling off social housing to Tenants at a time when new stock is in such short supply.

Housing Trusts

The reforms set out in P.33/2013 will have a significant impact on the Housing Trusts and Parishes. In some regards it is welcome that they are seen to have a key role in future provision and delivery of affordable housing. However the Sub-Panel has concerns about the scale of impact on the independence and financial arrangements of the Housing Trusts and recommends that further clarity is given.

Prospects for Future Provision of Social and Affordable Housing

The Report clearly states that increasing the supply of social and affordable housing is a key objective of the reforms proposed. However, whilst recognising the importance of the reforms to quality and management of existing housing, the Sub-Panel has concluded that the present reforms are not sufficient to make any meaningful contribution to the future provision of affordable and social housing. In order to properly transform Jersey's housing (even just the affordable housing sector) a more solid political and financial commitment to other mechanisms for supply is required to meet assessed need.

KEY FINDINGS

1. A clearly agreed definition of the role and purpose of social housing, including a clear commitment to an agreed approach and the parameters, has not emerged during the course of the Programme's development [**Section 3.1**]
2. Confusion has arisen about the purpose of social housing due to the labelling of the new Housing Company as a "strategic investment". [**Section 3.2**]
3. There is a risk that the Strategic Housing Unit may become marginalised amidst competing political priorities. [**Section 4.1**]
4. A small Strategic Housing Unit will be challenged in overcoming the existing tensions and poor track record of joint working and coordination of housing policy between Departments and Ministers. In order to function appropriately it must have clearly defined and agreed roles and aims at the outset. [**Section 4.2**]
5. Housing is an essential provision, and it is important to be able to clearly identify a Minister with direct responsibility for it. This is enshrined in the States Strategic Priority of "Housing Our Community." [**Section 4.2**]
6. The Strategic Housing Unit is not sufficiently independent to propose standards for Tenant engagement and set performance and probity standards for Social Housing Providers. [**Section 4.3**]
7. The Strategic Housing Unit is proposed to be responsible for a wide variety of operational and strategic functions, yet detail about how it will be held to account on delivering against these priorities is not provided in P.33/2013. [**Section 4.3**]
8. The wording of the in-principle enforcement powers for the Regulator risk the States unwittingly endorsing a mandate to bring in more draconian regulations. [**Section 5**]
9. Regulatory activities applied to Social Housing Providers risk becoming a top-down approach with a formulaic compliance assessment which concentrates on inputs rather than outcomes unless alternative methods of compliance are developed. [**Section 5.1**]
10. The principle of encouraging a culture of co-regulation where Social Housing Providers should effectively self-regulate to a large degree does not establish clearly how, or on whose terms the providers will self-regulate. [**Section 5.2**]
11. The Sub-Panel is supportive of the proposal to bring all social housing stock up to a Decent Homes Standard. However it is not clear whether regulation is required to achieve this as stock maintenance appears to have fallen behind due to financial constraints rather than organisational resistance. [**Section 5.4**]

12. Appetite for the regulation of the private rented sector to set and ensure delivery of consumer standards is strong. [**Section 5.5**]
13. If the Housing Trusts are to be relied on to deliver a sizeable proportion of new social and affordable housing developments, growing the sector should be the overall goal rather than compelling providers to achieve uniform standards. [**Section 5.6**]
14. There is a risk that future Assemblies and Ministers may change policy priorities around regulation, which would be passed on to the regulator for implementation. Regular, sizeable or controversial policy changes could risk undermining the credibility of the regulator in the eyes of stakeholders. [**Section 5.7**]
15. The case for a regulator made on the basis of poor performance on the behalf of other Social Housing Providers is not justified. [**Section 5.8**]
16. The proposals lack any significant information about the relationship between social housing Tenants and the proposed regulatory body. [**Section 5.9**]
17. The introduction of an Independent Regulator is not immediately appropriate for Jersey's social housing sector alone. [**Section 5.10**]
18. The proposed rent reforms are difficult to support as the principle of bringing social rents in line with a high value property market subverts the role of social housing in providing sub-market accommodation for those unable to afford market prices. [**Section 6**]
19. The choice being taken in the proposed reforms to allow rents to rise explicitly commits to a revenue-based subsidy model rather than a model based on capital grants. [**Section 6.1**]
20. The "Housing Strategy for the 1990's" (P.142/1991) established the 90% 'fair rent' policy at a time when having a small difference between open market and social rents was acceptable as both sectors were broadly affordable. The principles underpinning rent reform should be linked to any agreed definition of the purpose and role of social housing. [**Section 6.2**]
21. Whilst the return to a 10% rental subsidy increases potential income and borrowing for the Housing Company over time, it will take a long time to work through and may not increase the number of properties available to people who cannot meet their needs elsewhere. [**Section 6.3**]
22. If rents are set at lower than 90% of market rents in future, the Housing Company risks becoming unsustainable and may require additional States funding should the property market weaken. [**Section 6.4**]
23. Tenants currently in receipt of the accommodation component of Income Support will be reliant on benefits for longer as a result of the proposed rent reforms – unless their earnings increase at a greater extent than the cost of living. [**Section 6.5.1**]

24. The implications of the rent reforms for low and high income groups in social housing that are not currently in receipt of Income Support are not clear**,** and there are concerns that low-income pensioners not claiming Income Support may be negatively affected by the current proposals. [**Section 6.5.2**]
25. The additional cost for Income Support for States social Tenants arising from the rent reforms will be funded by the Treasury by means of an additional budget allocation to the Social Security Department, rather than being borne by the proposed Housing Company at start up. [**Section 6.5.3**]
26. Some of these comments in P.33/2013 may lead readers to assume that the Income Support bill arising from the rent reforms will be negligible, even though the data to provide a solid understanding of this is not available. [**Section 6.5.3**]
27. The Housing Trusts will bear additional Income Support costs as a result of the proposed rent policy, estimated to peak at £1 million once the reforms are fully implemented. [**Section 6.5.3**]
28. The Business Plan for the Housing Company is set up in such a way that the minority of Tenants who pay some or all of their rents from their own income are effectively funding the whole revenue operation of the Housing Company. [**Section 6.8**]
29. The implication of the Annual Returns Agreement is that tenants in social housing not currently claiming Income Support are indirectly subsidising the provision of Income Support. [**Section 6.9**]
30. A clear consequence of the proposed system is that Income Support will increase to cover the costs of the increased social rents. This aspect of the social housing reforms may create pressure on the States' taxation and expenditure programme. [**Section 6.9**]
31. The potential difference in movement between the financial return from the new Housing Company on the one hand and the cost of Income Support on the other risks having significant consequences for the States' financial programme. [**Section 6.10**]
32. The fact that external lending markets were not willing to provide funding facilities for the proposed Housing Company is a reflection of the markets rather than a concern with the Housing Company's financial model. [**Section 7.4**]
33. A net gain of 287 new social rented homes over 30 years is not acceptable, given the rising demand for affordable housing on the Island. [**Section 7.8**]
34. Guernsey's Housing Company has benefited from joining the South West Benchmarking Club which allows it to compare performance indicators against peer housing associations and identify areas of success and areas for improvement. A

similar set up would complement the work of a regulatory body in Jersey. [**Section 7.10**]

35. The Sub-Panel believes that it is likely that the social housing reforms will affect Parish provision in some way, especially as many would consider that they fall into the category of a social housing provider. [**Section 8.3**]
36. The present reforms are not sufficient to make any meaningful contribution to the future provision of affordable and social housing. The demand for social housing has increased in recent years, yet the proposals do not explicitly state how this need can be met by the proposed Housing Company or any other Social Housing Provider. [**Section 9**]
37. Selling off units that are entirely inappropriate for social housing may assist in raising funds but the Sub-Panel does not generally agree with the principle of selling off social housing to private individuals when it is already in short supply. [**Section 9.2**]
38. The Trusts will develop 203 new units of accommodation over 30 years as identified in the Report, and there is an assumption that Trusts will continue to make a significant and meaningful contribution to the supply of affordable and social homes. [**Section 9.3**]
39. The absence of a formal “exit gateway” for individuals whose circumstances have improved means that encouraging tenants to stay in their home for life is not a sensible approach when the Island has a fixed limit on the amount of social housing with little hope of maximally increasing supply. [**Section 9.4**]
40. The States has at times appeared to pursue best financial value from property sales rather than best social value, thus missing an opportunity to support provision of sub-market housing. [**Section 9.5**]
41. Existing affordable housing policies are uncoordinated and ineffective. They have failed to produce any meaningful affordable housing schemes for the Island. [**Section 9.6**]

RECOMMENDATIONS

Please note: Each recommendation is accompanied by a reference to that part of the report where further explanation and justification may be found.

The Minister for Housing should ensure the following –

General

1. An agreed position on the role and purpose of social housing should be developed within 6-12 months to support implementation of the Housing reforms and contribute to coherent future policy. This definition should also clarify how the new Housing Company will balance its social and moral obligation alongside its role as a States Strategic Investment. Ministers and the States should sign up to this definition in practice. [**Sections 3.1, 3.2**]
2. Reliable means to deliver new supply of both social rented and affordable home ownership properties must be urgently investigated and committed to, including partnerships with the private sector. Additional capital investment from the States should be considered if required [**Section 7.8**] and appropriate States owned land should be utilised at a price that enables development of affordable housing [**Section 9.5**]. A clear commitment must be made by the Housing Company to review Business Plans within 3 years to see if additional capacity to support new development can be identified, and this information reported back to the States. [**Section 9.3**]
3. The requirement for the Housing Trusts to contribute towards the Housing component of Income Support should be reviewed and reported back to the States within 2 years to ensure that the Trusts are able to operate efficiently and deliver additional stock [**Section 6.5.3**].
4. A protocol should be established and agreed between the Housing Minister and the Parishes within 6 months to provide greater clarity about how the Gateway system will impact on social and affordable homes delivered by the Parishes. [**Section 8.3**]
5. An exit gateway combined with savings initiatives or shared equity schemes should be developed to cater to the needs of those wishing or able to move out of the social sector if their financial circumstances significantly improve. [**Section 9.4**]
6. The Minister for Housing should be retained as the head of the Strategic Housing Unit and given responsibility for housing across all tenures. [**Section 4.2**]. This is critical in helping to address the lack of joined-up thinking on affordable housing

policies and should be agreed by the States as it is essential to the success of stimulating new supply. [**Section 9.6**]

Strategic Housing Unit

7. Additional steps setting out the expected ways of working, to build a more collaborative culture and ensure adequate resources are available should be developed to support the Strategic Housing Unit. This should be reported back to the States by the Minister for Housing within 6 months. [**Sections 4.2, 4.1**]
8. Very explicit terms, conditions and stated outcomes should be established and approved by the States prior to the establishment of the Strategic Housing Unit in order to provide a more formal and accountable structure than currently proposed. [**Section 4.3**]

Regulation of Social Housing

9. Prior to introducing a social housing regulator, alternatives for regulation must be brought forward that are more appropriate to the size and nature of Jersey's social housing sector including a Social Housing Charter or Code of Practice developed within the next 12 months and signed up to by all providers [**Section 5.4**]. A Jersey Homes Standard that is appropriate to Jersey's needs must be created within 12 months [**Section 5.4**].
10. Regulatory activity needs to be focused on improving service delivery as opposed to dealing with service failure [**Section 5.1**] and should rely upon cooperation rather than compulsion as much as possible with regard to directing the financial affairs of other Social Housing Providers. [**Section 5.6**]
11. Any regulation should be flexible enough to include the Private Rental Sector and other social housing providers in future without significant and costly institutional change. [**Section 5.5**]

Return to a Near Market Rent Policy

12. Prior to implementing policies proposing a return to fair market rent levels, an agreed definition of the role and purpose of social housing that has been approved by the States must be used to underpin any rent reform. [**Section 6.2**]
13. Any agreed rent reform should be accompanied by measures designed to avoid potential negative social and economic effects. [**Section 6**]. This should include a detailed analysis of the consequences and limitations of relying on a revenue-based

subsidy model for social housing [**Section 6.1**], and of a rent policy that will see low-income Tenants reliant on Income Support for longer [**Section 6.5.1**]

14. The re-lets policy should be kept under review to make sure that the turnover of properties is not negatively affected and that re-lets are happening at a rate that supports delivery of the Housing Company's commitments. The Minister should report back to the States annually on this policy. [**Section 6.5.1**]
15. Action should be taken to ensure the most vulnerable households are protected against rent increases upon moving, including the introduction of elderly rate for low-income pensioners. [**Section 6.5.2**]
16. Policies should also be developed to assist those considered higher earners to move into other tenures that are appropriate to their needs. [**Section 6.5.2**]
17. Prior to the Debate and approval of any rent policy, the Minister must clarify the following:
    a) the link between removing the hidden subsidy and additional States' expenditure on Income Support;
    b) the reliance on the rents of low-income Tenants to fund the Housing Association;
    c) the arrangement for the Treasury to fund the additional cost of Income Support arising from the rent reforms

    Explanation must be given as to why this system is preferable to the existing system, and the Assembly must decide whether, upon consideration of these issues, it is content with the approach outlined. [**Section 6.9, 6.5.3, 6.9 and 6.8**]

Housing Company

18. The proposed Housing Company and regulated Housing Trusts should join an appropriate benchmarking club so that comparative measures of their performance can be made available to staff and tenants and support future improvements. [**Section 7.10**]
19. Care must be taken to avoid competition between the Housing Company and the Housing Trusts with regards to pursuing the same sites for development and clear guidance published about developing sites for social housing. [**Section 9.3**]

1. THE PROPOSITION

1.1 Background

The Housing Transformation Programme was initiated in response to a Green Paper issued by the Minister for Housing following the Review of Social Housing in 2009. The review was chaired by Professor Christine Whitehead OBE from the Centre for Housing and Planning Research at the University of Cambridge. The review entitled "A Review of Social Housing in Jersey" identified several challenges facing the social housing sector, in particular that financial and governance structures limited the opportunities to make the best use of the resources and that the balance of income and expenditure could only be met by "running down the stock". The Professor further identified that it was inappropriate for the Housing Department to formally regulate the Housing Trusts, and that the size of the sector was too small to address "unmet" need from "those in long term housing need." The Whitehead Report concluded that the current structure of the Housing Department was not fit for purpose with regards to managing the States-owned social housing stock because as a States Department it lacked the necessary powers and independence to carry out operational functions properly, including managing its portfolio or investing where required. The Professor concluded that an organisation at arm's length needed to be developed to address these shortcomings.

1.2 Consultation on the Green Paper

A public consultation on the Green Paper was launched on Monday 19 October 2009 and ran until 5 March 2010. The Green Paper was issued to the Public Consultation Register, States Members, the Health, Social Security & Housing Scrutiny Sub-Panel, Chairmen of Jersey's Housing Trusts and Social Rented Housing Providers, the States of Jersey Housing Department Tenants Forum and the Chairman of the Jersey Civil Service Association.[2]

As part of the consultation, the Social Housing Tenants Forum sent a survey to 4,400 States tenants. Only 264 responses were received (6%). The survey questioned tenants about demand for social housing and eligibility, home ownership, the Housing Department's financial position, housing regulation and options for change. 11% of respondents considered that Housing Department allocations criteria were too narrow, that they would like to see a reduction in rent subsidy paid to private sector tenants, that they felt a regulatory body for housing in the island was necessary and that they did not generally feel in a position to purchase their own property. [3] Around 10% of Tenants also expressed support for the separation of the management of property from the ownership of stock.[4]

Following the consultation on the Green Paper, a Condition Survey and Valuation of the housing stock was commissioned by the Housing Department in 2011. This indicated that there was a backlog of housing repairs of approximately £48 million to meet the English Decent Homes Standard and a shortfall in repairs and refurbishment budgets of approximately £6 million per annum. The Housing Needs Survey 2008-2012 indicated that sizeable investment in new build would be required to prevent increases to the current waiting list, and that after 2011 the Department did not have any capital allocation for investment in refurbishment. [5] Furthermore, the declining number of sales (permitted under P.6/2007) would not provide adequate capital moving forwards.[6]

The former Minister for Housing established the Housing Transformation Programme in October 2010 in response to Strategic Priority 14 ("Adequately House the Population") within the States Strategic Plan 2009 – 2014 (P.52/2009), which instructs the States to support the development of affordable housing, define a new 'Jersey standard' for social rented accommodation, upgrade and improve older States homes to meet the new 'Jersey standard', implement proposals for the regulation of all affordable housing providers including common waiting lists and allocation criteria and establish a gateway for all affordable housing to ensure that existing and future stock is targeted to deliver maximum benefit.[7]

Subsequently a Political Steering Group was formed in November 2010 to oversee the development of the Programme. Social housing consultants Sector[8] were appointed to review funding and delivery options, produce a series of proposals to put the Housing Department on a more sustainable financial basis and to identify the most suitable delivery organization for States Housing, taking into account the challenges presented in the Whitehead review.[9] Michael Jones from the University of Cambridge's Centre for Housing and Planning Research[10] was appointed to propose regulatory structures, review housing policy and develop governance structures for the Housing Department. Further consultation

[3] Statistical responses to the Tenants Forum Questionnaire in respect of the Whitehead Review of Social Housing, p.1
[4] Statistical responses to the Tenants Forum Questionnaire in respect of the Whitehead Review of Social Housing, p.1
[5] Housing Transformation Programme Strategic Briefing, November 2011, p.2
[6] Housing Transformation Programme Strategic Briefing, November 2011, p.2
[7] The Reform of Social Housing (P.33/2013) p.12
[8] See http://www.sector-group.com/default.htm for information
[9] Housing Transformation Programme Strategic Briefing, November 2011, p.3
[10] See http://www.cchpr.landecon.cam.ac.uk/ for information

with stakeholders, including the Housing Trusts, tenants and Housing Department staff was carried out.[11]

1.3 The White Paper

A White Paper (R.47/2012) entitled "Achieving Decent Homes: An Affordable Framework for the Future" was launched for consultation on 12th March 2012. The White Paper put forward four main proposals to address the issues raised in both the Whitehead Report and the Green Paper:

- The establishment of a new Strategic Housing Unit to develop a long-term, cross-tenure strategy for Housing, to promote the supply of new homes and to propose new affordable housing solutions.
- The creation of a new Affordable Housing Regulator to drive improvement in Decent Homes Standards, ensure financial sustainability and probity amongst licensed social housing providers including Housing Trusts receiving public benefit and the new Housing Company.
- The establishment of a new, wholly States-owned Housing Company to deliver decent homes with commercial efficiency and enhanced tenant focus. The new Housing Company would operate as a strategic investment and continue to make a significant financial return to the States each year.
- The return of social housing rents to the States previous near market (90%) 'fair rent' levels to make the whole sector financially viable and to remove the current unintended hidden subsidy from tenants who can afford to pay a fair rent, whilst ensuring that tenants who rely on Income Support to pay their rent are fully protected and do not pay more.[12]

1.4 Scrutiny Interim Report on the Housing Transformation Programme (S.R.5/2012)

Following the consideration of evidence gathered from public hearings held in July 2012, the Health, Social Security and Housing Sub-Panel released an Interim Report (SR.5/2012) on 18th August 2012. The report was drafted on behalf of the Sub-Panel by its advisor, Abigail Davies, and highlighted six areas for consideration with regard to the proposals, including top-line suggestions for improvement to be considered by the Minister in the drafting of the final Reports and Proposition. The Minister acknowledged that the report represented a

[11] Housing Transformation Programme Strategic Briefing, November 2011, p.3
[12] Summarised from "Achieving Decent Homes: An Affordable Housing Framework for the Future" (R.47/2012)

"comprehensive review of the policy issues outlined within the Housing Department's White Paper" and agreed to make a "detailed review" of the areas highlighted for consideration.[13]

1.5 The White Paper Consultation Summary Report

Following the consultation, the Housing Department produced a Consultation Summary Report in August 2012. The Report focuses mainly on the transparency of the consultation process (in particular about the methods used to gauge stakeholder views via Facebook and during briefings). Tenants were most concerned about the proposal to return to 90% of market rents within the social sector, specifically in relation to affordability, tenants not currently claiming Income Support who may not qualify for the phased removal of subsidy, fears of more tenants being forced into claiming Income Support and the subsequent increase in Income Support costs this would cause.[14] The lack of analysable written evidence identifiable by tenure (47 written responses) again highlights the problems in drawing valid, evidence-based (non-assumptive) conclusions about stakeholders' views on the proposals, and those presented in the current Report and Proposition. [15]

As part of the consultation process, the Minister agreed to take several considerations forward in the developed of the Housing Transformation Programme, including an adjustment of the developing Housing Company and Trust business cases to allow for more new social housing; consideration of alternative funding sources within the developing Housing Company and Trust business cases; a review of the social and economic impact of fair rent levels for Tenants; organisational and customer service changes within the new Housing Company to become "even more customer focussed" [16]; and further consultation with the Housing Trusts to set out the case for change and help prepare for regulation.[17]

The Report and Proposition "The Reform of Social Housing" (P.33/2013) and the associated Full Business Case (R.15/2013) were lodged au Greffe on Monday 4th March 2013, and form the subject of this review.

[13] Press release: Housing Minister thanks Scrutiny Panel for Interim Report on Housing Transformation, August 17th 2012
[14] Achieving Decent Homes White Paper, Consultation Summary Report, August 2012, p.12
[15] Achieving Decent Homes White Paper, Consultation Summary Report, August 2012, p.7
[16] Achieving Decent Homes White Paper, Consultation Summary Report, August 2012, p.15
[17] Achieving Decent Homes White Paper, Consultation Summary Report, August 2012, p.15

2. KNOWN HOUSING ISSUES IN JERSEY

Jersey's social housing sector faces unique challenges and opportunities deriving from its physical size, history, finance structures and governance and regulatory practices. Some of the main issues relevant to the Housing Transformation Programme are explored in this section.

2.1 Affordability

Jersey has a low level of home ownership amongst the residentially qualified population (around 57%) compared to the UK (68%)[18]. This is largely because house prices in Jersey are high in relation to average earnings, a consequence of increases in the number of households (as a result of smaller households as well as population growth), high incomes and the tightly controlled supply of new housing.[19] The median price of a 3 bedroom house in the bottom quartile of all transactions in 2011 was £380,000 – 11 times the average annual income of £34,800. The most recent first time buyer development saw 3 bedroom houses selling for £425,000 – more than 12 times the average income.

As a result, nearly half (40%) of the population rent their accommodation – 24% in the qualified private rental sector and 16% in the socially rented sector.[20] This is in contrast with the UK, where the social rented sector is significantly larger and private rented sector accounts for only 10% of dwellings. [21] This imbalance in tenure drives the pressing need to develop schemes and policies to assist in affordable home ownership and thereby reduce pressure on the overburdened private and social rented sectors.

In the States Strategic Plan Consultation 2012, the Housing Department expressed a commitment to "ensure that the supply of affordable homes is maintained at an appropriate level to meet the needs of the population."[22]

2.2 Lack of Mobility

The lack of affordable housing options results a lack of mobility in the market, which in turn decreases the number of vacant dwellings in all tenures as households currently residing in

[18] States Strategic Plan Consultation 2012 – Analysis of Key Strategic Issues, p.6
[19] A Review of Social Housing in Jersey: Summary of Main Report, July 2009. Cambridge Centre for Housing and Planning Research, p.4
[20] Census 2011 – Housing Bulletin, p.4
[21] States Strategic Plan Consultation 2012 – Analysis of Key Strategic Issues, p.6
[22] States Strategic Plan Consultation 2012 – Analysis of Key Strategic Issues, p.36

social or private rented dwellings are unable to afford to move into the relatively plentiful supply of housing to buy. The latest Housing Assessment 2013-2015 identified that 4,000 of current residentially qualified households expressed a desire to buy their own homes.[23] When affordability criteria[24] was applied which considered whether their total income were adequate to purchase property of their desired size at median property prices, almost half of those could not afford to do so and were therefore projected to remain in their current tenure.[25] The impact of the lack of affordable housing in the owner-occupier sector is that the supply of properties over the three year period in both the private rental and social housing sectors is forecast to reduce. In social housing, the overall shortfall, predominantly of 2-bedroom properties, increases as a result of households unable to move into another sector. In the private rental sector, a previously seen small surplus of stock is affected by a lack of supply of both affordable 1- and 2-bedroom properties, resulting in a shortfall of more than 300 properties in this sector.

Looking at housing intentions from the other direction – from private rented to social - the study indicated that the greatest component of demand for social housing is from households currently living in the private rental sector (some 500 households, accounting for 40% of the demand for social housing).[26] One interpretation of this finding is that households are struggling to afford the rents charged in the private sector and so consider that they will soon be eligible for affordable housing instead.

2.3 Reliance on the Planning System

A significant problem that is harder to address is the current reliance on private developers and the planning system to generate affordable housing solutions.[27] Relying on private developers to provide need housing on zoned sites has implications for delivery times. It means that the decision about when to develop sites is a matter for the land owner and the developer and this can be affected by all manner of influences, including availability of development funding, views on the market, availability of resources to undertake development and constraints imposed by planning policies and obligation agreements.[28] According to the Residential Land Availability Survey 2011, this together with the recent

[23] Jersey's Housing Assessment, 2013-2015, p17
[24] The Jersey Housing Affordability Index (JHAI) affordability criteria assume that mortgage payments, based on current mortgage interest rates, should account for no more than 30 percent of gross household income. Any available deposit is also taken into account. Jersey's Housing Assessment, 2013-2015, p.18
[25] Jersey's Housing Assessment, 2013-2015, p.18
[26] Jersey's Housing Assessment, 2013-2015, p.13
[27] Residential Land Availability Report January 2011, p.14
[28] Residential Land Availability Report January 2011, p.14

economic downturn has accounted for the delays experienced in advancing a number of allocated sites for affordable housing and approved developments. [29]

2.4 Lack of Supply and Increasing Demand

The provision of all types of housing is a key challenge for the Island in the face of increased demand. Falling household size within the existing population itself generates a demand for more homes as does inward migration.[30] The lack of affordable housing to buy means that there will always be a large demand for accommodation within the private and social rented sector. However, this must be balanced against constraints on land use imposed by the planning system (Island Plan 2011) which prevents any further developments on green field sites and restricts development to intensification of existing sites, mainly in urban areas, and designated States-owned land.

The Island Plan 2011 set out a requirement to provide 4,000 new homes over the following ten year period, 1,000 of which should be affordable.[31] To meet this objective, planning permission for at least 150 affordable homes on States-owned land was required to be in place by 2012.[32]As demand for social rented housing has increased, however, the supply of new rental homes has slowed and waiting lists have increased (see Table 1)[33]. There is a correlation between the lack of new supply and the increase in waiting list levels from 2008-present.

Year	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
New Social Rented Supply	26	205	77	-13	0	0	21	60
Year End Waiting List	192	264	233	234	292	385	425	522

Table 1: Year End Waiting List Figures and New Social Rented Supply, 2005-Present.[34]

The Housing Needs Survey 2013-2015 identified that there is an overall potential shortfall of more than 400 units of social housing over the next three years, with the greatest potential

[29] Residential Land Availability Report January 2011, p.14
[30] States Strategic Plan Consultation 2012 – Analysis of Key Strategic Issues, p.8
[31] Island Plan 2011
[32] States Strategic Plan Consultation - Analysis of Key Strategic Issues p.29
[33] States Strategic Plan Consultation 2012 – Analysis of Key Strategic Issues, p.6
[34] Information provided by the Housing Department, 7th April 2013

shortfall arising in 2-bedroom properties. [35] As previous rounds of the Housing Needs Survey had recorded overall potential surpluses of social housing, this finding suggests that demand for social housing has increased in recent years.[36] At the end of February 2013, 137 applicants were in the highest priority band of the Affordable Housing Gateway, indicating that they are either homeless, under eviction notice, in tied accommodation, have urgent medical issues, have no rights to current accommodation such as staying with family or are forced to live apart as their present accommodation is unsuitable. [37] A further 321 applicants were seeking social housing due to overcrowding and poor housing standards, and 274 applicants were living in housing that is unaffordable for their personal circumstances. [38] The figures speak of increasing demand and increasingly desperate situations for the applicants, especially those in Band 1 (for information about the Affordable Housing Gateway, see Appendix 1).

The Whitehead Review identified that States housing tenants were more likely to have low incomes, be pensioners or single parents and have lower levels of economic activity than other tenures, and so therefore were more likely to be lifelong renters.[39] As tenants are financially unable to move on to either private rented accommodation or home ownership the supply of social housing remains static, with little movement through the system freeing up stock for new households. The lack of supply also has implications for the criteria for social housing applied via the Affordable Housing Gateway. Until supply improves, the criteria remains tight and excludes some groups altogether (for example, individuals aged under 25).

2.5 Underinvestment in Social Housing

Long term underinvestment in the States owned social housing stock has meant that approximately 27% of the homes would fail the UK Government's English Decent Homes Standard (see Appendix 2 for a definition). In 2011 there was an annual shortfall in funding of £6m for maintaining the housing stock.[40] Underinvestment has occurred as a result of States policy to fund investment in social housing stock from revenue (net rental income) as opposed to borrowing, without raising social rents in line with inflation over a long period of time. The result is that the Housing Department has been unable to perform the necessary maintenance on its stock, creating a significant backlog of repairs and refurbishment.

[35] Jersey's Housing Assessment, 2013-2015, p.1
[36] Jersey's Housing Assessment, 2013-2015, p.1
[37] Affordable Housing Gateway, Month End Statistics, 28th February 2013
[38] Affordable Housing Gateway, Month End Statistics, 28th February 2013
[39] A Review of Social Housing in Jersey: Summary of Main Report, July 2009. Cambridge Centre for Housing and Planning Research, p.7
[40] States Strategic Plan Consultation 2012 – Analysis of Key Strategic Issues, p.6

In 2006 the Social Housing Property Plan 2007-2016 (P.6/2007) was developed in response to the pressing need to pay for improvement investments to social housing stock that could not be covered by a financial model that relied upon net rental income to fund improvements.[41] The Plan proposed to fund refurbishment through the sale of stock, a policy which attracted criticism from the Health, Social Security and Housing Scrutiny Panel at the time. In a review produced in 2007, the Panel described the Plan as "primarily developed as a 'quick fix' for the Housing Department's financial woes."[42] It also suggested that recent social housing policy had been driven by a 'means to an end' philosophy which had not fully addressed broader problems with the fundamental structure of the system.

Following on from a commitment to carry out a fundamental review of social housing as promised in P.6/2007 and Section 3.8 of the Strategic Plan 2006-2011, the Housing Department commissioned a comprehensive Condition Survey and Valuation of the States social housing stock in 2011. This uncovered a backlog of approximately £48 million of works needed to maintain to the Decent Homes Standard, a failure of 20% of the stock to meet that Standard and a £6.5million annual shortfall to maintain homes to that Standard.[43]

These findings were most recently corroborated from a tenant perspective in the 2012 Jersey Annual Social Survey. A quarter (27%) of those living in all types of social rented housing described the standard of repair of their living accommodation as 'not very' or 'not at all' suitable, compared to one in six (18%) of those in non-qualified accommodation and 3% of owner-occupiers. Furthermore, around one in six people living in social rented accommodation (15%) were not satisfied with their accommodation, compared to fewer than one in twenty (3%) of those in owner-occupied accommodation.[44]

2.6 Private Rented Sector

During the course of the review the Sub-Panel heard a number of concerns regarding the apparent diversity in quality of accommodation in the private and unqualified sector. Findings from the latest Jersey Annual Social Survey show that 10% of tenants in the private sector were not very or at all satisfied with the standard of their accommodation, a similar proportion to those unhappy with their socially rented accommodation.

[41] A Review of Social Housing in Jersey: Summary of Main Report, July 2009. Cambridge Centre for Housing and Planning Research, p.3
[42] Review of the Social Housing Property Plan 2007-2016 (SR.12/2007), 18th June 2007, p.5
[43] Housing Transformation Programme Strategic Brief, November 2011, p.1
[44] Jersey Annual Social Survey 2012, p.19-20

Several States Members have raised the question about subsidising private landlords in the form of Income Support rent components without any requirement for landlords to ensure that the quality of their accommodation meets a basic decent homes standard. [45] The Minister for Housing has expressed his discomfort with the fact that there is not a measureable system of standards in place for tenants in the private sector, and refers to the incoming Draft Residential Tenancy (Jersey) Law 2011 (Appointed Day) Act 201- (P.19/2013) and deposit protection scheme as making steps towards regulation. [46] However he has emphasised that investing properly and substantially in social housing for the long term is his priority in order to meet the aims of the Strategic Plan. [47]

2.7 Lack of Regulatory Structures and Clear Policy Framework

Currently there is no formal regulation of social housing. This has led to conflicts of interest for the Minister of Housing trying to informally regulate those in the sector, and to concerns that the sector is not demonstrably meeting good governance, allocating to those in greatest need or offering maximal value for money for the public investment made. Furthermore, there is currently no formal requirement for social housing providers (including the States) to meet basic decent homes standards. [48]

2.9 Return to the Treasury

Currently the Housing Department makes a significant return to the States and is therefore unable to fully invest or (under current arrangements) to borrow to ensure the stock meets basic decent homes standards. It is unable to manage the stock portfolio optimally to maximise value for money of the available investment or to prioritise investment efficiently to maximise returns to the States and improve service for Tenants.[49] Presently this requirement to make a return to the Treasury does not apply to Housing Trusts, who are able to utilise all their funds to manage and grow their housing portfolio.

[45] Hansard States Debate, Questions to Ministers Without Notice – Housing, 21st February 2012, 3.3-3.4
[46] Hansard States Debate, Questions to Ministers Without Notice – Housing, 21st February 2012, 3.3-3.4
[47] Hansard States Debate, Questions to Ministers Without Notice – Housing, 21st February 2012, 3.3-3.4
[48] States Strategic Briefing, Housing Transformation Programme, p.4
[49] States Strategic Briefing, Housing Transformation Programme, p.5

3. THE HOUSING TRANSFORMATION PROGRAMME

The Housing Transformation Programme is intended to be a response to Strategic Priority 14 ("Adequately House the Population") within the States Strategic Plan 2009 – 2014 (P.52/2009), which directed the Minister and Housing Department to: support the development of affordable housing; define a new 'Jersey standard' for social rented accommodation; continue to upgrade and improve older States homes to meet the new 'Jersey standard'; implement proposals for the regulation of all affordable housing providers including common waiting lists and allocation criteria; and to establish a gateway for all affordable housing to ensure that existing and future stock is targeted to deliver maximum benefit.[50]

The four-way approach of the Housing Transformation Programme (addressing rent reform, regulatory structures, strategic housing issues and establishing standalone housing organisations to manage stock) has parallels across the UK and Western Europe. The fundamental issues and challenges facing Jersey's social housing sector have similar features across the UK, and a great deal of the proposed reforms are drawn from contemporary housing practices in other jurisdictions. In this review the Sub-Panel has attempted to establish whether the framework and infrastructure for future policy development and regulation is proportionate to the housing needs in Jersey and therefore represents value for money for both the States and Tenants.

3.1 Defining Social Housing

The Sub-Panel's main finding with regard to the suitability and viability of the Housing Transformation Programme proposals is that a clearly agreed definition of the *purpose and role* of social housing, including a clear commitment to an agreed approach and the parameters, has not emerged during the course of the Programme's development. Whilst a definition of social housing is offered on p.37 of P.33/2013 as part of the proposed Social Housing Law, it appears only to describe the parameters within which the regulator can and cannot operate, rather than an explicit statement of the role and purpose envisaged for social housing in Jersey. The Sub-Panel does not feel that this definition goes far enough to enshrine in law the States' Strategic commitment to ensure that "all island residents are adequately housed."[51] P.33/2013 states that the legal definition of social housing given exists "to enable the Law to be employed for the variety of potential economic situations that

[50] The Reform of Social Housing (P.33/2013) p.12
[51] States Strategic Plan 2012, p.10

may prevail in future and to enable the Strategic Housing Unit to recommend subsequent regulations relating to affordable housing products."[52] The Sub-Panel considers that a proper definition of social housing should capture its moral and social purpose, including enshrining in law the States' moral obligation to provide a decent standard of accommodation for those residents who cannot afford to access it through the open market.

The Sub-Panel highlighted in its Interim Report (S.R.5/2012) that where no consensus on the *purpose* of social housing exists, there is a risk that policy will change with individual Ministers, which in turn could make it difficult to deliver the objectives of longer-term programmes.[53] Furthermore, it could also produce inconsistency in housing policies lead by different Departments with different housing philosophies.[54]

During Public Hearings, Ministers responsible for the development of the Housing Transformation Programme were questioned by the Sub-Panel on their definition of the role and purpose of social housing. The Minister for Housing defined social housing as a "safety net" for those people who cannot afford to rent or buy at the normal open market rate.[55] The Minister for Planning and Environment agreed that social housing exists to accommodate people who are not in a position to afford it in their own right, but felt that it should be for a "short period" whilst people are in "unfortunate economic circumstances." [56] This Minister stated that in his view, the States should "seek to minimise the number of units that are used long term rather than to maximise it."[57]

The Chief Minister remarked that he wanted social housing to offer "more security of tenure than is currently provided by the social housing that the States provides."[58] Furthermore he stated that one of his objectives was to see the narrow criteria for eligibility for social housing broadened to reflect the difficulty in accessing good quality accommodation on a limited income in Jersey. [59] The Minister for Treasury and Resources stated that the existence of social housing is a side effect of economic growth which has made Jersey's economy successful to date, but has also pushed up the price of accommodation outside of the

[52] The Reform of Social Housing (P.33/2013) p.47-48
[53] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012) p.6
[54] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012) p.6
[55] Public Hearing with the Minister for Housing, 26th July 2012, p.2
[56] Public Hearing with the Minister for Planning & the Environment, 25th July 2012, p.2
[57] Public Hearing with the Minister for Planning & the Environment, 25th July 2012, p.2
[58] Public Hearing with the Minister for Planning & the Environment, 25th July 2012, p.2
[59] Public Hearing with the Chief Minister, 24th July 2012, p.3

affordability of low-income families. [60] In his view it is an "important requirement for the States of Jersey to provide a form of alternative accommodation, which should be of high standard and...plentiful in supply." [61]

Putting the views of the Minister for Planning to one side, it would appear that the majority of those Ministers on the Political Steering Group generally support the idea of a "homes for life" approach to social housing, increased supply, wider eligibility criteria and a clear commitment to the States' responsibility to provide social housing. However the Sub-Panel identified tensions between Ministers as to how these aims should be achieved. It was of concern to the Sub-Panel that the ongoing tensions between the Political Steering Group responsible for the development of the Housing Transformation Programme and the Minister for Planning and Environment with regard to shared views on the role of social housing do not seem to have been resolved at the time of writing.

Other social housing providers held a slightly different view of the role and purpose of social housing. During a Public Hearing the Treasurer of Les Vaux Housing Trust told the Sub-Panel that their role as a Trust was to provide affordable housing to members of the public in need but who may fall outside of the current narrow States criteria.[62] The Treasurer felt that on this point the Trust and the Minister for Housing were "not on the same page as far as the provision of social housing [is concerned]."[63] The Sub-Panel considers that the Treasurer of Les Vaux Housing Trust raises an important point when considering the definition and purpose of a social service; that is, when multiple providers are involved, it is important to adhere to a singular definition of the purpose of social housing in order that the service be fair to users, otherwise a situation will arise whereby one individual's 'hardship' may not be validated by one supplier but will be by another. It is important that clear agreement on the role and purpose of social housing is established with other providers alongside the eligibility criteria used by the Affordable Housing Gateway (Appendix 1), which in the Sub-Panel's view are no substitute for a workable, clear and agreed definition of the purpose and role of social housing.

During Public Hearings the Chief Minister admitted that there is "no [definition] of social housing in Jersey" and stated that drawing one up would be "one of the first things we need to do." [64] The Sub-Panel however has identified that a clear policy definition of social

[60] Public Hearing with the Minister for Treasury and Resources, p.2
[61] Public Hearing with the Minister for Treasury and Resources, p.2
[62] Public Hearing with Les Vaux Housing Trust, 25th July 2012, p.2
[63] Public Hearing with Les Vaux Housing Trust, 25th July 2012, p.2
[64] Public Hearing with the Chief Minister, 24th July 2012, p.17

housing is still to be developed. The definition provided in the Report is legalistic in nature and designed to set the parameters within which the proposed social housing regulator can exert control. [65] The Sub-Panel is concerned that should this definition be adopted beyond the framework for the regulator it would not be sufficient to tackle the known housing issues as identified by Professor Whitehead.

The importance of an agreed policy definition of social housing is manifold, mainly because the issue of who social housing is trying to serve and what it is for has a clear impact on its finances and need for growth, and also on housing policies beyond social housing. Theoretically speaking, if social housing is simply for those on Income Support, then eligibility is limited to this group of households only. This would require less social housing than a regime with a wider eligibility base and social mission to assist more than Income Support claimants. Furthermore, if social housing is seen only as a part of a social welfare regime, to compensate for inadequate incomes, the question arises: why not provide Income Support as the only form of assistance and let households find accommodation in the open market? In this scenario no dedicated social housing stock would be required at all. The proposals in P.33/2013 suggest that social housing has a wider social mission than simply to compensate for inadequate incomes, but the Sub-Panel would like to see this defined more explicitly and would like an expectation that Ministers sign up to this definition in practice.

Key Finding: A clearly agreed definition of the role and purpose of social housing, including a clear commitment to an agreed approach and the parameters, has not emerged during the course of the Programme's development.

3.2 Social Housing as a "Strategic Investment"

The absence of a clear commitment to social housing which defines the States' moral obligations to its citizens, in addition to its legal obligations, has lead to a situation whereby competing social and financial priorities are proposed throughout P.33/2013. The Sub-Panel note that the new Housing Company is referred several times in the Report as a "Strategic Investment"[66] and once as a "social business"[67]. Key outcomes for the Housing Transformation Programme to be a success are defined in terms of the Housing Department becoming a self-sustaining social housing services provider that is flexible and able to adapt to change, but also to continue to provide a guaranteed significant income stream. [68] It is clear that the proposed Housing Company will be a self-sustaining organisation, but by

[65] The Reform of Social Housing (P.33/2013), p.52
[66] The Reform of Social Housing (P.33/2013), p.36, p61, p63
[67] The Reform of Social Housing (P.33/2013), p.4
[68] The Reform of Social Housing (P.33/2013), p.14

requiring a financial Return to the States the Sub-Panel considers that the Housing Company's ability to behave as a "social business" by using its capital and revenue to cater for the scale of Jersey's housing need risks being limited. In the Sub-Panel's opinion, the principle of social housing is to provide adequate shelter for the most vulnerable in society, and labelling the new Housing Company as a strategic investment is at odds with this strategic priority.

The Minister for Treasury and Resources stated that the use of the term "Strategic Investment" was purely a label used for ease of showing ownership of social housing in States accounts.[69] He emphasised that "there is no sense in which Treasury is looking for a financial return in the same way as Treasury is definitely looking for a financial return from Jersey Telecom, Post, Water and Electricity."[70] However, the Sub-Panel heard a different view from the Minister for Housing, who likened the financial obligations of the current Housing Department (and the proposed Housing Company) with regards to paying a financial return to the Treasury to that of someone running a business[71], lending further confusion to the notion of social housing as strategic investment vs. social function.

The Sub-Panel also identified some ambiguity around the asset value of States-owned social housing during its review. During a public hearing the Minister for Treasury and Resources put the net asset value of the stock based on commercial values at around £1bn and confirmed that raising rents to 90% levels would enable the Housing Company to improve its viability[72], as increasing rents sees the value of the stock rise accordingly. The Sub-Panel notes that the recognised value of the stock based on maintaining the use for Social Housing is around £550m[73] but publicly has been set at the higher figure of £1bn during media interviews with the Minister for Housing.

The Sub-Panel is therefore concerned that using the term "Strategic Investment" to describe an asset with a projected net value of £1bn could potentially mislead the public about the true nature and purpose of social housing, which is to provide subsidised accommodation for eligible low-income households. The social housing stock cannot be valued on a commercial basis and any descriptions of its net worth needs to take into account that land used for social housing developments is at a lower value that that used for private developments – in

[69] Public Hearing with the Minister for Treasury and Resources, p.18
[70] Public Hearing with the Minister for Treasury and Resources, p.18
[71] Public Hearing with the Minister for Housing, 26th July 2012, p.23
[72] Public Hearing with the Minister for Treasury and Resources, p.17
[73] Information received from Housing Department, 23rd November 2013

other words, it has a separate "social value" altogether. This is yet another reason why a clear definition of the moral purpose of social housing is so important.

The Sub-Panel is concerned by the ambiguity in statements recorded during Public Hearings with regard to social housing as a strategic investment. In the absence of a clear definition of the role and purpose of social housing, competing priorities for the new Company will risk its moral and ethical obligations being overshadowed by the need to fulfil financial obligations. It is the Sub-Panel's view that decisions around the provision and management of social housing should not be driven solely by finances.

Key Finding: Confusion has arisen about the purpose of social housing due to the labelling of the new Housing Company as a "strategic investment".
Recommendation: An agreed position on the role and purpose of social housing should be developed within 6-12 months to support implementation of the Housing reforms and contribute to coherent future policy. This definition should also clarify how the new Housing Association will balance its social and moral obligations alongside its role as a States Strategic Investment. Ministers and the States should sign up to this definition in practice.

4. THE STRATEGIC HOUSING UNIT

The need and desire for a coordinated, cross-tenure housing policy in Jersey was made clear during the Sub-Panel's evidence gathering, and as such the proposal to establish a Strategic Housing Unit to develop a robust cross-tenure Island Housing Strategy is welcomed by the Sub-Panel. The twelve key responsibilities of the Unit are set out at length in P.33/2013 and relate to the following:

1. Developing a robust cross-tenure Island Housing Strategy;
2. Prioritising resource allocations within the social housing sector;
3. Championing the supply of homes;
4. Managing the affordable housing gateway;
5. Proposing new affordable housing products to meet the needs identified through the new Affordable Housing Gateway;
6. Proposing and updating a Jersey Social Housing Standard;
7. Developing housing policy within a States-wide strategic policy framework;
8. Carrying out (or commissioning) survey work;
9. Proposing and delivering the social housing rent policy;
10. Proposing the criteria for eligibility for social housing in the Island through the Affordable Housing Gateway;
11. Proposing standards for Tenant engagement and consultation;
12. Setting performance and probity standards for Social Housing Providers[74]

4.1 Location of the Strategic Housing Unit

During evidence gathering the Sub-Panel heard early on that the agreed location for the Strategic Housing Unit would be the Chief Minister's Department, owing to the concentration of social policy development there including the Population Unit and Corporate Policy Unit. The general view was that because housing is a cross-cutting social policy that reaches beyond "bricks and mortar" responsibility for it should sit within a Department that is already focused on meeting strategic priorities and improving social inclusion. [75]

However, at a Public Hearing in July 2012 the Minister for Planning and Environment expressed a different view. The Minister felt that enabling the Chief Minister to carry out functions that are currently assigned to the Minister for Planning and Environment would

[74] The Reform of Social Housing (P.33/2013), p.18-28
[75] Public Hearing with the Chief Minister, 24th July 2012, p.13

require a change in the States of Jersey Law and the Planning Law in order to "allow whoever is making the strategy at the top to have the wherewithal to carry out those policies." [76] He argued that a "large chunk" of the responsibility for proposing sustainable development and improving housing supply should remain with the Minister for Planning and Environment because the law enables him to carry these functions out.[77] Given that so many of the responsibilities for stimulating housing supply lie within the Planning Department currently, the Sub-Panel asked the Minister for Housing at a separate Public Hearing why the Strategic Housing Unit should not be located there. The Minister for Housing stated that this would risk focusing on only one aspect of housing provision – the availability of sites – and reiterated that what was required was a cross-tenure housing strategy that covered a wide range of housing issues.[78]

On one hand the Sub-Panel acknowledges that having housing at the heart of States social policy making is a sensible option as housing investment can then more closely be aligned to overall public investment. Conversely, the issue of 'concentration of power' in some Departments has been identified by the Sub-Panel as a potential argument against locating the Strategic Housing Unit in the Chief Minister's Department, and some differences of opinion have been expressed over the success of other strategic units in unifying disparate areas of social policy. The Sub-Panel is also advised that in other jurisdictions strategic housing functions can tend to be the 'cinderella' service compared to the other larger parts of the authority. Despite general agreement that social housing is a crucial strategic issue, there is a risk that the 'Unit' may become marginalised if not given adequate resources and attention amidst competing political priorities.

Key Finding: There is a risk that the Strategic Housing Unit may become marginalised amidst competing political priorities.

4.2 Political Leadership

The Report states that following the establishment of the Strategic Housing Unit in the Chief Minister's Department, responsibility for housing policy will fall to the Assistant Minister to the Chief Minister.[79] This is consistent with views heard during Public Hearings, in which the Minister for Housing championed the strategic leadership role of the Chief Minister with regard to social housing policy, clarifying that the responsibility for "making sure things

[76] Public Hearing with the Minister for Planning & the Environment, 25th July 2012, p.13-14
[77] Public Hearing with the Minister for Planning & the Environment, 25th July 2012, p.13-14
[78] Public Hearing with the Minister for Housing, 26th July 2012, p.21
[79] The Reform of Social Housing (P.33/2013), p.61

happen" lay with the regulator.[80] The Chief Minister made a clear argument for political responsibility of strategic Housing issues being delegated to an Assistant Minister within the Department, who would act as a champion without the responsibility of also running an entire Department.[81]

The Sub-Panel recognises the attractiveness of the proposal for housing to be the direct responsibility of the Chief Minister because of the status this appears to afford this important issue. However, the Sub-Panel has significant concerns about whether a relatively small Unit with a small budget of £182,000 per annum[82], in effect led by an Assistant Minister, will have the sufficient critical mass and political representation to coordinate responsibilities which are currently held by the Housing Department, the Population Office, Health and Social Services and the Department for the Environment.

During Public Hearings the Minister for Housing was questioned as to why the Housing Department had so far been unable to draw together an Island Housing Strategy that identified areas in Housing the Community which needed most attention. The Minister stated that he did not at the moment have the "authority" to draw together this kind of work, hence the requirement for a Strategic Housing Unit.[83] Throughout the review, the Sub-Panel found broad agreement that the biggest stumbling block to developing an Island-wide housing strategy had been the conflicts of interest experienced by the Minister as policy-setter, regulator and provider that was first identified in Professor Whitehead's 2009 report.

Whilst recognising that this conflict will be removed under the new structure, the Sub-Panel remains to be convinced how a small unit will succeed in overcoming the tensions between Departments and poor track record of joint working and coordination of housing policy. This concern was highlighted in the Interim Report, which suggested that without the support of a named Minister with responsibility to champion all of Jersey's housing Ministers and ensure that they are addressed there could be a risk of the Strategic Housing Unit becoming marginalised.[84] The Sub-Panel suggested that additional steps to set out the expected ways of working and to build a more collaborative culture would complement the Unit,[85] a recommendation that in its opinion is still live.

[80] Public Hearing with the Minister for Housing, 26th July 2012, p.6
[81] Public Hearing with the Chief Minister, 24th July 2012, p10-11
[82] The Reform of Social Housing (P.33/2013), p.51
[83] Public Hearing with the Minister for Housing, 26th July 2012, p.30
[84] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012) p.13
[85] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012) p.13

Key Finding: A small Strategic Housing Unit will be challenged in overcoming the existing tensions and poor track record of joint working and coordination of housing policy between Departments and Ministers. In order to function appropriately it must have clearly defined and agreed roles and aims at the outset.
Recommendation: Additional steps to set out the expected ways of working, to build a more collaborative culture, and to ensure that adequate resources are available should be developed to support the Strategic Housing Unit. This should be reported back to the States by the Minister for Housing within 6 months.

Furthermore, the Strategic Housing Unit will need to be able to hold its own against the competing interests of other powerful bodies, such as Jersey Property Holdings, States of Jersey Development Company, the Treasury & Resources Department and Planning. The Sub-Panel is not convinced that appointing the Assistant Chief Minister – who has no executive powers of his own – will give the Strategic Housing Unit the necessary political weight to ensure its aims and objectives are upheld in the face of divergent opinions.

Key Finding: Housing is an essential provision, and it is important to be able to clearly identify a Minister with direct responsibility for it. This is enshrined in the States Strategic Priority of "Housing Our Community."
Recommendation: The Minister for Housing should be retained as the head of the Strategic Housing Unit but with responsibility for housing across all tenures. This is critical in helping address the lack of joined-up thinking on affordable housing policies and should be agreed by the States as it is essential to the success of stimulating new supply.

4.3 Responsibilities of the Strategic Housing Unit

The Sub-Panel was not content with the proposal to enable the Strategic Housing Unit to consult upon and recommend appropriate regulations setting minimum performance, probity and financial compliance for all social housing providers, including the Trusts,[86] which it felt required the independence of an independent regulatory body to enact properly. The Housing Trusts objected strongly to being regulated in part through the Strategic Housing Unit in written submissions to the Sub-Panel. Both Christians Together in Jersey Housing Trust and Les Vaux Housing Trust stated that they would be opposed to the Strategic Housing Unit setting policy and introducing regulations, which were felt to be a conflict of

[86] The Reform of Social Housing (P.33/2013), p.28

interest.[87,88] The Sub-Panel considers the wording in the present reforms has lead to some ambiguity about the role of the Strategic Housing Unit in proposing regulations and the role of the States Assembly in approving them.

Another responsibility which was felt to be misplaced with the Strategic Housing Unit was that of proposing standards for tenant engagement and consultation,[89] which the Sub-Panel again considered needed a politically independent body to promote fairness and open communication with social housing tenants.

Key Finding: The Strategic Housing Unit is not sufficiently independent to propose standards for Tenant engagement and set performance and probity standards for Social Housing Providers.

With regards to operational responsibilities, the Report proposes that the Strategic Housing Unit will provide administrative support to the Regulator. The Sub-Panel identified that this could be considered a delivery function, therefore lessening the Housing Transformation Programme's objective of splitting delivery and strategy functions. Allowing the Strategic Housing Unit to be simultaneously responsible for setting performance standards amongst Providers as well as rent policy could recreate the dilemma of being both policy setter and regulator that the Housing Minister currently faces.

Finally, the Sub-Panel considers that special care must be taken to avoid the Strategic Housing Unit becoming overly distracted by social housing. 6 out of the 12 roles identified for the Strategic Housing Unit[90] are concerned with social housing, and because regulations and rent control make it easier to influence social housing than other tenures, there is a risk that work addressing wider market provision will take a back seat to modifying the criteria for the Affordable Housing Gateway and creating new models of affordable housing.

Key Finding: The Strategic Housing Unit is proposed to be responsible for a wide variety of operational and strategic functions, yet detail about how it will be held to account on delivering against these priorities is not provided in P.33/2013.
Recommendation: Very explicit terms, conditions and stated outcomes should be established and approved by the States prior to the establishment of the Strategic Housing Unit in order to provide a more formal and accountable structure than currently proposed.

87 Written submission from Christians Together in Jersey Housing Trust, 3rd July 2012
88 Written submission from Les Vaux Housing Trust, 3rd July 2012
89 The Reform of Social Housing (P.33/2013), p.4
90 The Reform of Social Housing (P.33/2013), p.4

4.4 Strategic Housing Issues in Other Jurisdictions

It is now common in the UK and other EU countries to have separated the ‘strategic’ function from the ‘landlord’ function within public housing bodies. At local council level in England, Scotland and Wales, the strategic function focused on setting a housing strategy, enabling new housing, overseeing or supporting the provision of subsidies (bricks and mortar subsidies), housing registers or waiting lists, overseeing provision for vulnerable and elderly people as well as supporting the licensing or regulation has been separated at a senior level from the provision of the landlord service.

In Northern Ireland, moves have begun to carry out a similar separation of strategy/landlord functions within the Northern Ireland Housing Executive. In many cases, the strategic function can risk becoming the ‘poor relation’ with more resources and expertise applied to the Social Housing Providers. Often local authority strategic functions have little choice but to go with the will of the larger housing associations in the area.

5. REGULATION OF SOCIAL HOUSING

During the evidence gathering process, the Sub-Panel has heard a great deal about the proposed role of the regulator in assisting the proposed Housing Company to borrow money from external sources. However, the Report clarifies that the Company is not likely to be borrowing in its own name immediately, but rather borrowing internally from the Treasury.[91] Without this requirement, the Sub-Panel considers that the role of the regulator does not appear to be as necessary as first thought. Having considered the evidence in detail, the Sub-Panel therefore does not see the introduction of a social housing regulator as central to the Housing Transformation Programme, and suggests that a voluntary approach would be more appropriate to the Jersey situation, certainly to begin with. Potential alternatives to regulation, including a Social Housing Charter, are discussed in Section 5.10.

The absence of a clear and convincing argument for the establishment of a new social housing regulator was identified as a problem in the Sub-Panel's Interim Report (S.R.5/2012), which suggested that more clarity and agreement on the purpose and operation of the regulator would benefit the States prior to lodging any enabling legislation.[92] The key principles presented in P.33/2013 and R.15/2013 still lack the kind of detail the Sub-Panel would have liked to see with regard to the establishment of a Regulator. It therefore wishes to draw attention to the implications arising from the States approving broad principles that may later see a Regulator established that is not proportionate to the needs of the Island, or to social housing tenants.

The Sub-Panel is concerned that the wording of these in principle enforcement powers risk the States unwittingly endorsing a mandate to bring in more draconian regulations at a later date. It is crucial that the wording of the "in principle" statements around regulation is not taken lightly but are thoroughly examined and interrogated by the States.

Key Finding: The Sub-Panel is concerned that the wording of the in-principle enforcement powers for the Regulator risk the States unwittingly endorsing a mandate to bring in more draconian regulations.

Should the States decide that a Regulator is required, it is important to understand the implications of establishing such a body. These are explored in Sections 5.1 – 5.9.

[91] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.68-69
[92] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012) p.11

5.1 Overview of the Proposed Regulator

Formal regulation of social housing is proposed in P.33/2013 to separate the policy and regulatory functions currently held by the Minister for Housing, a conflict of interest which Professor Whitehead identified as “clearly inappropriate”[93] especially with regard to regulating the Housing Trusts. The Report states that a separate regulatory function is required to “give policy makers clarity between the setting of policy and its implementation and providers and lenders confidence that regulation will be implemented consistently and without political interference to allow them to focus on service delivery.”[94] The case for regulation is set out in the Report as follows:

- To promote proper management and maintenance of social housing
- To promote fair practices by social housing providers
- To ensure that they are financially viable and properly managed, and
- To meet the need for an enhanced social sector and rising tenant expectations.[95]

The key principles that will underpin the law are that the Regulator will be an independent body concerned only with the affordable housing sector which will be funded by a charge levied on regulated landlords on a proportional basis. [96] The Regulator will have powers to regulate only those providers of social housing that have received financial assistance from the States. [97] Furthermore, the regulator will be required to produce annual reports and business plans on his/her activities and the performance of the sector. [98] The Report establishes that the Strategic Housing Unit will consult and recommend the appropriate regulations in agreed key areas to the Minister of Housing[99], but the Social Housing Regulator will be responsible for setting the specific standards of performance against each regulation. The appropriateness of the Strategic Housing Unit’s involvement has been discussed in Section 4.3 of this report.

Performance measures for Social Housing Providers will be set out under the Law, but the Report suggests that the Regulator will also look at the terms of social housing tenancies and policies for dealing with antisocial behaviour, as well as those concerned with improving

[93] Whitehead, C. (2009) *A Review of Social Housing in Jersey*, Cambridge, Cambridge Centre for Housing and Planning Research, Department of Land Economy, University of Cambridge p.48
[94] The Reform of Social Housing (P.33/2013), p.17
[95] The Reform of Social Housing (P.33/2013), p.28
[96] The Reform of Social Housing (P.33/2013), p.48-49
[97] The Reform of Social Housing (P.33/2013), p.48-49
[98] The Reform of Social Housing (P.33/2013), p.48-49
[99] The Reform of Social Housing (P.33/2013), p.48

the environmental, social and economic wellbeing of social housing developments.[100] A Code of Practice is proposed to enshrine good practice for Social Housing Providers on issues that do not require regulation, which is suggested will encourage a "proportionate approach to implementation of regulations".[101] The Regulator will compel all social housing providers to provide accounts and describe plans for the disposition of funds and assets, in order to allow the Regulator to establish that Social Housing Providers are maintaining "prudent financial management" of social housing stock over the long term.[102]

The Sub-Panel feels strongly that regulatory activities applied to Social Housing Providers (including the Housing Company and the regulated Housing Trusts) should not become a top-down approach with a formulaic compliance assessment which concentrates on inputs rather than outcomes. This would threaten to dilute the organisations' own responsibility for performance and reduce opportunities for innovation. Furthermore, the Sub-Panel would like to see more focus on how regulation can improve service delivery as opposed to deal with service failure. This is a subtle difference but an important change in mindset.

Key Finding: Regulatory activities applied to Social Housing Providers risk becoming a top-down approach with a formulaic compliance assessment which concentrates on inputs rather than outcomes unless alternative methods of compliance are developed.

5.2 Monitoring and Enforcement Powers

The Sub-Panel is pleased to note that the proposed enforcement provisions of the Regulator have been toned down over the development of the Report and Proposition. However, it is concerned that some of the principles underlying the proposed monitoring and enforcement powers described in the Report are vague and open to interpretation. Whilst a "culture of co-regulation" is proposed, whereby Social Providers effectively "self regulate" to a large degree, the Regulator will also have "meaningful enforcement powers" to address shortfalls in Decent Homes Standards and imprudent actions on behalf of Providers. These include powers to deal with more minor infringements including establishing information from Providers, agreeing voluntary undertakings to stronger powers to deal with serious infringements including the transfer of land and assets. [103]

[100] The Reform of Social Housing (P.33/2013), p.49
[101] The Reform of Social Housing (P.33/2013), p.49
[102] The Reform of Social Housing (P.33/2013), p.49
[103] The Reform of Social Housing (P.33/2013), p.49

The Sub-Panel felt that the principle of encouraging "a culture of co-regulation where Social Housing Providers should effectively self-regulate to a large degree"[104] does not establish clearly how, or on whose terms the providers will self-regulate. It is also a contradiction in terms to describe a system as self-regulatory when it has effectively been ordered by the States Assembly.

Further clarification is needed here as to the delineation of responsibilities and roles for the States and the Regulator with regard to developing a system of co-regulation.

Key Finding: The principle of encouraging a culture of co-regulation where Social Housing Providers should effectively self-regulate to a large degree does not establish clearly how, or on whose terms the providers will self-regulate.

5.3 Impact of the Regulator on Borrowing

The need to enable access to private borrowing is stated as a reason for needing regulation, but there is no proposal for the new Housing Company to secure private borrowing in its own name in the short-term – it is proposed that the States will borrow and lend the money onto the Housing Company thereafter. The Trusts are reliant currently on private borrowing and in evidence sessions the Sub-Panel heard that they are finding it difficult to secure long term lending, so it could be that a Regulator provides assistance in this. However, Social Housing Providers in the UK who are heavy regulated are still experiencing difficulty in securing long-term lending, which is more likely to be a result of the current financial markets rather than a lack of regulation. The Sub-Panel did not hear evidence of how much difference regulation might make to the Trusts' borrowing capacity, for example by improving the interest rates available to them.

5.4 Regulating the Decent Homes Standard

Part of the regulator's responsibilities will be to ensure that all social housing stock is maintained to the Decent Homes Standard. The Full Business Case outlines how all current States-owned stock will be brought up to this level over 10 years via a programme of refurbishment funded by borrowing and the uplift in rental income as a result of returning to the 90% rent policy.[105] During Public Hearings the Minister for Housing emphasised that a regulator was a key pillar in the reforms to guard against the social housing stock ever falling into a state of disrepair again, and that the priority he saw for the Regulator was to ensure

[104] The Reform of Social Housing (P.33/2013), p.54
[105] The States of Jersey Housing Transformation Programme: Full Business Case, p.4

conformity with a Decent Homes Standard across all providers, instead of leaving it to "chance".[106] The Sub-Panel queried why good management and political will had not been sufficient to ensure the proper management of the social housing stock was observed, including refurbishment and maintenance. The Minister argued that it was essential to have the separation of functions and the establishment of an independent regulatory body to create a "nice healthy tension" between providers and the regulator, and to ensure that standards were maintained in future.[107]

However during evidence gathering the Sub-Panel did not identify any objections amongst Providers to meeting the Decent Homes Standard, and is therefore not convinced that compulsion is essential with regards to meeting this Standard. The 28% of States homes and smaller proportion of Trust homes[108] that do not currently meet the standard seemed to be because of financial constraints rather than organisational resistance, an observation that is supported by the Full Business Case which demonstrates that the financial status quo is the main reason why Decent Homes have not been achieved to date.

Key Finding: The Sub-Panel is supportive of the proposal to bring all social housing stock up to a Decent Homes Standard. However it is not clear whether regulation is required to achieve this as stock maintenance appears to have fallen behind due to financial constraints rather than organisational resistance.

It is useful here to consider lessons from other jurisdictions with regard to establishing the Decent Homes Standard as some of the pitfalls and risks need to be understood before the Standard is agreed to in principle. The establishment of a Decent Homes Standard in England gave rise to some ambiguity around some of the clauses in the standard leading to differential interpretation by housing associations and local authorities. Similarly in the Welsh and Scottish Housing Quality Standards there is less ambiguity but a higher potential cost as scope stretches beyond the physical conditions of homes to cover the environment and some aspects of service delivery. The Sub-Panel notes that the English Decent Homes Standard has been applied for the purposes of costing the business plan, and it is important to check whether this standard is right for Jersey given the ambiguities experienced in other jurisdictions. The Sub-Panel acknowledges that a clearer definition of what constitutes a breach of Decent Homes Standards (or any other standard) will have to wait until actual

[106] Public Hearing with the Minister for Housing, 26th July 2012, p.6
[107] Public Hearing with the Minister for Housing, 26th July 2012, p.8
[108] The Reform of Social Housing (P.33/2013), p.3

decision based on real cases that come before the regulator, but would like to see more detail about the proposed Decent Homes Standard and the regulator's role in enforcing this.

5.5 Regulation of the Private Sector

As mentioned earlier in the Report, the Sub-Panel identified that appetite for consumer regulation in the private rented sector is strong, and the Sub-Panel considers that the establishment of a Regulator should be flexible enough to expand its responsibilities into the private rented sector in future without significant and costly institutional change.[109]

Key Finding: Appetite for the regulation of the private rented sector to set and ensure delivery of consumer standards is strong.
Recommendation: Any regulation should be flexible enough to include the private rented sector in future without significant and costly institutional change.

5.6 Cooperation vs. Compulsion

The Sub-Panel identified in its Interim Report (S.R.5/2012) that the way regulation is imposed on social housing providers could have several unintended consequences that are worth revisiting here. In particular, if the role of the Regulator is to compel all social housing providers to return rents to 90% of the market rate, or to ensure that additional rental income raised is used to finance new housing, more compulsion would be required and relationships with some landlords could become strained.[110] This view was echoed by the Trusts on several occasions, who expressed a view that bringing in overbearing regulation called in to question the point of having separate Housing Trusts at all.[111]

The Sub-Panel notes that the responsibilities of the Regulator with regard to controlling financial surpluses or rent policies are not made explicit in the Report, but the implication is that the Regulator will work with the Strategic Housing Unit to ensure that rent policies are complied with and to ensure that financial surpluses are put to best use.[112] This has further implications for the nature of relationships between Social Housing Providers. If the Trusts are to be relied on to deliver a sizeable proportion of new social and affordable housing developments, a Social Housing system that uses compulsion to achieve uniformity on certain policies may be detrimental to the overall goal of growing the sector.

[109] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012) p.12
[110] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012), p.11
[111] Sub-Panel Meeting with the Chairmen of the Housing Trusts, 22nd November 2012
[112] The Reform of Social Housing (P.33/2013), p.60

Key Finding: If the Housing Trusts are to be relied on to deliver a sizeable proportion of new social and affordable housing developments, growing the sector should be the overall goal rather than compelling providers to achieve uniform standards.
Recommendation: Regulatory activity needs to be focused on improving service delivery as opposed to dealing with service failure and should rely upon cooperation rather than compulsion as much as possible with regard to directing the financial affairs of other Social Housing Providers.

5.7 The Independence of the Regulator

The Sub-Panel identified in its Interim Report that creating an Independent Regulator is not necessarily a risk free way to bind future Assemblies and Ministers to a current policy priority, warning that shifts in States policy or preference are likely to be passed quickly to the regulator for implementation. If the nature of these shifts are regular, sizeable or controversial there is a risk that the credibility of the regulator is undermined in the eyes of its stakeholders, including landlords, tenants and funders. Therefore the Sub-Panel recommended that alternative mechanisms to avoid such policy changes are required.[113]

The Sub-Panel has not identified evidence to show that these mechanisms are well developed at present. It is therefore crucial that the enabling legislation enshrines the Independence of a regulatory body when it is laid before the States.

Key Finding: There is a risk that future Assemblies and Ministers may change policy priorities around regulation, which would be passed on to the regulator for implementation. Regular, sizeable or controversial policy changes could risk undermining the credibility of the regulator in the eyes of stakeholders.

5.8 The Impact of Regulation on the Trusts

As discussed above, the scope of the regulator set out in the Report goes beyond simply driving up standards in social housing, and the Sub-Panel considers that it is also motivated by a desire to control the Housing Trusts. For example only providers that have received funding will be regulated, and this does not make clear why the small numbers of tenants of other providers such as the Parishes do not require or merit ‘protection’ by the regulator.

[113] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012) p.12

In many circumstances the need for a regulator is preceded by poor performance on the behalf of unregulated social housing providers, bad governance and poor tenant care. The Report states that "in the past some States Members have been concerned that Housing Trusts have not been perceived to always be acting in the Public and Tenant interests. This suggests that regulation of certain minimum performance standards may be in the interest of the Tenants, and that minimum standards of good governance, probity and financial compliance should be defined under regulation to ensure continuing public support for the integrity of the Social Housing Providers."[114]

The Sub-Panel is concerned that a "perception" that Trusts have not acted in the interests of their Tenants is not good enough evidence to base a case for regulation on. Furthermore, during the Sub-Panel's evidence gathering process and discussions with the Housing Trusts, evidence was not uncovered which indicated that all Trusts were operating in such a way that made it clear that strict Regulation was strictly necessary or appropriate. In one case it became clear that a Trust had recognised that some of its older properties would not meet all the requirements of the decent homes standard, but this has been acknowledged by the Trust in question, and the Sub-Panel understands that the Minister for Housing has been working "very closely" with the Chairman of that Trust in order to address this.[115] Furthermore the Sub-Panel understands that all but one Trust have cooperated with the Housing Department with regard to business planning, assistance described as valuable. The Sub-Panel therefore suggests that the case for a regulator made on the basis of poor performance on the behalf of all other Social Housing Providers is not justified.

Key Finding: The case for a regulator made on the basis of poor performance on the behalf of other Social Housing Providers is not justified.

5.9 Tenants and the Regulator

The Report lacks any significant information about the relationship between social housing Tenants and the proposed Regulator. It is important that a balance is struck between Social Housing Providers managing their housing to try to comply with the (actual or presumed) wishes of the regulator and working with their tenants about how the housing should be managed. The Sub-Panel feels strongly that good regulation rests upon the extent to which it promotes consumer choice. If a Tenant is unhappy with the service provided by one Social Housing Provider, they should be able to exercise their choice to go elsewhere. However,

[114] The Reform of Social Housing (P.33/2013), p.27-28
[115] Quarterly Hearing with Minister for Housing, 1st March 2013, p.28-29

Tenants in Jersey have a limited choice when it comes to other Social Housing Providers. The Sub-Panel considers that a significant responsibility of any regulatory body will be to balance this lack of consumer choice with an increase in consumer power.

Key Finding: The proposals lack any significant information about the relationship between social housing Tenants and the proposed regulatory body.

5.10 Alternatives to Regulation

5.10.1 Regulation by Contract

The Sub-Panel has identified that the proposals to bring in a Regulator are concerned with two key issues: the States achieving maximal finance performance from the Trusts, and ensuring that the largest provider (the proposed Housing Company) carries out the functions agreed as priorities by the States. On the former point, the level of control over the Trusts desired by the States can only be gained through regulation, and the appropriateness of this will need to be debated in more detail. On the latter point, it may be possible to compel the Housing Company to act in the best interests of the States, stakeholders and the general public without the need to regulate all social housing providers – or "regulation by contract".

The Sub-Panel presumes that the forthcoming Transfer Agreement will set out how the proposed Housing Company will meet its obligations in this regard – for example, through regular meetings with senior staff and government, the provision of financial statements, and reaching agreement on what to spend surpluses on. In the Sub-Panel's view, this is to some extent already regulation, and could further be strengthened by additional legal safeguards, thus reducing the need for a standalone independent regulator.

5.10.2 Social Housing Charter

The Sub-Panel was advised that in other jurisdictions a Social Housing Charter was established alongside an Independent Regulator and that this had in many cases been a successful move. Given the small number of providers in Jersey, and their expressed appetite to adhere voluntarily to good practice, the Sub-Panel is therefore of the opinion that expectations should be outlined first in the form of a Jersey Homes Charter which all Social Housing Providers would sign up to. Providers and Tenants could work together to agree the detail of the Charter, including some kind of annual self-assessment of compliance. Once agreed and in place a Regulator could be introduced (if necessary) later on. The Sub-Panel wish to emphasise that regulations should fit the Jersey situation rather than being imported from England, and that a Social Housing Charter may be more appropriate to the needs of Jersey's social housing sector.

Key Finding: The introduction of an Independent Regulator is not immediately appropriate for Jersey's social housing sector alone.
Recommendation: Prior to introducing a social housing regulator, alternatives for regulation must be brought forward that are more appropriate to the size and nature of Jersey's social housing sector including a Social Housing Charter or Code of Practice developed within 12 months and signed up to by all Providers. A Jersey Homes Standard that is appropriate to Jersey's needs must be created within 3 years.

5.11 Comparisons with Regulation in Other Jurisdictions

Until recently, across England and Scotland, the regulatory function for housing associations was combined with the investment function (i.e. the provision of subsidies). The agency (the Housing Corporation in England for example) was simultaneously responsible for good regulation and the achievement of investment targets for new homes. This led to some difficult outcomes in which larger housing associations appeared to many to receive lighter-touch regulation in return for delivering more homes. Regulation and investment were split from 2009 but have recently been recombined in the Homes and Communities Agency in England with a statutory regulatory committee now part of the agency. There remain different approaches in Scotland and Wales. In Wales, for example, Welsh Ministers still have direct responsibility for housing regulation as well as investment.

In common with the English and Scottish regulatory systems, the Social Housing Regulator outlined in the Report is proposed to:

- operate as an independent entity
- adopt a risk based approach
- expect a co-regulatory, self/assessment approach on the part of registered providers
- have a remit to cover all registered social housing providers
- have a range of powers to deal with registered providers not meeting standards[116]

The Sub-Panel has identified that there are several key differences to what is being proposed in the present Report and Regulatory systems in other jurisdictions. The motivation

[116] NB: In England the threshold with regard to consumer standards is very high before intervention by the Regulator is deemed necessary

behind the system being proposed in the present Report appears to be aimed at driving up improvement and consistency in core areas of social housing business. In England, on the other hand, the focus is on economic regulation. It is important to be aware of the underlying forces in setting up a Regulator, as this may have consequences for its subsequent development.

Another key difference is that the regulatory systems in England and Scotland are government funded, whereas the proposals in the Reforms describe a system funded by regulated landlords. If landlords pay for regulation, they are likely to express a desire to see a direct benefit from it – for example, in terms of interest rates paid on borrowing. This is because paying to be regulated is unlike a private business paying for a licence to operate in a market from which they can profit. If landlords see no direct benefit of regulation, or feel there is a 'regulatory burden' in terms of being compelled to act in ways outside of the normal course of running their business, this may lead to difficult relationships and strong pressure on the States to change its approach. As the money paid for regulation comes from rental income, there is also the argument that Tenants will expect to see demonstrable outcomes as well as Providers.

6. RETURN TO A NEAR MARKET RENT POLICY

From the outset, the Sub-Panel was concerned with the moral case relating to raising rents to 90% of market value, especially around affordability for tenants and the potential social impact of such a move. The Sub-Panel acknowledges that the business case for moving rents back to 90% of market levels are set out in some detail in P.33/2013, and accepts that concessions have been made with regard to the implementation of the new rent policy, particularly in only applying the uplift to 90% of market rents to new tenancies or re-lets. However, the Sub-Panel stands by its statement made in the Interim Report: that public and political awareness of social rent levels and affordability is likely to be much stronger than an understanding of the Housing Company's Business Case, and that this risks future pressure to drive rents back down to well below market values.[117]

The Sub-Panel is not clear how the key objective of bringing the stock up to Decent Homes Standard will be achieved whilst increasing rents slowly through new tenancies and re-lets. The justification in the White Paper for a return to 90% of market rents for 100% of tenants was that this raised sufficient income to address the £48m outstanding backlog of maintenance.[118] However, the Report states that only 7% of tenancies annually will pay the full 90% rent on their properties as this is the average number of tenancies re-let each year.[119] It is not clear how this small number of tenants will raise the necessary funding to refurbish the 578 properties falling short of Decent Homes Standards over the next 10 years. The Full Business Case (R.15/2013) shows that borrowing for the proposed Housing Company does not seem to have increased from the original figures supplied to the Sub-Panel, and so it is unclear where this additional funding has come from.

The Sub-Panel debated at length with its advisors over whether there were alternative means of achieving the agreed areas of reform (maintaining the stock, carrying out refurbishment whilst also funding new developments) and spent a great deal of time speaking with the Minister and his Department about the rent proposals. During the review process, the Department offered to model various different approaches to rent levels and the return to the Treasury and it was identified that a compromise position on these factors did not provide a satisfactory outcome (see Section 6.4). The Sub-Panel therefore reluctantly

[117] Health, Social Security and Housing Scrutiny Sub-Panel: Housing Transformation Programme Review: Interim Report (SR.5/2012) p.9
[118] Housing Department White Paper "Achieving Decent Homes: An Affordable Housing Framework for the Future" (R.47/2012), p.17
[119] Reform of Social Housing (P.33/2013), p.24

accepts that what is being proposed is the only way forward given the unlikely availability of capital subsidies and the urgent need to redevelop and expand the housing stock.

The Sub-Panel however wishes to emphasise the need for clear definitions about the role and purpose of social housing with regards to the rent reforms being proposed. Setting rent levels 10% below the market (or commercial) rent is in practice very close to charging market rents, and so one definition – providing subsidised rents to those who cannot afford to rent on the open market – does not apply to the proposals for Jersey's social housing, if the proposals are approved. The Sub-Panel was deeply concerned that provision must be made to assist those tenants for whom moving within the sector would mean higher rents and who would be unable to afford to rent in the private sector. Equally the Sub-Panel was concerned that those currently in social housing and able to rent in the private sector will unduly benefit from this decision. As a whole, more work needs to be undertaken to insure against negative social and economic effects of agreeing to the rents policy being proposed here.

Key Finding: The proposed rent reforms are difficult to support as the principle of bringing social rents in line with a high value property market subverts the role of social housing in providing sub-market accommodation for those unable to afford market prices.

6.1 Background to Rent Reforms

In examining the rent reforms being proposed, it is useful to understand the context in which they are being proposed. Across Europe governments are struggling with the competing pressures to increase affordability for tenants and keep Income Support costs down, and the need to have a properly functioning and viable business plan which enables private financing, sustainable asset management and a workable maintenance plan over the long term.

Jersey is not exempt from these pressures. Throughout the evidence gathering process, the Sub-Panel recorded the opinion that successive Assemblies have 'held down' social rents in order to 'help out' the cost of Income Support. The current proposals seek to increase rents to allow the proposed Housing Company to lever in finance for refurbishment and to make new development viable without the need for cross-subsidy, but with a knock-on impact on Income Support costs.

An alternative choice might have been to have a higher level of capital or investment subsidy to keep the cost of Income Support lower. However over-reliance on public capital subsidies is an unpopular issue in the current economic and fiscal climate. The Sub-Panel is therefore keen to highlight the potential social impact of the current proposals, particularly the risk of high social rents offering tenants a disincentive to move or to find higher paid employment.

The choice being taken in the proposed reforms is to allow rents to rise therefore explicitly committing to a revenue-based subsidy model. The proposed increase of rents in States properties will allow large surpluses to be generated over time to enable maintenance and new development whilst also safeguarding a significant financial return to the Treasury.

Key Finding: The choice being taken in the proposed reforms to allow rents to rise explicitly commits to a revenue-based subsidy model rather than a model based on capital grants.

6.2 The Proposed Fair Rents Policy

The Report suggests that the viability of the proposed Housing Company and its ability to deliver new affordable homes in Jersey, as well as maintain existing homes to a decent standard rest upon States agreement to see social sector rents returned to a ‘fair rent’ level of 90% of the market equivalent rate. At present, rents in the States sector vary from up to and over 90% to 60% of market rental values, and on average at 70% of the market equivalent rates.[120] The benefits of approving the ‘fair rents’ policy proposed in the Report are set out as follows:

1. To raise sufficient funds to address the £48m backlog in maintenance required to bring the States owned stock up to Decent Homes Standard within 10 years;
2. To set the Trusts on a firmer financial footing, reducing their reliance on the States for interest rates subsidies, creating a sustainable business model in the longer term and to ensure equity in provision between providers of social housing;
3. To address the understatement of the value of the existing States housing portfolio and to generate sufficient rental income to maintain the portfolio whilst also making a significant return to the Treasury;
4. To create sufficient new rental income required to develop new social housing developments funded by borrowing repaid over a maximum of 25 years, without the need for development subsidies;

[120] The Reform of Social Housing (P.33/2013), p.15

5. To bring social rents up to a level which will support both development costs and land acquisition of sites suitable for social housing developments (e.g. sites with existing uses and higher intrinsic values) without the need for capital subsidy.[121]

The central premise of the rent policy is based on the “Housing Strategy for the 1990’s” (P.142/1991) which stated that a ‘fair rent’ (representing an upper limit for the rent of a social rented property with a given number of bedrooms) was one that should ‘follow, but not lead’ the market. In practice, this has been taken to mean that a ‘fair rent’ should be set at 90% of the open market rent for a comparable property – however this is not explicitly stated in P.142/1991.[122] The Report identifies that fair rents have not been increased in recent years to follow comparable open market rents, which has lead to a situation whereby reduced rental income means that the Department has had insufficient funds to maintain the stock to a decent standard. However, it is also stated that “successive political decisions to limit annual rent increases in ‘fair rents’ to around 2.5% per annum have created a widening gap between ‘fair rents’ and comparable open market rents.”[123]

The Sub-Panel has a number of concerns with the reasoning used here to justify rent increases. The Housing Strategy for the 1990’s established the ‘fair rent’ policy prior to the housing market boom which occurred towards the end of that decade. Accordingly, having a small difference between open market and social rents in the 1990s was acceptable because both sectors were broadly affordable. The States resisted increasing social rents in line with the fair rent policy as open market rents increased faster than incomes and problems with affordability worsened. The return to 90% is therefore not a change in policy but a change in practice to follow an established policy. Therefore consideration of the extent to which a policy based on the 1990s housing market is appropriate for the current and future economy and housing market in Jersey seems critical to the Sub-Panel, especially given its role in financially underpinning the majority of the current proposals.

Key Finding: The “Housing Strategy for the 1990’s” (P.142/1991) established the 90% ‘fair rent’ policy at a time when having a small difference between open market and social rents was acceptable as both sectors were broadly affordable.

Recommendation: Prior to implementing policies proposing a return to fair market rent levels, an agreed definition of the role and purpose of social housing that has been approved by the States must be used to underpin any rent reform.

[121] The Reform of Social Housing (P.33/2013), p.23-24
[122] The Reform of Social Housing (P.33/2013), p.15
[123] The Reform of Social Housing (P.33/2013), p.24

6.3 Hidden Subsidy

The Report states that over time, the removal of the hidden rental subsidy will provide transparency in respect of the cost of providing affordable housing, generate more income to improve the housing stock, allow the Housing Trusts to become less reliant on States subsidy in the event of interest rate rises and help in making new affordable housing schemes more viable. [124] During Public Hearings the Minister for Housing used an example of a family living in social housing with a joint household income of £100,000 a year who are renting at 60% of the market equivalent to illustrate the need to remove the hidden subsidy. [125] In this example, the household could afford to rent in the private sector without recourse to Income Support, and so by living in social housing they are getting a 40% subsidy on the rent they 'should' be paying which is not recorded in the public finances. The Minister reasoned that tenants such as these will "naturally" be encouraged to move out if the rents in the private and social sector are very similar[126] and that if the Department ceased to subsidise these cases they make proper choices about where to live, as opposed to blocking the supply of social housing for those desperately in need of it. [127] This was cited as further support for removing the hidden subsidy and allowing social rents to follow the market. [128]

Having scrutinised the Full Business Case, the Sub-Panel's view is that the desire to remove the hidden subsidy is concerned both with generating extra income and principles. On the one hand, setting higher rents allows social landlords to borrow more money to fund refurbishment and development plans. On the other hand, relying on means tested Income Support rather than lower rents to make housing affordable means that the States can demonstrate that help with housing costs goes only to those on lower incomes, rather than continuing to support those tenants who over time see their incomes rise.

Although the new rent policy being proposed reduces the hidden subsidy to 10% it will not necessarily free up social homes for people on the waiting list – people who may struggle to secure property of the appropriate security, quality and size in the private market. These higher income tenants can remain in social housing if they choose, and indeed the requirement that they are only charged a 90% rent if they transfer to another home would suggest that they may choose to remain in their current home in order to benefit from the current lower rent. The Sub-Panel acknowledges that current tenancy agreements allow for

[124] The Reform of Social Housing (P.33/2013), p.60
[125] Public Hearing with the Minister for Housing, 26th Jul y 2012, p.27-28
[126] Public Hearing with the Minister for Housing, 26th Jul y 2012, p.28

[127] Public Hearing with the Minister for Housing, 26th Jul y 2012, p.28
[128] Public Hearing with the Minister for Housing, 26th Jul y 2012, p.28

a tenant to be downsized if they are deemed to be under-occupying their home, and that the tenancy agreement is also terminable if required[129], but points out that the predicted overall shortfall of smaller properties available for Tenants looking to downsize[130] means that moving on may not be an immediately viable option for many of those Tenants. At a time when there are long waiting lists for social housing, it therefore seems inappropriate to bring forward a rent policy which will in effect create a further incentive for Tenants to retain their current social tenancy at the same low rent, especially when they could be assisted to secure accommodation elsewhere.

In summary, the Sub-Panel identifies that whilst the removal of the hidden subsidy increases potential income and borrowing for the Housing Company over time, it will take a long time to work through and may not increase the number of properties available to people who cannot meet their needs elsewhere.

Key Finding: Whilst the return to a 10% rental subsidy increases potential income and borrowing for the Housing Company over time, it will take a long time to work through and may not increase the number of properties available to people who cannot meet their needs elsewhere.

Recommendation: Policies should be introduced within 12 months to prevent Tenants "blocking" properties as there is a likelihood that tenants maybe unwilling to see their rents increase if they move to a new tenancy. The re-lets policy should be kept under review to make sure that turnover of properties is not negatively affected and that re-lets are happening at a rate that supports the delivery of the Housing Company's commitments. The Minister should report back to the States at yearly intervals on this policy.

6.4 90% vs. 80% of market rents

According to a report prepared for the Sub-Panel by Professor Michael Oxley of the Centre for Comparative Housing Research at De Montfort University, rents in the social sector are not intended to perform the function of allocation they do in the open market.[131] Access is determined by need (defined by political, social and administrative considerations) rather than expressed demand (which is defined by financial factors such as rent levels and incomes). In Professor Oxley's view, social rents exist to make a contribution to the costs of

[129] Information received from the Housing Department, 7th April 2013
[130] Jersey's Housing Assessment, 2013-2015, p.1
[131] States of Jersey White Paper, April 2012, Achieving Decent Homes: An Affordable Housing Framework for the Future: A Report for the States of Jersey Health, Social Services and Housing Scrutiny Panel by Professor Michael Oxley, Centre for Comparative Housing Research, De Montfort University, Leicester, UK. July 2012, p.9

provision,[132] and he identifies that in most European social housing systems how much of a contribution rents should make is largely a decision for the suppliers of social housing operating under nationally determined policy guidelines.[133]

Professor Oxley identifies that the current social rents in Jersey which are considered "artificially suppressed" are actually roughly comparable to the current situation in the UK, where social rents stand generally at 70%. Furthermore, he points out that in several European countries social sector rents approximate to fifty per cent of market rents.[134] These rent levels are apparently seen to be acceptable because one of the functions of social housing has been to provide housing at sub-market rents to those in housing need, a definition that the Sub-Panel clearly supports.

The Sub-Panel was therefore motivated to understand why the current reforms being proposed rested upon a 90% figure instead of an intermediate figure of 80% or 70%. Furthermore, given that around two thirds of States tenants receive Income Support[135], at a total cost of around £35m per year, of which only £13.7 million is allocated to rental costs[136], the Sub-Panel wanted to explore whether it would be more cost effective to keep rents lower rather than to remove the 'hidden subsidy' afforded to a small number of tenants.

Early in the development of the current proposals, the Treasurer to the States explained to the Sub-Panel that modelling had been carried out in developing the Financial Business Case which looked at different limits for social rents. Based on the current model, it was discovered that if an 80% rent was agreed upon the Housing Company would not be able to repay its borrowing as well as meeting ongoing financial commitments within 30 years+.[137] At a 90% rate modelling indicated that the Housing Company would break even after 21 years.[138]

This is further corroborated in the Full Business Case, which states that at both Outline and Full Business Case stage 80% rents were not determined to be viable "due to the required level of borrowing" and were "not robust when sensitivity analysis [was] performed in a weak

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[132] States of Jersey White Paper, April 2012, Achieving Decent Homes: An Affordable Housing Framework for the Future: A Report for the States of Jersey Health, Social Services and Housing Scrutiny Panel by Professor Michael Oxley, Centre for Comparative Housing Research, De Montfort University, Leicester, UK. July 2012, p.9
[133] Haffner, M., Hoekstra, J., Oxley, M., & van der Heijden, H. (2009) *Bridging the gap between social and market rental housing in six European countries?* Amsterdam, IOS Press
[134] Haffner, M., Hoekstra, J., Oxley, M., & van der Heijden, H. (2009) *Bridging the gap between social and market rental housing in six European countries?* Amsterdam, IOS Press
[135] The Reform of Social Housing (P.33/2013), p.24
[136] Information received from Social Security Department, 7th April 2013
[137] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.16
[138] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.16

property and rental market (resulting in lower proceeds from property sales than expected)."[139] Furthermore, the Full Business Case states that "in order to make the business model viable with an 80% of market rents policy, the return to the States of Jersey would need to be reduced significantly."[140]

After close interrogation of the evidence the Sub-Panel considers that the rationale behind adopting the 90% rental policy is primarily driven by a desire to make the Housing Transformation Programme financially viable, over and above the need to remove the hidden subsidy.[141] Although moral and political arguments for the return to 90% of market rents are clearly made in P.33/2013 and R.15/2013 – including a desire to see existing States rental policy as set out in the Housing Strategy for the 1990's (P.142/1991) adhered to,[142] to ensure that the Income Support system is the "sole, unified support system for those unable to support themselves"[143] instead of a hidden subsidy, and to increase rental yield to make the development of affordable and social homes viable [144] – the Sub-Panel considers that these arguments bear less weight than the need to create a financially viable set of reforms. The Sub-Panel acknowledges the wider reasons behind the proposal to return to a 90% of market rent policy, but concludes that the decision has been largely motivated by financial concerns.

As mentioned, one of the Housing Company's financial commitments will be a significant annual financial return to the Treasury, initially proposed to be c. £25m per year[145]. Following pressure from other States Members and Scrutiny, further modelling was carried out to establish whether it would be possible to achieve an 80% of market rent policy whilst still performing redevelopment plans and achieving Decent Homes Standard objectives.[146] The Full Business Case indicates that three additional scenarios were modelled, including:

1. 80% of market rents policy;
2. 80% of market rent policy with a one off reduction to the return to Treasury in 2016 of £4,750k (which represents £4,204k in real terms);
3. 80% of market rent policy with a one off reduction in the return to the Treasury in 2016 of £1,800k (which represents £1,593k in real terms).[147]

[139] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.18
[140] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.18
[141] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.16
[142] The Reform of Social Housing (P.33/2013), p.21
[143] The Reform of Social Housing (P.33/2013), p.21
[144] The Reform of Social Housing (P.33/2013), p.21
[145] The Reform of Social Housing (P.33/2013), p.51
[146] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.21
[147] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.21

Modelling indicated that with scenario 2 the output of the Housing Company would be similar to the business model with a 90% rents policy and no reduction in the return. This scenario was therefore identified as a possible suitable compromise. However, the Full Business Case states that a further sensitivity analysis (stress testing of the financial model) revealed that "the Housing Organisation did not have a viable business model in a weak rental and/or property market. Therefore, there was a high risk that additional support would be required from the States of Jersey."[148] The high risk of a Housing Company that was not self-sustaining indicates that an 80% rents policy with a reduction in the annual return to the States of Jersey of £1,800k in 2016 was not considered a viable alternative to the current proposals.

The Sub-Panel recognises that the business model for the proposed Housing Company is closely linked to the performance of the property market, both because of the link to market rents and the requirement to sell some properties to finance the planned business activities. Therefore, the decision to not take the risk of weak property market performance seems fairly cautious when it offers the opportunity to keep rents a little lower. However, the Housing Department's desire to achieve the strongest assurance that the Housing Company will be able to deliver on the financial commitments made at transfer appear to override any concessions to setting a lower "fair rent" level.

Key Finding: If rents are set at lower than 90% of market rents in future the Housing Company risks becoming unsustainable. Furthermore it may require additional States funding should the property market weaken.

6.5 Re-Lets Policy

The proposed rent policy sees a return of social housing rents to fair rent level for any tenancy that commences on or after 1st April 2014. [149] This proposal is significantly different to the rent reforms put forward in the White Paper, which proposed that all tenants, regardless of income or circumstance, would be subject to an increase in rent if their current rents were below the 90% market equivalent.[150] Tenants on Income Support were to be protected by an immediate one-off increase in Income Support payments by Social Security, and all tenants not on Income Support were to be invited for a means test to establish how much of the increase they could afford to pay over time. [151] Rent increases for these tenants

[148] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.21
[149] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.25
[150] Achieving Decent Homes: An Affordable Housing Framework for the Future (R.47/2012), p.18
[151] Achieving Decent Homes: An Affordable Housing Framework for the Future (R.47/2012), p.18

would therefore be phased in over ten years to allow tenants to adjust their financial planning accordingly.[152]

The Sub-Panel felt that as a matter of principle it was entirely unacceptable to bring in an across-the-board rent increase and argued that in a time of recession when wages are not rising in line with the cost of living the notion that tenants on low incomes will be able to find the extra money to plan for rent increases was not reasonable. Furthermore it objected strongly to tenants on Income Support being asked to bear the financial burden of a return to 90% market rents as this goes against the principle of Income Support as a safety net for those in greatest need. The Sub-Panel expressed its concerns about the impact of the proposed rent reform on low-income households in a letter to the Housing Transformation Programme Political Steering Group in December 2012 (Appendix 3). This letter requested that the Minister look again at 80% rents, a smaller return to the Treasury and other means of mitigating against the social impact of the rent policy given current economic circumstances.

Subsequently the Minister revised his rents policy in January 2013, with the major difference being that rents would be returned to 90% on new tenancies only from 1st April 2014. This equated to 7% re-lets per annum and 55% of these new lets would come from tenants previously renting in the private sector.[153] This is intended to protect tenants in receipt of Income Support whilst encouraging those who can afford to pay more to do so.[154] In particular, the proposals give the following detail:

- Existing tenancies would remain on the same rental charges with annual inflation (RPI + 0.75%) linked to increases (capped at 90% of market rents if applicable);
- Rents on new tenancies would be charged at 90% of market rent with annual inflation linked increases (capped at 90% of market rents if the inflation linked increase was greater than the increase in market rent);
- Tenants in receipt of any amount of the housing component of Income Support would not be financially impacted by this rent policy in their current tenancies or if they transfer to another property within the Housing Organisation's stock;
- Tenants not in receipt of the housing component of Income Support would not be financially affected by this rent policy whilst they remain in their current properties.

[152] Achieving Decent Homes: An Affordable Housing Framework for the Future (R.47/2012), p.18
[153] Information from the Housing Department, received 24th January 2012
[154] The Reform of Social Housing (P.33/2013), p.27

Should they move to another property they would be required to pay 90% of market rent for the new property.[155]

6.5.1 Implications of Proposed Rent Policy for Tenants

Section 5.2.1 of the Full Business Case subsequently describes the implications of this revised rent policy.[156] In particular, it states that "fair rent levels are set at 90% of market rents to track but not inflate market rents in the private sector."[157] It also indicates that new and existing tenancies at 90% levels will be adjusted annually by RPI plus average earnings inflation of 0.75% in excess of RPI, which represents half of the long term expectation.[158] However, a cap will be in place to ensure that the RPI rises never take social rents above 90% of market rent.[159]

Both the Report and Full Business Case stress that tenants in receipt of the housing component of Income Support will not be financially impacted by the proposed rent policy in their current tenancies or if they transfer to another property within the Housing Company's stock.[160] The Sub-Panel was unclear as to the implications of this statement, which a) could imply that rents will rise to 90% of the market rent in April 2014, but tenants on Income Support will not experience any financial change because their Income Support payments will increase to match the increase in rents; or b) it could suggest that tenants on Income Support would continue to rent at "sub-market" levels until transferring to a new tenancy. Either outcome would have significantly different financial implications for the proposed Housing Company. The Department informed the Sub-Panel that "tenants on Income Support will continue to be charged their current rentals, with annual uplifts until they transfer to a new property. When a new tenancy is created, the rent charged for the new property will be at 90% of market rent. Those tenants on Income Support will be fully protected as their Income Support payments will increase to match this new rent."[161]

Significantly, the Full Business Case proposes that "there is no adverse economic or social impact on these tenants" but goes on to identify that "following the introduction of the proposed rents policy, tenants' earning would need to increase to a greater extent in order to escape from Income Support."[162] The Sub-Panel feels that this is the most difficult outcome

155 States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.22
156 States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p. 63
157 States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.63
158 States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.63
159 States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.63
160 States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.25
161 Information received from the Housing Department, 1st March 2013
162 States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.66

of accepting the proposed rent reforms – that more tenants will be "trapped" claiming Income Support for housing for longer.

Key Finding: Tenants currently in receipt of the accommodation component of Income Support will be reliant on benefits for longer as a result of the proposed rent reforms – unless their earnings increase at a greater extent than the cost of living.
Recommendation: Any agreed rent reform should be accompanied by measures designed to avoid potential negative social and economic effects. This should include a detailed analysis of the consequences and limitations of relying on a revenue-based subsidy model for social housing, and of a rent policy that will see low-income Tenants reliant on Income Support for longer.

There are of course some risks in linking social rents to market rents, not least the uncertainty about how private rents will perform over time. However, the Sub-Panel notes the proposal to increase the 90% rents annually by RPI +0.75% rather than by an index of the private rental market. This will give certainty to providers in terms of business planning and consequently to any private lenders. The approach taken in the present reforms is comparable to current systems in other jurisdictions; for example, in England "Affordable Rents" are set as a percentage of market rents, increased by RPI +0.75% each year, and rebased to retain the % link to market rents every five years or on re-letting. It is not clear to the Sub-Panel how the link to 90% rents will be maintained over time if private rents change by more or less than RPI +0.75%.

The Sub-Panel appreciates that its concerns about the original plan to phase non-Income Support tenants on to 90% market rents over 10 years were recognised and the policy redrawn. However the Sub-Panel has new concerns that the re-lets policy could encourage some tenants (i.e. those not receiving Income Support or those needing to move to a larger social property) to stay in their current tenancy, in order to avoid paying higher rents. This could lead to negative personal consequences for households, for example living in unsuitable accommodation as needs change. It could also present challenges for the landlord and potential tenants as properties do not become vacant at the expected rate. The Sub-Panel also feels that further explanation is required to clarify why it was initially considered necessary to increase rents for the 66% of tenants receiving income support immediately but that the redrawn business plan can deliver the same results with only 7% of properties' rents increasing each year and no extra borrowing.

Recommendation: The re-lets policy should be kept under review to make sure that the turnover of properties is not negatively affected and that re-lets are happening at a rate that supports delivery of the Housing Company's commitments. The Minister should report back to the States annually on this policy.

6.5.2 Tenants not in receipt of Income Support

The Full Business Case states that existing tenants not in receipt of the housing component of Income Support will not be required to pay additional rent as a result of the proposed rent policy whilst they remain in their current properties.[163] Should tenants transfer to another property within the Housing Organisation's stock rent will be charged at 90% of market rent for the new property. [164] It has been established that approximately one third of tenants in social housing are not currently claiming Income Support, and will therefore be affected should they choose to move from their current properties to another within the social housing stock.

The Full Business Case suggests that the social and economic impact of the proposed rent policy on States tenants not currently receiving Income Support will be "very small"[165]. This statement is based on a number of assumptions. First, the assumption that current trends with regards to Tenants downsizing to smaller, lower rent properties will continue in future.[166] Though it is not explicitly stated, the Full Business Case implies that these tenants will therefore not be affected by the 90% rents on their new property, but data on which this assumption is based is not shown in the Full Business Case. Second, for tenants moving to properties which have recently been refurbished to a Decent Homes Standard, the uplift in rents to 90% of the market rate will be offset by "compensatory savings" arising from energy saving costs as a result of the refurbishment. [167] Once again, precise figures to support this claim have not been made available. The Sub-Panel wants to make clear that over two thirds of States properties already meet the Decent Homes Standard, so many tenants would not gain this benefit if they moved.

Third and most significantly, analysis of States' tenants not receiving Income Support suggests that 74% have income in excess of any Income Support criteria to pay the new proposed rents, suggesting that they can afford to pay up to 90% of market rents at their current income level. The Sub-Panel was immediately struck by the notion that these tenants

[163] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.25
[164] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.25
[165] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.67
[166] Information received from the Housing Department, 7th April 2013
[167] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.67

who can afford to pay "fair rents" will not do so, and was concerned that the proposal will encourage tenants in these circumstances to stay in their current homes to avoid being charged a higher rent in future, even if their circumstances with regards to accommodation requirements changed. This risk is further increased by the predicted overall shortfall in the availability of smaller properties within the social housing stock[168,] especially those suitable for older Tenants, a concern acknowledged by the Minister during Public Hearings.[169]

Furthermore, if tenants that have incomes in excess of the Income Support criteria are allowed to live in social housing further investigation should be undertaken to determine whether their rental payments could be used to build up savings, rather than being redirected through the annual return to the Treasury to fund Income Support for those on lower incomes, or redirected to pay for refurbishment or maintenance costs. The Sub-Panel considers that if these tenants can be identified, those who are of a suitable age to secure a mortgage should be encouraged to save their additional income towards buying an affordable home, which would surely assist in reducing the pressure on the social housing stock.

Only 35 tenants are identified as likely to become entitled to Income Support under the proposed rents policy should they move into a new property, a sum of roughly £19 per week per tenant.[170] However, 167 States' tenants identified in the analysis are eligible for Income Support based on their current income levels but do not claim it. The Full Business Case states that "it appears a fair assumption that many of these tenants will not claim Income Support in the future."[171] However, should all of those 167 tenants choose to claim Income Support estimated to be £31 per week per tenant there could be an additional annual burden of £269,204 on the current Income Support bill. This does not appear to have been factored in to projections.

The Sub-Panel was concerned about the amount of tenants currently not claiming Income Support and in particular that 58 people currently living in social housing exist on incomes lower than £5,000 p.a[172] (see Table 2). The Sub-Panel is further concerned that the Report does not in any way make provision for assisting this small group of low-income individuals, some of whom may be eligible for Income Support. The White Paper proposed that all tenants living in States-owned social housing had a year to come forward for a means test to

[168] Jersey's Housing Assessment, 2013-2015, p.1
[169] Public Hearing with the Minister for Housing, 26th July 2012, p.30
[170] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.67
[171] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.67
[172] The Reform of Social Housing (P.33/2013), p.54

establish eligibility for phased protection during rent increases.[173] However this proposal has since been re-worked and the Report does not explain how very vulnerable households will be assisted in claiming the Income Support allowance they may be entitled to. The Sub-Panel considers that a more proactive approach is required, especially in the case of elderly pensioners who may be reluctant or unable to seek help without one-to-one assistance.

Income in bands	Total
£0k-£5k	58
£5k-£10k	74
£10k-£15k	77
£15k-£20k	167
£20k-£25k	200
£25k-£30k	215
£30k-£35k	163
£35k-£40k	92
£40k-£45k	73
£45k-£50k	33
£50k plus	72
Total	1,224

Table 2: Income Distribution of States Tenants not receiving income support[174] (excluding assets/savings)

The Sub-Panel is therefore of the view that the introduction of a special capped rent for low-income, elderly tenants should be considered in order to protect this vulnerable group from the risk of further rent increases above the cost of living. This could be conducted via an annual means test to take into account their current pensions plus any savings and subsequently charge them a fair rate based on their circumstances. They could then "top up" their rents with Income Support assistance, which would avoid them becoming totally reliant on State welfare for accommodation purposes. The lack of clarity in the Report over protection for this group of low-income tenants not claiming Income Support continues to be a source of concern for the Sub-Panel. Furthermore, the Sub-Panel considers that the Minister for Social Security working with the Minister for Housing must conduct more research to establish why this group does not claim Income Support when they are entitled to receive it.

Key Finding: The implications of the rent reforms for low and high income groups in social housing that are not currently in receipt of Income Support or are not eligible for it are not

[173] Achieving Decent Homes: An Affordable Housing Framework for the Future (R.47/2012), p.18
[174] The Reform of Social Housing (P.33/2013), p.54

clear, and there are concerns that low-income pensioners not claiming Income Support may be negatively affected by the current proposals.

Recommendation: Action should be taken to ensure the most vulnerable households are protected against rent increases upon moving, including the introduction of an elderly rate for low-income pensioners.

Recommendation: Policies should also be developed to assist those considered higher earners to move into other tenures that are appropriate to their needs.

6.5.3 Impact of Proposed Rent Policy on Income Support Costs

The Report states that additional Income Support costs will be incurred to the States of Jersey as a result of the proposed rents policy.[175] Table 3 shows the likely additional cost and includes forecasts for the additional rental income received by the proposed Housing Company as a result of the rent policy being implemented, compared to the existing rent policy. This table also identifies the amount of additional rent that will be paid by the Social Security Department, which the Department estimates to be approximately 67% of the additional rent because approximately 67% of the tenants of the Housing Department claim Income Support. The Report states that additional Income Support costs will "need to be funded by the Treasury by means of an additional budget allocation to the Social Security Department"[176]

Date	Year of Company Operation	Additional rental income	Additional rent paid by Income Support
		£m	£m
2014	1	0.5	0.3
2015	2	1.1	0.7
2016	3	1.1	0.7
2017	4	1.5	1.0
2018	5	1.6	1.1
2019	6	1.9	1.3
2020	7	2.2	1.5
2021	8	2.2	1.5
2022	9	2.2	1.5
2023	10	2.4	1.6
2024–2028	11–15 (annual average)	2.5	1.7
2029–2033	16–20 (annual average)	2.8	1.9
2034–2043	21–30 (annual average)	3.0	2.0

Table 3: The amount of additional Income Support payments resulting from the proposed rent policy for Housing Company tenants[177]

[175] The Reform of Social Housing (P.33/2013), p.51
[176] The Reform of Social Housing (P.33/2013), p.51
[177] The Reform of Social Housing (P.33/2013), p.52

The Sub-Panel is pleased to note that the additional cost for Income Support for Tenants in States social housing will be funded by the Treasury by means of an additional budget allocation to the Social Security Department[178], rather than being borne by the proposed Housing Company at start up. However, the wording in the Report suggests that the arrangement for the Treasury to fund additional Income Support costs for States social tenants has not yet been agreed. The Sub-Panel expects this arrangement to be clarified before any rent policy is approved.

Currently it is proposed that in the case of the Housing Trusts, the cost of funding additional Income Support claimants will be recovered from the Trust's tenants themselves rather than being funded by the Treasury, and that the amount and method of recovery of this funding from the Housing Trusts will be the subject of negotiation between them and the Treasury & Resources Department.[179]

Key Finding: The additional cost for Income Support for States social tenants arising from the rent reforms will be funded by the Treasury by means of an additional budget allocation to the Social Security Department, rather than being borne by the proposed Housing Company at start up.

Further information is given about the impact of the proposed rent reforms on Income Support, including the expectation that approximately 55% of new tenancies (paying 90% of market rent) will come from the waiting list, and therefore Income Support paid for these tenancies will replace Income Support paid in the private sector.[180] The Sub-Panel identified that this does not necessarily take into account "hidden" future tenants who do not currently hold a tenancy in their own name – for example, people staying in a family member's spare room or those currently occupying unqualified accommodation – and that this presented a risk of underestimating the Income Support bill. The Department confirmed in a written response that where a tenancy is granted to someone renting for the first time, this would be an additional Income Support cost. [181] It was stated that this information was "a comment only and has not been netted off the amounts included in the table...therefore any underestimation would not affect the amounts shown."[182]

[178] The Reform of Social Housing (P.33/2013), p.56
[179] Information received from the Treasury and Resources Department, 9th April 2013
[180] The Reform of Social Housing (P.33/2013), p.52
[181] Information from the Housing Department, 1st March 2013
[182] Information from the Housing Department, 1st March 2013

This comment suggests that modelling has been carried out according to the usual profile of new tenants, which is assumed will be true in the future. What appears to have not been taken into account is whether those tenants are already claiming Income Support somewhere else. The Sub-Panel recognises the work undertaken by the Social Security and Housing Departments to consider the impact of the rent reforms on Income Support costs, but considers that some of the comments made in the Report may lead readers to assume that the Income Support bill arising from the rent reforms will be negligible, even though the data to provide a solid understanding of this is not available.

Key Finding: Some of the comments in P.33/2013 may lead readers to assume that the Income Support bill arising from the rent reforms will be negligible, even though the data to provide a solid understanding of this is not available.

The Report also acknowledges that the Housing Trusts will be expected to bear additional Income Support costs as a result of the proposed rent policy, estimated to peak at £1 million once the reforms are fully implemented.[183] The Sub-Panel has noted that the Housing Trusts will be expected to fund the additional cost of Income Support arising from rent increases themselves. The Report suggests that the additional rental yield received as a result of implementing the 90% market rents policy will cover this, as this is income "over and above the expected levels."[184] However the Sub-Panel are concerned about the implications this may have on the ability of the Trusts to continue to develop new housing stock and to refurbish their current stock. If the Trusts only allocate new tenancies to Income Support claimants, they will see no net gain from the higher rents because they will have to pay all additional rent collected back to the Treasury.

The Sub-Panel believe that the principle of the Trusts making a return to the Treasury needs to be reviewed given that the existence of the return is widely acknowledged as a factor that impaired the Housing Department's ability to maintain and refurbish its stock. The Sub-Panel is concerned that the introduction of a return could see the Trusts similarly struggle to meet the cost of development, maintenance and refurbishment. It is important therefore that agreements are clear about the Trusts' liability to pay back Income Support in the event that it conflicts with their intentions to deliver agreed new homes or property improvements. Comments made by the Chairmen of the three main Housing Trusts suggest that the difficult economic climate has made long-term borrowing more difficult[185], and the Report makes

[183] The Reform of Social Housing (P.33/2013), p.52
[184] The Reform of Social Housing (P.33/2013), p.57
[185] Sub-Panel Meeting with the Chairmen of the Housing Trusts, November 2012

clear that external lenders were unwilling to provide long-term lending facilities to the Housing Company because of similar macroeconomic challenges. [186] The Sub-Panel considers that a constrained lending market may put pressure on the Trusts' finances and that the introduction of a return to the Treasury may further hinder their objectives in increasing the supply of social and affordable housing.

The Report further assumes that the Trusts will be able to afford the return to cover the cost of Income Support because of the uplift in rental yield occurring as a result of the new rental policy, as this is additional income "over and above the expected levels."[187] However, in a written submission from the Chairman of Jersey Homes Trust (JHT) the Sub-Panel was informed that in the majority of cases rents are mostly within the 80%-90% bracket[188], and so presumably will not be receiving a significant increase in rental income when the new policy is implemented.[189] This suggests that the assumption about the rent uplift creating sufficient additional funds for the Trusts to cover Income Support costs may not be justified. The Report further indicates that Housing Trusts have yet to carry out independent rent assessments on their properties.[190] The Sub-Panel feels that this must be carried out as soon as possible in order to ascertain the level of additional income the Trusts might receive and therefore what kind of return they should be making.

Key Finding: The Housing Trusts will bear additional Income Support costs as a result of the proposed rent policy, estimated to peak at £1 million once the reforms are fully implemented.

6.6 De-coupling Private Rented Sector Income Support Levels

Early on in the consultation process around the White Paper the Sub-Panel was informed that the maximum accommodation component of Income Support for private sector tenants is currently the same as the maximum component set for tenants renting in the social sector. Therefore if rents were to rise in the social sector and the Income Support component with it, there would be an unintended consequence of Income Support rising for tenants in the private sector. Furthermore, it also poses the risk of encouraging landlords to put their rents up in line with the increase in Income Support, thus accidentally creating market inflation. During a hearing with the Minister for Social Security, the Minister acknowledged a comment

[186] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.59
[187] The Reform of Social Housing (P.33/2013), p.52
[188] Written Submission from Jersey Homes Trust, 23rd July 2013, p.3
[189] Sub-Panel Meeting with the Chairmen of the Housing Trusts, November 2012
[190] The Reform of Social Housing (P.33/2013), p.23

made by the Sub-Panel's adviser that if the States were prepared to pay a higher rate of Income Support for housing it might send a signal to the market and affect rent levels. [191] However, this suggestion was queried by the Minister's Policy and Strategic Director who assured the Sub-Panel that no evidence had been found to suggest rents in the private sector were grouping around the current maximum Income Support levels, and that for such an outcome to occur the market would have to "change its behaviour".[192]

In order to avoid the unintended consequence of affecting private sector rent levels, the Housing Minister was clear during Public Hearings in July 2012 that the Social Security Minister would need to produce a policy that aimed to separate maximum private sector support levels from maximum social sector levels; in other words, to de-couple the Income Support policy that sees the same maximum rental components in the private sector and the social sector.[193] The Social Security Minister agreed with this at a separate Hearing around the same time and assured the Sub-Panel that his Department was working towards developing a proposal as to how to set Income Support levels in the private sector[194] which has yet to be published.

The Full Business Case states that a review of options to change the link between States' housing rents and Income Support payable to private tenants was undertaken as part of the development of the Housing Transformation Programme. [195] The agreed course of action as stated in the Full Business Case is to link private sector Income Support levels to the average of the market rents in the States' sector.[196] At the time of writing, the Sub-Panel noted that the Report from the Social Security Department explaining the strategy for setting Income Support levels in the private rented sector had not been published, and feels that it is lamentable that this information has not been forthcoming sooner.

6.7 Return to the Treasury

The Report states that the new Housing Company will make a significant return to the Treasury from its inception.[197] Specifically, the annual return currently made by the Housing Department would be replaced by a covenanted payment made by the Housing Company to the States of Jersey (as sole Member and guarantor) acting through the Minister for Treasury and Resources, rather than for example by way of share dividend. The role of the

[191] Public Hearing with the Minister for Social Security, 2nd July 2012, p.17
[192] Public Hearing with the Minister for Social Security, 2nd July 2012, p.17
[193] Public Hearing with the Minister for Housing, 26th July 2012, p.26
[194] Public Hearing with the Minister for Social Security, 2nd July 2012, p.5
[195] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.11
[196] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.11
[197] The Reform of Social Housing (P.33/2013), p.12

sole Member would be set out within the draft Articles of Association for the Housing Company which will be lodged for approval by the States, and within the proposed Transfer Agreement.

According to the Report, the rental income received by the Housing Department has "always provided an income to the States."[198] Prior to the implementation of Income Support this return was internalized within the Housing Department to fund the provision of rent abatement and rent rebate. Following the implementation of Income Support, the return from rents has been made to the Treasury.

The Report states that the annual return made by the Housing Company to the States of Jersey will be maintained in real terms from 2016 (i.e. adjusted annually by RPI). [199] This is after delivering the returns set out in the Medium Term Financial Plan including Comprehensive Spending Review savings. [200] In years 2013 to 2015 the return will be adjusted to reflect agreed transitional costs. [201] Therefore, increases in rental income above RPI are proposed to be retained by the Housing Company. [202] Where increases in rental income are below RPI, i.e. in a weak rental market, it is established that the Housing Company will absorb this in to its operations. [203]

Annual Return	2012	2013	2014	2015
	£000s	£000s	£000s	£000s
Near cash return as per Medium Term Financial Plan	24,559	26,798	27,972	29,339
One off set up costs of the new organisation	–	(706)	–	–
Transfer of costs to Chief Ministers Department for Strategic Housing Unit	–	–	182	182
Annual Return	**24,559**	**26,092**	**28,154**	**29,521**

Table 4: Annual Returns up to 2015 (thereafter adjusted annually by RPI)[204]

In her 2009 Review of Social Housing, Professor Whitehead clearly identifies the Annual Returns agreement as one of the key reasons why insufficient investment in the social

[198] The Reform of Social Housing (P.33/2013), p.51
[199] The Reform of Social Housing (P.33/2013), p.51
[200] The Reform of Social Housing (P.33/2013), p.51
[201] The Reform of Social Housing (P.33/2013), p.51
[202] The Reform of Social Housing (P.33/2013), p.51
[203] The Reform of Social Housing (P.33/2013), p.51
[204] The Reform of Social Housing (P.33/2013), p.51

housing stock has been made to date. This, in combination with the rent policy currently employed has meant there is not enough income left to carry out essential maintenance.[205] The Sub-Panel was therefore keen to understand why such a return exists and to establish whether it must be maintained if the Housing Department is incorporated as a Company. According to the Sub-Panel's expert advisors, the contribution to the Treasury and its continuation post-rent increase is the most unusual aspect of the rent model being proposed, and whilst there are examples of revenue-subsidy models in which surplus rental income is captured for recycling by central governments (although not for named purposes), these have almost all been discontinued. In the case of England, this practice was ceased from April 2012. Furthermore, in all cases of stock transfer, this accounting treatment has been removed. The Sub-Panel therefore feels it is extremely important to understand fully the key issues around the return to the Treasury, and these are explored in Sections 6.8-6.10.

6.8 Background of the Annual Return to the Treasury

The Sub-Panel received information from the Treasury & Resourced Department which sought to clarify in detail the reason for the existence of a Return to the Treasury (Appendix 4). The briefing note received states that the Housing Department's annual contribution to the Treasury was effectively used (in part) to contribute to the cost of Social Security providing the accommodation component of Income Support. It further explained that prior to the introduction of the Income Support System in 2008, the Housing Department was responsible for administering rent rebate and rent abatement to tenants on low incomes. [206] When the Income Support System was brought in in January 2008, the Housing Department which operated the Rent Abatement and Rebate schemes subsequently had the budget (and cost) for them transferred to Social Security.[207] This amounted to £24million, turning the Housing Department into a net income budget which was effectively then "redirected" through the Consolidated Fund to Social Security to part fund the cost of the Income Support System. [208] In 2013 the equivalent figure is estimated as £26.8 million. [209]

The Treasury maintains that as a result of these changes the direct link between the Housing element of support and funding has been broken (i.e. there is no explicit link between the amount of money paid to States' tenants for housing costs through Income

[205] Whitehead, C. (2009) *A Review of Social Housing in Jersey*, Cambridge, Cambridge Centre for Housing and Planning Research, Department of Land Economy, University of Cambridge p.5-6
[206] Briefing note from the Treasury on Income Support, received 2nd August 2012
[207] Briefing note from the Treasury on Income Support, received 2nd August 2012
[208] Briefing note from the Treasury on Income Support, received 2nd August 2012
[209] Briefing note from the Treasury on Income Support, received 2nd August 2012

Support and the payment made from the Department to the Treasury.) [210] The Treasury further informed the Sub-Panel that an estimate of the cost, considering the daily rate at the end of each year, and using a pro-rating method, gives an allocation of Income Support to accommodation components of an equivalent value of £22.7 million in 2009, £24.1 million in 2010[211] and £24.4m in 2011.[212]

The Sub-Panel learned that since 2008 over £24 million per annum has been transferred to the Treasury from the Housing Department, and that this “net income” may be affected in any year depending on rent income levels and cost increases. The Treasury emphasised in the briefing note that the net income has not been linked historically to any factor such as a rate of return or the cost of Income Support[213] but further explained that as it arose as a result of a transfer of cost to Social Security, it was used in effect to contribute to the total cost of the Income Support System. [214]

The Sub-Panel understands that the “net income” from the Housing Department to the Treasury is now calculated on a 3 year basis (previously annually) in line with the Medium Term Financial Plan (MTFP) timescales. [215] Further, the Sub-Panel learned that should the proposals in P.33/2013 be adopted, the annual return currently made by the Housing Department would be replaced by a covenanted payment made by the Housing Company to the States of Jersey (as sole Member and guarantor) acting through the Minister for Treasury and Resources, rather than for example by way of share dividend.[216] The role of the Member is proposed to be set out within the draft Articles of Association for the Housing Company which will be lodged for approval by the States, and within the proposed Transfer Agreement.

Although now there is not, nor will there be in the future, a direct link between the return to the Treasury and the cost of the housing element of Income Support for States tenants, the Sub-Panel was struck by how close these two figures are. The Sub-Panel observes that the Housing Company will meet its revenue running costs from the rental income retained after the return to the Treasury has been made.[217] This means that, in effect, the minority of

[210] Briefing note from the Treasury on Income Support, received 2nd August 2012
[211] Briefing note from the Treasury on Income Support, received 2nd August 2012
[212] R.126/2012
[213] Briefing note from the Treasury on Income Support, received 2nd August 2012
[214] Briefing note from the Treasury on Income Support, received 2nd August 2012
[215] Briefing note from the Treasury on Income Support, received 2nd August 2012
[216] The Reform of Social Housing (P.33/2013), p.37
[217] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p25

tenants who pay some or all of their rents from their own income are funding the whole revenue operation of the Housing Company.

Key Finding: The Business Plan for the Housing Company is set up in such a way that the minority of Tenants who pay some or all of their rents from their own income are effectively funding the whole revenue operation of the Housing Company.

6.9 Breaking the Return

The Sub-Panel was keen to understand whether the link between the Treasury and the proposed Housing Company could in some way be broken in order to allow the Company to retain more of the rental yield from the rent uplift and so reduce the need for internal or external borrowing as is currently the case for the Housing Trusts. Over the course of several hearings during July 2012 the issue was examined in detail. The Minister for Treasury and Resources admitted that the basis for the so-called “money-go-round” represented by the Annual Return to the Treasury from the Housing Department was largely historical,[218] a comment echoed by the Minister for Housing[219]. However the Minister for Treasury and Resources objected to the notion that the presence of a return somehow implied that the Housing Company would be a profit-making entity and emphasised the link between the Annual Return and the cost of providing the accommodation component of Income Support:

> “...it is not a dividend, it is not a return and it is collected in order to pay for housing benefit, and it is not negotiable to be reduced, because otherwise we will have to reduce housing benefit or increase taxes.”[220]

At a separate hearing, the Minister for Housing expressed views consistent with the Minister for Treasury and Resources, emphasising that if the Treasury could not receive the income from the Housing Department (and proposed Housing Company) it would have to fund Income Support payments from somewhere else:

> “...If you stop the money going to Treasury...then what else are you going to stop doing to pay for it? Are you going to increase tax or are you going to not build the

[218] Public Hearing with the Minister for Treasury and Resources, July 26th 2012, p.11
[219] Public Hearing with the Minister for Housing, 26th July 2012, p.9
[220] Public Hearing with the Minister for Treasury and Resources, July 26th 2012, p.11

> new hospital or are you going to ditch the liquid waste strategy, or are you going to lower Social Security?"[221]

The Finance Director of Housing confirmed that the sum transferred to the Treasury to cover the cost of the accommodation component on Income Support was not equal in a pound for pound sense. He further explained that this additional income returned from the Housing Department was "topped up" with rental income received from other tenants not in receipt of Income Support.[222] The implications of the Annual Returns agreement is that tenants in social housing not currently claiming Income Support are indirectly subsidising those on Income Support. However, the Minister for Housing did not feel that this return could be negotiated either. In his view the additional income received by the Treasury – approximately £6m after Income Support had been accounted for – was Housing's contribution to general States costs and without that sum the Treasury would have to pull the money from another area.[223] This was queried however by the Treasurer in a separate Public Hearing who claimed that all the funds returned from the Housing Department "are handed over to Social Security."[224]

Key Finding: The implication of the Annual Returns Agreement is that tenants in social housing not currently claiming Income Support are indirectly subsidising the provision of Income Support.

Despite a lack of clarity about the processes and principles underpinning the Annual Returns agreement, the Minister for Treasury and Resources told the Sub-Panel that the practice was still preferable to continuing to subsidise social housing tenants in a "hidden" way:

> "I believe that we should have an open, transparent arrangement of housing subsidy, which you cannot get if you effectively keep people's rents artificially low. It is not right."[225]

The Sub-Panel identified during this Hearing that a clear consequence of the proposed system was that Income Support would increase to cover the costs of the increased social rents, and therefore that some of the pressures on States' tax and spend outlined by Ministers will be created by this aspect of the proposed rent reforms. However the Minister

[221] Public Hearing with the Minister for Housing, 26th July 2012, p.18
[222] Public Hearing with the Minister for Housing, 26th July 2012, p.13
[223] Public Hearing with the Minister for Housing, 26th July 2012, p.23
[224] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.20
[225] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.17

for Treasury and Resources was adamant that this still created a more open, transparent accounting system than at present, and emphasised that a benefit of retaining the returns would be that the "public can see where their money is going."[226] The Sub-Panel was struck by the discovery that the desire to remove the majority of the hidden subsidy (often presented largely as a matter of principle) is sufficiently strong to justify additional States' expenditure on Income Support. Having been advised that revenue subsidy is often more costly than capital subsidy, the Sub-Panel disputes the validity of the hidden subsidy argument.

Key Finding: A clear consequence of the proposed system is that Income Support will increase to cover the costs of the increased social rents. This aspect of the social housing reforms may create pressure on the States' taxation and expenditure programme.

Recommendation: Prior to the Debate and approval of any rent policy, the Minister must clarify the following: a) the link between removing the hidden subsidy and additional States' expenditure on Income Support; b) the reliance on the rents of low-income Tenants to fund the Housing Association; c) the arrangement for the Treasury to fund the additional cost of Income Support arising from the rent reforms. Explanation must be given as to why this system is preferable to the existing system, and the Assembly must decide whether, upon consideration of these issues, it is content with the approach outlined.

6.10 The Return and Income Support

A key area of concern for the Sub-Panel is the potential different movement in the financial return from the new Housing Company on the one hand and the cost of Income Support on the other. The Sub-Panel identified that this has the potential to cause a large future public policy challenge unless agreements are set straight from the outset and last for the long term.

The Full Business Case prepared by Housing states that the return will be set from the start and increase in line with agreed measures around inflation, transitional costs and loan repayment obligations.[227] However, no information on whether this agreement can be re-negotiated in the future or who could trigger such re-negotiation is provided.

It is crucial that the Minister for Treasury and Resources, working with the Ministers for Housing and Social Security, establishes how any future shortfall of funding for Income

[226] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.17
[227] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013) p.69

Support will be met without significant consequences for the States' financial programme as a whole and/or restriction of Income Support going forward. The Sub-Panel notes that the potential for the return from the new Housing Company to the Treasury to increase at a different pace to actual changes in Income Support levels seems inevitable unless linked in some way to a very detailed agreement. This could have significant consequences for the public purse and for tenants of States and Trusts properties.

Key Finding: The potential difference in movement between the financial return from the new Housing Company on the one hand and the cost of Income Support on the other risks having significant consequences for the States' financial programme.

In summary, the Sub-Panel was left with the general impression that the rationale for maintaining the return was historical rather than practical, and expressed these concerns in a letter to the Political Steering Group of the Housing Transformation Programme in December 2012 (Appendix 3). The Sub-Panel requested that the Political Steering Group consider means of reducing or breaking the cycle of money between the Housing Department/Company and the Treasury, and to look at alternative options that would deliver a lower return to the Treasury, lower rents and still meet the outcomes required of the Housing Transformation Programme.[228] It is gratified to note that the Return has been renegotiated to a slightly lower level as a result of the Sub-Panel's interventions, but feels that more detail is required on the terms of the return in future.

6.11 Conclusions on the Rent Reforms

The Sub-Panel has been informed by the Housing Department that in order for Social Housing Providers to have viable business models it is important to have a proper return on housing investments in the form of rents. However, the Sub-Panel feels that it is debatable whether rent setting should create a financial return from social housing due to it being a social function, not a commercial asset.

The Sub-Panel considers that any benefits arising from the 90% rent policy being proposed come at a social and economic price – a bigger Income Support bill, greater dependency of Tenants on States subsidies and a disincentive for current tenants on sub-market rents to move from their current properties, even if their needs should change. The impact that rent and Income Support payments rising in the social sector will have on the private rented sector is at best assumed, and at worst completely unknown.

[228] Letter from the Chairman of the HSSH Sub-Panel to the Political Steering Group, 19th December 2012, p.1

The Sub-Panel also believes that more work should have been done to address the question of Tenants on high incomes that are not in receipt of Income Support living in social housing. Data in the Report shows that 178 tenants currently living in social housing have a joint household income of over £40,000 per annum, suggesting that with assistance some of these households (if they are of an appropriate age to get a mortgage) could buy their own property and therefore free up the much-needed stock for families on lower incomes. A key element of the reforms being proposed is that tenants who can afford to pay more should do so, but the Sub-Panel considers that it would be sensible to develop initiatives to allow some of these residents to move into the private sector or realise their ambitions of buying a property.

One idea that the Sub-Panel supports is a means of allowing social Tenants to contribute their additional rental to a Savings Fund which they could later use to buy their own property. Such a scheme was proposed by Deputy T. Vallois, who made a submission to the Sub-Panel which suggested creating a States-backed Housing Savings Fund. This would allow tenants who can afford more than the weekly rent to receive preferential interest rates on savings for a deposit towards purchasing a home. An initiative of this kind would support the States strategic priority of increasing home ownership and allow States properties to be targeted towards those most in need. This scheme is not dissimilar to the English Rent to HomeBuy scheme or the Chartered Institute of Housing's model Save with Rent (Appendix 5). However, the Sub-Panel acknowledges that a scheme such as this will not be applicable to those Social Housing tenants who are over 50, and anecdotal evidence suggests that a proportion of the high-income households may fall into this category. Further research is required to understand the potential benefits of such a scheme.

The Sub-Panel concludes that acceptance of this rental proposal will mean that the threshold for tenants to escape benefit dependency will be permanently raised. The Sub-Panel also feels that it is premature to ask the States to agree a social rents policy without first having a debate about the role and purpose of social housing. In the absence of clear agreement about what the States wants social housing in Jersey to achieve, it is difficult to agree to a policy that sees social housing rents – which in the Sub-Panel's definition exist to provide sub-market accommodation for those unable to afford market prices – brought in line with an overinflated market.

7 THE INCORPORATION OF THE STATES-OWNED HOUSING COMPANY

7.1 Overview

The Sub-Panel found wide support for the proposal to establish a wholly States-owned Housing Company from witnesses during the course of its review. P.33/2013 establishes that the creation of a Housing Company is necessary in order to achieve the following outcomes: a) to separate the landlord function from the policy-setting function; b) to provide the opportunity to lever in funding, principally borrowing, to bring homes to a decent standard; c) to correct the perceived over-expenditure on Trust subsidies which were felt to have been made at the expense of the Housing Department, leading to under-investment in new States homes as well as in the existing stock; and c) to place the Housing Company on a more business-like footing at arm's length from government and policy setting. In order to establish whether a Housing Company was necessary and viable, the Sub-Panel considered the detail set out in the Report (P.33/2013) and the Full Business Case (R.15/2013).

7.2 Analysis of the Full Business Case (R.15/2013)

The aim of the Full Business Case (R.15/2013) is to set out a thoroughly assessed proposal for a delivery vehicle for Jersey's States-owned housing and a funding mechanism to support this delivery vehicle and its aims. It considers this by presenting different aspects of the proposal for housing transformation and how best to implement the agreed upon changes. Five aspects are considered:

1. Strategic: establishing why the approach to managing and providing social housing in Jersey needs to change;
2. Economic: identifying which of the options for meeting the strategic objectives best meets the service needs and drives value for money;
3. Commercial: identifying the legal and financial structures and provision that will best support the operation of the chosen delivery vehicle;
4. Financial: outlining the approach to building, refurbishment, sales, borrowing and the financial return to the Treasury that will best suit the financial objectives of the delivery vehicle;
5. Management: establishing how the move to the new delivery vehicle will be managed, including details about the project, risks, contracts, business change and evaluation.

The decision to establish a Housing Company model was made after the economic appraisal. Financial critical success factors used to evaluate each of the delivery options included the need for the new provider to become a self-sustaining provider of housing services; the requirement that it must be flexible and able to adapt to change, and to continue to make a significant annual return to the States; and that the regulatory, policy and service functions of the Housing Department must be separated. The Panel noted that the results of business modelling for the Housing Company delivery option is based upon a number of key assumptions, which are "non-negotiables" that any proposed delivery vehicle chosen by the States must deliver against. These are set out in the Full Business Case as follows:

- Decent Homes Standard achieved in 10 years and maintained
- Return to the Treasury in real terms from 1 January 2016 after delivering the returns set out in the Medium Term Financial Plan
- Refurbishment and new build plans with a net gain of 434 units (however due to stock realignment this will only result in 137 additional units at Year 30 of the business plan)
- Sale of 300 properties (15 per annum up to year 20 of the business model)
- £40m internal borrowing facility at a repayment interest rate of 3% per annum
- External borrowing facility to fund stock redevelopment and any remaining cash flow shortages
- Proposed rent policy and implementation thereof
- The use of the States of Jersey Statistics Unit central scenario RPI projections and average earnings inflation of 0.75% of excess of RPI
- Market rent inflation at RPI plus average earnings inflation of 0.75%.[229]

7.3 Return to the Treasury

As mentioned in Section 6.8, the Report states that the proposed Housing Company will make a significant return to the Treasury from its inception. Specifically, the annual return currently made by the Housing Department would be replaced by a covenanted payment made by the Housing Company to the States of Jersey (as sole Member and guarantor) acting through the Minister for Treasury and Resources, rather than for example by way of share dividend. The role of the Member would be set out within the draft Articles of

[229] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.24

Association for the Housing Company which will be lodged for approval by the States, and within the proposed Transfer Agreement.

According to the Report, the rental income received by the Housing Department has "always provided an income to the States."[230] Prior to the implementation of Income Support this return was internalized within the Housing Department to fund the provision of rent abatement and rent rebate. Following the implementation of Income Support the return from rents has been made to the Treasury.[231] In 2013 the Housing Department paid the Treasury £26.1 million, which exceeds the net cost of the housing element of Income Support.[232]

The Report states that the 2013 payment will be used as a basis to set future payments and that in years 2013 to 2015 the return will be adjusted to reflect agreed transitional costs. [233] The annual return made by the Housing Company to the States of Jersey will be maintained in real terms from 2016 (i.e. adjusted annually by RPI). [234] Increases in rental income above RPI will be retained by the Housing Company (individual rents will rise by RPI + 0.75% each year). [235] Where increases in rental income are below RPI, i.e. in a weak rental market, the Housing Company will absorb this in to its operations. [236]

During its inquiries the Sub-Panel found that the Return is not well understood and that there are many objections to its existence. The extensive detail provided in Sections 6.7-6.10, above, is intended to aid understanding of this agreement. The Sub-Panel did not come across any concrete evidence or data suggesting that Jersey might expect to see a weak rental property market in the future. Therefore the way that uprating agreements for social rents and the annual return interface means it is likely that the Housing Company will gradually retain more of its rental income and the Treasury will gradually pick up greater costs through Income Support.

The Sub-Panel understand that negotiations between the Housing Department and the Treasury over the exact detail of the payment and uprating of the annual return in recent months have led to the Housing Company being offered better terms than previously. The Sub-Panel considers that, given the urgent need to protect and grow Jersey's social housing, the additional support given by the Treasury is welcome. However the Sub-Panel

[230] The Reform of Social Housing (P.33/2013) p.51
[231] Briefing note from the Treasury on Income Support, 2nd August 2012
[232] The Reform of Social Housing (P.33/2013) p.51
[233] The Reform of Social Housing (P.33/2013) p.51
[234] The Reform of Social Housing (P.33/2013) p.51
[235] The Reform of Social Housing (P.33/2013) p.51
[236] The Reform of Social Housing (P.33/2013) p.51

has some concerns that this arrangement could be re-opened and re-negotiated in the future should the States begin to consider that Income Support expenditure is too high. The Sub-Panel would like clarification on the terms whereby this agreement can be re-considered.

7.4 Financial Arrangements

The Sub-Panel has been advised that the level of borrowing proposed for the housing association appears to be viable, and there appears to be enough flexibility in the plan for it to cope with changes in the external environment. The business plan is fairly conservative in terms of how much money is required to deliver objectives, which the Sub-Panel commends. The Housing Company will establish a £40m internal borrowing facility (borrowing from the States) to support the refurbishment of all stock to the Decent Homes Standard within 10 years. Furthermore an external borrowing facility to fund new stock development and to provide cash flow balances is being proposed. The Sub-Panel notes that the Housing Company will now borrow £10m less than originally proposed and will pay back the debt faster (£160m repaid by year 16).[237] This reflects the smaller borrowing needs of the Company given the lowering of the return to the Treasury and the removal of the initial proposed requirement for the Housing Company to cover the additional costs of Income Support on 90% rents through the return.

The Full Business Case states that an internal borrowing facility will be made available to the proposed Housing Company, as set out in R132/2011 (States Investment Strategies).[238] The Treasury Department has indicated that this could be a £40 million facility attracting fixed interest of 4% per annum, which is proposed to be formalised in the transfer agreement between States of Jersey and the new organisation. [239] The funds would otherwise be retained in the currency fund, where they currently attract a lower anticipated return than 4%.[240] The Sub-Panel were concerned that this arrangement appeared to indicate the Treasury will 'profit' from its lending to the Housing Company. However, a written submission by the Minister for Housing clarified that this was not the intention:

> "My understanding is that there will be no profiteering by the Treasury. The 4% interest rate assumed for the £40 million internal borrowing is the rate judged to be sufficient by the Treasury to offset the income lost through the investment of the currency fund. The 5% interest rate assumed for external borrowing will be replaced

[237] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.69
[238] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.30
[239] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.30
[240] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.81

by the optimal rate achieved through a competitive process to identify the necessary lending. This process is being facilitated by the Treasury, but there has been no indication given of any intent on the Treasury's part to charge any over-head or profit on the rate."[241]

During hearings in July 2012, the Treasurer of the States mentioned that bond finance was being considered as a source of external debt finance.[242] The Sub-Panel is advised that bond lending is preferable to bank lending because changes in banks' practices after the financial crash have made it difficult to secure long term bank lending. Furthermore this trend has been seen in the social housing sector in the UK, and is not limited to Jersey. The Report confirms that providers of external finance were approached to discuss providing funding facilities for the proposed Housing Company, and that these conversations were generally unsuccessful owing to the fact that no facility would be committed for more than 5 years and no single Lender would be likely to wish to take on the entire lending portfolio envisaged as required for the proposed Housing Company.[243] The Sub-Panel understands that this is a reflection of external lending markets, and does not indicate any concern with the proposed housing association's financial model.

Key Finding: The fact that external lending markets were not willing to provide funding facilities for the proposed Housing Company is a reflection of the markets rather than a concern with the Housing Company's financial model.

As a consequence the Minister for Treasury and Resources has indicated that the States of Jersey may borrow in order to finance the social housing project, which is deemed as a major investment with long term benefits and a defined income stream.[244] Funding for the Housing Company is therefore being approached "as part of wider States of Jersey funding requirements." [245] The Sub-Panel has been advised that this route will allow the Housing Company to obtain cheaper finance and thus limit spending on interest payments, because the States are able to borrow more cheaply than a Company Limited by Guarantee.

The Sub-Panel notes that this assumption does not match with the argument made by the Minister that a Housing Company is required to bring in external sources of finance, but observes both that borrowing through the States could be financially beneficial to the

[241] Letter from the Minister for Housing to the HSSH Sub-Panel, 15th November 2012
[242] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.15
[243] The Reform of Social Housing (P.33/2013) p.42
[244] The Reform of Social Housing (P.33/2013) p.42
[245] The Reform of Social Housing (P.33/2013) p.42

association, and that it is an option not widely available to limited companies in other jurisdictions.

7.5 90% Rents

As discussed in Chapter 6, the Housing Company will conduct a rent policy of 90% of market equivalent rents to remove rent subsidy from those who can afford to pay a Fair Rent Level and to "track but not inflate" market rents in the private sector.[246] This policy has changed fairly significantly from that proposed in the White Paper in that 90% rents will only be charged on properties that are re-let or new tenancies. As before, however, tenants claiming Income Support will be protected from the cost of rent subsidy removal.[247] The Report states that market rents will rise with inflation at RPR plus average earnings inflation. [248]

The Business Case makes clear that keeping rents at current levels, or even restricting rents to 80% of the market equivalent whilst also delivering refurbishments, new homes, ongoing property maintenance and the return to the Treasury is not possible. The Sub-Panel has been advised that this is because the proposed Housing Company would have to borrow more to fund its operations and would not be able to pay back this level of debt in the required 20 year timescale, as discussed more fully in Section 6.4.

7.6 Income Support

A new feature of the proposed Housing Company's Business Model is that additional Income Support costs (resulting from the protection of all existing tenants in receipt of Income Support from the cost of higher rental levels, along with new claimants) will be met by an additional budget allocation by the Treasury to the Social Security Department. In previous drafts of the Business Case this cost was to be met by the proposed Housing Company. However this important concession has removed this burden, and has also had the effect of reducing the amount of borrowing required by the Company and therefore risk to the States. However, the Sub-Panel notes that this agreement has yet to be formally cemented between the Social Security Department and the Treasury,[249] and considers that this should be rectified as soon as possible.

7.7 Independence of the Housing Company

[246] The Reform of Social Housing (P.33/2013) p.33
[247] The Reform of Social Housing (P.33/2013) p.33
[248] The Reform of Social Housing (P.33/2013) p.34
[249] Information received from the Social Security Department, 8th April 2013

The Sub-Panel was keen to test the independence of the proposed Housing Company. This is important because a) the States has a priority of removing political oversight from the housing service and b) external lenders value independence when making lending decisions. The Business Case suggests that, whilst the Housing Company will have a separate legal status and its own board[250], its independence will be curtailed in a number of areas and that it will still be subject to significant political control and direction. For example, it is clear from the Business Case that borrowing will essentially be underpinned by the States and the States will require a large financial return. This has significant implications for the governance of the organisation and the relationships that it develops with government and the wider housing sector. Conventionally, the greater the number and scale of financial flows between a government and a funded body, the less independence of financial decision making tends to follow.

Further areas for concern include the fact that spending of surpluses must be approved by the States and the Regulator will control any disposals of stock.[251] [252] In particular, the Report states that establishing the Strategic Housing Unit "provides a means of allocating responsibility for resource allocation including the reinvestment of financial surpluses."[253] The Report also appears to suggest that the Regulator will be used to direct the behaviour of the Housing Company and that the Regulator may receive Ministerial direction. The Sub-Panel considers that this does not reflect the objective of separating the political and operational responsibilities stated throughout the Housing Transformation Programme.

The transfer agreement will require the association to inform the States of key business decisions[254] which may impact on the States' interests as guarantor of external borrowing. Whilst this is clearly prudent for the States, it still suggests that the assessment of a high level of independence may be misleading.

The Minister for Housing stated that he saw the return as "no different than paying your landlord and then running your own business."[255] He further stated that retaining the States' link with the Housing Company (as the owner of the housing stock) was actually a benefit which meant that accessing finance from markets outside of the States of Jersey was much stronger because of the security represented by the States' ownership. [256] This might

[250] The Reform of Social Housing (P.33/2013) p.34-35
[251] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.51 – 4.2.2.7
[252] The Reform of Social Housing (P.33/2013), p.50, 4.16
[253] The Reform of Social Housing (P.33/2013), p.60
[254] The Reform of Social Housing (P.33/2013), p.33
[255] Public Hearing with the Minister for Housing, 26th July 2012, p.23
[256] Public Hearing with the Minister for Housing, 26th July 2012, p.23

therefore suggest that the independence of the proposed Company would almost certainly focus on service delivery and management/administration of investment programmes, rather than independent determination of the core financing of them.

The Minister for Treasury and Resources pointed out that the Housing Company's ties with the States of Jersey would effectively give it 4,400 units of stock debt-free, a situation which most other Housing Companies and the Housing Trusts do not have, and that therefore the relationship could be seen in a beneficial light rather than a restriction on the independence on the Housing Company.[257]

7.8 Delivery of Refurbishment and New Supply Objectives

The Business Model will deliver 434 new social homes over 20 years – however, funding this relies on sales of 330 existing homes.[258] The social rented stock owned by the Housing Company will therefore only grow by 84 units in 30 years. The Report relies on an increase in social rented stock in Jersey as a whole through increased provision from the Housing Trusts, which are expected to build an additional 203 properties, giving a net gain of social housing in Jersey of 287 homes. [259] The Sub-Panel has serious concerns that the presentation of figures in the Full Business Case may lead some readers to believe the number of social homes will increase significantly more than it actually will. Furthermore, Jersey's Housing Assessment 2013-2015 indicates that 400 new social homes will be needed to cater for need over the next 3 years.[260] The Sub-Panel observes that 287 homes delivered under the reforms being proposed falls well short of the current social housing requirements. With such low levels of supply, it is likely that the States will come under pressure to give financial support to developing additional new rented homes in the future, because the present reforms do not generate sufficient capacity to address assessed need.

[257] Public Hearing with the Minister for Treasury, 26th July 2012, p.15
[258] Full Business Case, p.4
[259] Full Business Case, p.4
[260] Jersey's Housing Assessment, 2013-2015, p.1

Key Findings: A net gain of 287 new social rented homes over 30 years arising from the reforms is not acceptable, given the rising demand for affordable housing on the Island.

Recommendation: Reliable means to deliver new supply of both social rented and affordable home ownership properties should be urgently investigated and committed to, including partnerships with the private sector. Additional capital investment from the States should be considered if required, and appropriate States-owned land should be utilised at a price that enables the development of affordable housing. A clear commitment must be made by the Housing Company to review its Business Plans within 3 years to see whether additional capacity to support new development can be identified, and this information reported back to the States.

7.9 Housing Companies/Associations in Other Jurisdictions

The proposals in the Report echo policies driven across the UK which focus on issues such as ‘strategy/landlord split’, ‘better governance’, ‘tenant empowerment’, focused service delivery and levering in private finance. Around half of all council housing in England and Wales has transferred (i.e. sold) to housing associations, and the programme has so far been a success in terms of levering in private finance (c£20bn) and bringing homes up to a decent standard and beyond. As independent organisations, many stock transfer housing associations in the UK have then grown and expanded well beyond their initial local authority area.

At the same time, arm’s length management organisations (ALMOs) in England - companies owned by local authorities and contracted to manage local authority housing stock - have been established on similar governance lines with incentives to service improvement in the form of more public funding to achieve refurbishment. These have been seen as successful in delivering better services and some have initiated small development programmes, but they remain publically funded (through the provision of capital subsidies).

The success story of transfer/arms length management in other jurisdictions does, however, rely on public funding. For example, stock transfer in the UK has been undertaken at very low valuations (with Government accepting a low or sometimes even negative value for the stock). This enables the Housing Association/Company to borrow privately against a large proportion of the rental stream. Between 2009 and 2012 the Treasury in England retained some of the rental income collected by local authorities, and this was widely seen to restrict their development and investment. This redistributive system has recently changed with a one-off debt realignment from central to local government, and local authorities now retain all income from rents to manage their stock as they see fit and repay loans taken out to repay their debt to central government.

7.10 Guernsey Housing Association

Guernsey Housing Association (GHA) was set up in 2002 as an independent not-for-profit company limited by guarantee (LBG). The Company was sponsored by the States Housing Authority – now the Housing Department – as part of the States Corporate Housing Programme, to help provide new additional social housing.

The Association has over 400 homes rented or leased to local people, all built or refurbished since 2002. All new social housing is funded through a combination of States grants via the Housing Department and private finance, currently The Royal Bank of Scotland International and HSBC Bank plc. The grant is required in order to provide housing which can be rented or offered on a partial ownership sale basis at less than market rates.[261]

The initial projects were funded with a capital grant from the States Housing Department (SHD), equivalent to 75 per cent of the total scheme costs, with the remaining 25 per cent being obtained as private finance. As GHA's asset base increased the subsidy has declined. For future projects it is anticipated that ordinarily SHD will provide land/grant subsidy equivalent to 25 per cent to 35 per cent of total scheme costs.

The GHA has joined a South West Benchmarking Club comprising eight similar sized housing associations in south west England. This has allowed it to compare performance indicators against these peer housing associations and identify areas of comparative success as well as areas for improvement.[262] The Sub-Panel is of the view that the proposed Housing Company should join a similar benchmarking club so that comparative measures of its performance can be made available to staff and tenants, and support future improvements.

[261] Guernsey Housing Company (nd) *About Us*, available from http://www.gha.gg/about_us.htm, accessed 11 July 2012

[262] Williams, S. (nd) *Guernsey Housing Company LBG Business Plan Jan 2009 to Dec 2014*, Guernsey, Guernsey Housing Company, available from http://www.gha.gg/clientpics/BusinessPlanSummary2009to2014April2010.pdf, accessed 11 July 2012

Key Finding: Guernsey's Housing Association has benefited from joining the South West Benchmarking Club which allows it to compare performance indicators against peer housing associations and identify areas of success and areas for improvement. A similar set up would complement the work of a regulatory body in Jersey.
Recommendation: The proposed Housing Company and regulated Housing Trusts should join an appropriate benchmarking club so that comparative measures of its performance can be made available to staff and tenants, and support future improvements.

7.11 Conclusions on the Full Business Case

The Sub-Panel is satisfied that the Business Case underpinning the States-owned Housing Company is robust and notes the appointment of reputable advisors in the development of the Full Business Case. The process by which the other options for the social housing stock were discounted is clearly explained. However it may be argued that Options 4 or 5 (a Trading Operation or Hybrid Trading Company) would also have satisfied the necessary criteria for creating an arms-length organisation it is not obvious why these options would have been preferred over a Housing Company, and so they appear to have been willingly discounted. The Sub-Panel has been advised by its experts that it is common to have a strong sense of the preferred outcome prior to running an Options Appraisal, which appears to have occurred during the development of the Full Business Case.

The Sub-Panel experienced some confusion over the labelling of the Housing Company as a "States Asset" in contrast to a Government Asset. A Government Asset describes a situation whereby the States agree to transfer an asset to be the responsibility of another person or body (e.g. the Minister for Treasury & Resources) and they are sole shareholder. The Sub-Panel were concerned that it is not clear who should take direct responsibility or be sole shareholder for the association if, as is proposed in the present reforms, the Housing Minister was to be abolished.

The issue of labelling the Housing Company a "Strategic Asset" was raised in the Sub-Panel's Interim Report (S.R.5/2012) has still not adequately been dealt with in the present reforms. The Sub-Panel understands that the term may be an accounting treatment, but considers that it must be made absolutely clear that social housing is not a strategic investment to generate a financial return as other States strategic investments are. Social housing is a strategic social or moral investment, not a financial one, and should be treated as such. This means that in practice land or asset values of social housing will inevitably be significantly less than that of private equivalents because of their intrinsic social value. The Sub-Panel feels strongly that this treatment must be maintained.

During the evidence gathering process the Sub-Panel became aware that the current proposals are considered to be "stock transfer by a different name" in some circles. The Sub-Panel understands that in a sense the reforms being proposed are essentially establishing a new Trust, one that is wholly owned however by the States of Jersey and that avoids "selling off the family silver". On this point, the Sub-Panel have questioned why the option of transferring some of the lower standard stock to the Housing Trusts to refurbish was not considered in the process of Transformation, given that it was mentioned as a possible option for change in the Whitehead Review.[263] The Trust model has been shown to work well, and it would resolve the issue of needing to raise rents and borrow to fund urgent maintenance work. The Sub-Panel discovered that this line of enquiry was considered unpopular with Ministers, given the perception that the Trusts have already received a large amount of public subsidy via land and interest rate guarantees. [264] The Minister for Housing stated that he was keen "that the public continue to maintain the value of their stock... I want to keep the family silver intact" but did not rule out swapping a small proportion of stock to Trusts through realignment processes.[265]

In summary, the Sub-Panel is supportive of the creation of the States-owned housing association, but identifies that uncertainties about the future level of rents, the low number of additional new homes arising from the Business Case compared to assessed need, and the potential for financial arrangements underpinning the organisation to be re-negotiated in the future all represent significant risks to the Company's future viability.

[263] Whitehead, C. (2009) *A Review of Social Housing in Jersey*, Cambridge, Cambridge Centre for Housing and Planning Research, Department of Land Economy, University of Cambridge, p.36
[264] Public Hearing with the Minister for Housing, 26th July 2012, p.15
[265] Public Hearing with the Minister for Housing 26th July 2012 p.15

8 HOUSING TRUSTS AND PARISHES

8.1 Housing Trusts in Jersey

Housing Trusts are non-profit making organisations established privately with assistance from the States of Jersey, and provide secure accommodation for people who find it difficult to buy or rent property at market values. In Jersey, there are four main Housing Trusts which make an important contribution towards Jersey's social and affordable housing: Jersey Homes Trust (formed 1995), Les Vaux Housing Trust (formed in 1991), Christians Together in Jersey Housing Trust (formed 1995) and F B Cottages Housing Trust (formed in 1923). Only the first three Trusts are dealt with in the following chapter as the proposals in P.33/2013 only affect Trusts that have received States funding, which excludes F B Cottages.

8.1.1 Jersey Homes Trust

Jersey Homes Trust (JHT) is the largest of the Trusts and was set up in 1995 as a not-for-profit body to provide social rented housing for Islanders. Since then the Trust has developed and acquired over 740 new homes spread over 20 developments. Most of these are in the town area but there are several in outlying parishes. JHT is now the largest private-sector residential landlord in Jersey.[266]

JHT has borrowed over £100 million from local banks to fund its developments. It borrows money on a project-by-project basis, typically over a 25-year period, to purchase and build its homes. Each development is supported and approved by the Housing Minister. All the land, including sites provided by the States, is protected by covenants to ensure its future use for social rented housing. It is the policy of the States to foster and support the work of housing trusts and over the years the Trust has received substantial subsidies from the States to assist it in meeting the cost of some of its loan interest and also, in some cases, capital grants towards site acquisition or development costs where these are particularly high. [267]

Under its agreement with the States, tenants of JHT properties currently pay the same rent as those levied by the States Housing Department for equivalent properties. Tenants who cannot afford the full rent can claim Income Support, which ensures that the Trust is guaranteed income on each unit based on the fair market rent. To be eligible for JHT

[266] Accessed from http://www.jerseyhomestrust.org.je/ 4th March 2013
[267] Accessed from http://www.jerseyhomestrust.org.je/ 4th March 2013

property individuals must fall under the Affordable Housing Gateway's eligibility criteria. The Housing Department is able to nominate tenants for JHT homes. In the case of new developments the Department nominates eighty per cent of the tenants, drawn from its waiting list. The other 20% are allocated to people who apply directly to the Trust. [268]

The JHT does not employ any staff. Management of the properties and all maintenance and repairs associated with them is outsourced. The JHT is run by a board of seven Trustees who give their time without charge. [269]

8.1.2 Les Vaux Housing Trust

Les Vaux Housing Trust was established in 1989 with the assistance of loans from from the States of Jersey to purchase the Troy Court and Vale Court properties to maintain the security of tenure that tenants of those properties were at risk of losing. During subsequent years, the Trust acquired additional properties and now owns 360 units of accommodation with some 800 occupants.[270] These cost a total of £33,117,230 (acquisition cost plus refurbishments), funded by borrowings of £17,237,158 (as at 31 December 2012).[271]

'Cash in hand' as at 31 December 2012 totals £465,510, which represents accumulated cash to pay for loan interest, loan capital, and to provide for unforeseen maintenance. Eventually this balance should increase, and will be used to fund future capital projects, such as refurbishments, restorations and redevelopments. [272]

8.1.3 Christians Together in Jersey Housing Trust

Christians Together in Jersey Housing Trust (CTJ) was established in 1996 as a non profit making organisation with assistance from the States of Jersey in the form of interest caps and letters of comfort. It currently owns 123 properties in four separate island locations. Funding for projects is provided by bankers on a commercial basis. The money is borrowed over a period of 25 years. CTJ has received a subsidy from the States in the past relating to the interest rates payable by the Trust when interest rates were high.[273] The Trust also benefitted from having States-owned properties transferred to them at low cost.

[268] Accessed from http://www.jerseyhomestrust.org.je/ 4th March 2013
[269] Accessed from http://www.jerseyhomestrust.org.je/ 4th March 2013
[270] Information accessed from http://www.lesvauxhousingtrust.org.je/about.php 4th March 2013
[271] Information provided by the Treasurer of Les Vaux Housing Trust, 21st March 2013
[272] Information provided by the Treasurer of Les Vaux Housing Trust, 21st March 2013
[273] Information accessed from http://www.ctjhousingtrust.org.je/about.php

At the end of the financial year, June 2011, the trust properties were valued to be around £24m and the amount owed to the Bank was circa £21m. The rents are set at the States Fair rent level in return for a Housing Department guarantee on loan and interest repayments should fair rents not increase by a minimum of 3.5% per annum. Rents bring a gross income of nearly £1.5m to meet expenses and loan repayments. [274] Tenants can only access CTJ properties through the Affordable Housing Gateway as of August 2012.

The Sub-Panel engaged with the Housing Trusts from early on in the review process and have held a number of meetings and Hearings in addition to regular correspondence. The three main Housing Trusts have submitted at least one written submission on the proposals put forward in the White Paper and subsequently developed as part of the Social Housing Reforms under review. The views expressed in this evidence are reported here.

8.2 Impact of the Proposed Reforms on the Trusts

8.2.1 Strategic Housing Unit

The Report comments that the Strategic Housing Unit will give "clear direction" to the Housing Trusts in respect of services through setting strategies and social housing policies. It is further proposed that Trusts will be directed by the Strategic Housing Unit with regard rental policies in the long term and expected to adhere to the terms and conditions of the Affordable Housing Gateway as overseen by the Strategic Housing Unit. [275]

In principle, the Trusts were generally supportive of the establishment of the Strategic Housing Unit that would help in identifying and prioritising resource allocations for the social rented sector. CTJ explained that acquiring land/buildings for development in the open market was challenging for a small organisation and so welcomed the assistance of the Strategic Housing Unit on this front.[276]

However, both CTJ and Les Vaux were concerned about the implication that the Strategic Housing Unit would both set policy and introduce regulations affecting the Trusts, as it was felt that the Strategic Housing Unit lacked the necessary independence to avoid another conflict of interest. In particular, fears were expressed over the Strategic Housing Unit's proposed ability to introduce new policies that dictated how the Trusts should manage their reserve funds, beyond the terms in the existing funding agreements with the States. Both CTJ and Les Vaux felt that any policing arising from the Strategic Housing Unit that enforced

[274] Information accessed from http://www.ctjhousingtrust.org.je/about.php
[275] The Reform of Social Housing (P.33/2013) p.60
[276] Written submission from Christians Together in Jersey Housing Trust, 3rd July 2012, p.1

the Trusts paying reserve funds to the States Treasury for the Strategic Housing Unit to distribute to other areas would not be acceptable.[277]

8.2.2 The States-owned Housing Company

Whilst agreeing that a proposed Housing Company should offer greater efficiencies and opportunities, a written submission from JHT expressed concerns that the burden of making "substantial financial return"[278] to the Treasury was historically responsible for the under-investment in States' housing. The maintenance of such a return would, in JHT's opinion, see the Company "challenged financially" to meet its objectives. This sentiment was also shared by CTJ in a separate written submission[279] and reiterated at a meeting of the Chairmen of the three larger Trusts in November 2011.[280]

Les Vaux Housing Trust agreed with the principle of a separate management arm for the social housing stock, identifying that the States should "not act as landlord". However the Trust cautioned that the consolidation of the new Housing Company into the States Accounts would see a significant level of debt on the Balance Sheet, thereby moving away from the States' previous stance against borrowings.[281] This Trust also questioned why the Housing Trust model had been discounted given that the majority of new social rented housing units created in the last 14 years had been delivered by Housing Trusts. [282]

During a meeting with the Sub-Panel in November 2011 the Chairmen of the three main Trusts expressed the general view that the Trusts exist to compliment the work of the Department or new Housing Company, rather than to do its job for it. To this end the Trusts agreed that simply transferring the Housing stock to the Trusts would not have been the best solution for the States of Jersey's housing problems.[283] At least one Trust was open to the idea of taking on some of the less well maintained units and bringing them up to standard on behalf of the new Housing Company in order to help speed up the refurbishment programme. [284]

[277] Written submission from Christians Together in Jersey Housing Trust, 3rd July 2012, p.2
[278] Written submission from Jersey Homes Trust: Response to the White Paper, sent 18th June 2012
[279] Written submission from Christians Together in Jersey Housing Trust, 3rd July 2012, p.3
[280] Sub-Panel Meeting with the Chairmen of the Housing Trusts, 22nd November 2011
[281] Written Submission, Les Vaux Housing Trust, p.6
[282] Written Submission, Les Vaux Housing Trust, p.6
[283] Sub-Panel Meeting with the Chairmen of the Housing Trusts, 22nd November 2011
[284] Sub-Panel Meeting with the Chairmen of the Housing Trusts, 22nd November 2011

8.2.3 Social Housing Regulator

The Report states that "the positive response to the principle of regulation from the Housing Trusts confirms that they see the advantages of regulation in terms of public perception of their services." [285] However, the Sub-Panel identified varying degrees of support from the Trusts with regards to the principle of regulation during its evidence gathering. All were consistent in expressing concerns about the potential loss of independence over the operations of their Trusts as a result of introducing a regulator.

Whilst recognising that regulation could benefit their work by assisting in transparency and reassurance to stakeholders as well as helping to obtain further funding, JHT warned that over rigorous or bureaucratic regulation could create a "hostile environment" and emphasised that regulation must not "usurp the role of the Trustees or...reduce the independence of the Trust."[286] Les Vaux Housing Trust stressed that complete independence from the political system must be established from the outset[287] and raised concerns over the role of the Strategic Housing Unit in setting and determining regulation, highlighting the risk of political interference in developing long-term, stable and conflict-free regulation. [288]

Whilst the Trusts welcomed an end to the "clearly inappropriate" [289] practice of one housing provider (the Housing Department) formally regulating another, the Chairmen of the Trusts shared a common anxiety about the powers of the proposed Regulator with regard to directing the financial affairs of the Trusts. Les Vaux voiced the strongest objections of all Trusts to the proposed direction of reserves and surpluses of the Housing Trusts beyond levels set out in existing agreements, stating that should the Trusts be enforced through regulation to deliver a return to the Treasury to be redistributed into other areas, this would be "unacceptable" in the eyes of the Trustees. [290] Further concerns were expressed at a meeting with the Sub-Panel with regard to the Trusts being compelled to direct uncommitted cash surpluses to the Treasury that would otherwise be used to grow their stock of social housing.[291] It was generally felt that cast-iron agreements with regards to the detail of any return, especially the costs of Income Support, would need to be established to avoid creating conflict. [292]

[285] The Reform of Social Housing (P.33/2013) p.29
[286] Letter from the Chairman of Jersey Homes Trust, 5th September 2012, p.1
[287] Written submission, Les Vaux Housing Trust, 3rd July 2012, p.4
[288] Written submission, Les Vaux Housing Trust, 3rd July 2012, p.4
[289] The Reform of Social Housing (P.33/2013) p.7
[290] Written submission, Les Vaux Housing Trust, 3rd July 2012, p.4
[291] Sub-Panel Meeting with the Chairmen of the Housing Trusts, 22nd November 2011
[292] Sub-Panel Meeting with the Chairmen of the Housing Trusts, 22nd November 2011

Les Vaux also objected to the proposal that only Trusts which have been in receipt of past or present subsidies from the States will be regulated, arguing that to do otherwise would mean "one rule for one, and one rule for another, which cannot be equitable." [293] This view was echoed by CTJ in a separate submission. [294] Les Vaux also indicated that it would like to see the same "light touch regulation" applied to the private rented sector (e.g. Decent Homes Standards for non-qualified accommodation) in order to ensure that regulated landlords will not shoulder an additional financial burden imposed on them, whilst non-regulated landlords will not. [295] All Chairmen who spoke with the Sub-Panel agreed that it was critical that the powers of the regulator were extended to encompass the private rented sector in the near future and that regulating the social sector first to some extent seemed "counterintuitive."[296]

A significant finding of the Sub-Panel was the perception that the Trusts are currently completely un-regulated in their activities. In a written submission JHT stressed that their constitutions and formal agreements with the States have "constrained and guided" them and that this had acted as an effective means of regulation so far. [297] This view was also shared by Les Vaux Housing Trust, which drew attention to the existing agreement with the Housing Department stipulating conditions in respect of tenant nomination and reserves, which in their opinion had "operated effectively for the last 11 years."[298] However the Trusts agreed that regulation would offer benefits in the sense of making these agreements visible and transparent to key stakeholders, Tenants and the general public.[299]

The Chairman of JHT warned that Jersey is a small jurisdiction with very few social housing providers and that regulation should be proportionate and tailored accordingly to minimise unnecessary cost and bureaucracy. [300] The Sub-Panel thoroughly supports this statement.

8.2.4 Return to 90% Rents Policy

The proposed 90% rents policy will have varying degrees of impact on the three main Trusts and their Tenants. Some, like Jersey Homes Trust, currently charges up to the maximum rents (around 80% of market rents) under the Fair Rents Scheme on a large proportion of

[293] Written submission, Les Vaux Housing Trust, 3rd July 2012, p.4
[294] Written submission, Christians Together in Jersey, 3rd July 2012, p.2
[295] Written submission, Les Vaux Housing Trust, 3rd July 2012, p.4
[296] Sub-Panel Meeting with the Chairmen of the Trusts, November 2012
[297] Written submission from Jersey Homes Trust: Response to the White Paper, sent 18th June 2012
[298] Written submission, Les Vaux Housing Trust, 3rd July 2012, p.5
[299] Sub-Panel Meeting with the Chairmen of the Trusts, November 2012
[300] Written submission from Jersey Homes Trust: Response to the White Paper, sent 18th June 2012

their properties and so will be relatively unaffected by the rent rises. Les Vaux Housing Trust have a larger variance in rents, charging over 90% in some properties and around 65% in others, and the Sub-Panel understand that some of the lower rents are on Troy Court reflecting the age of the accommodation which requires refurbishment.[301] All three Chairmen of the Trusts took a "fair rent" to be one set at 80% or just below of market rents.[302]

On the principle of rent reform, JHT stated in a written submission that it was supportive of a rental policy that is "fair, transparent, consistent and free from political interference." [303] Both Les Vaux and CTJ felt that it was unfair to expect the Trusts to increase rents when the decision to freeze rents was taken by the States in the first place.[304] In the view of CTJ, it was unfair to expect its tenants to "bear the burden of the shortfall that has accrued as a result of these past decisions made by the Department." [305]

As part of the proposals the Housing Trusts will for the first time be making a return to the Treasury to cover the increase costs of Income Support for their tenants once the return to a 'fair rent' policy is established. On this point, the Trusts were divided. Some acknowledged that returning surplus rents in this way was a fair policy, but others felt that it was the "thin edge of the wedge" with regard to the Trusts' independence to invest cash surpluses into creating new stock.[306] The Sub-Panel is concerned that the return will curtail the Trusts' ability to fund future developments and carry out essential maintenance requirements, as experienced by the Housing Department. Furthermore the Sub-Panel believes that if the Trusts were allowed to retain their extra income, more funds would be available to house people in need.

8.2.5 Affordable Housing Gateway

JHT has been supportive of the Gateway which it hopes will "eliminate duplication, assist efficiency, fairness and consistency and provide reliable statistics of housing need." [307] However it warms that unless the current narrow criteria for acceptance onto the waiting list are widened the Gateway will "conceal the true extent of the housing need in Jersey." [308] This concern was shared by Les Vaux Housing Trust, which raised objections against being asked to employ the criteria operated by the Gateway which in its view affected Les Vaux's

[301] Sub-Panel Meeting with the Chairmen of the Trusts, November 2012
[302] Sub-Panel Meeting with the Chairmen of the Housing Trusts, November 2012
[303] Written submission from Jersey Homes Trust: Response to the White Paper, sent 18th June 2012
[304] Written submission, Christians Together in Jersey Housing Trust, 3rd July 2012, p.3
[305] Written submission, Christians Together in Jersey Housing Trust, 3rd July 2012, p.3
[306] Sub-Panel Meeting with the Chairmen of the Housing Trusts, 22nd November 2011
[307] Written submission from Jersey Homes Trust: Response to the White Paper, sent 18th June 2012
[308] Written submission from Jersey Homes Trust: Response to the White Paper, sent 18th June 2012

ability to house those who they consider a "worthy cause" but who do not necessarily fit within the existing criteria.[309] The Trust argues that the original purpose of its creation was to meet the needs of this group and it is "at the heart of how we operate." [310]

CTJ were concerned that in future years eligibility criteria may become more restrictive thereby preventing the Trust from housing the "kind of mixture of tenants that are required on large Social Housing estates" and to house the people of the Island "that the Trust was created for."[311] CTJ was concerned that the Trust should retain its independence to an appropriate degree to be able to fulfil the objectives of its Constitution. [312] All three Trusts indicated that certainty over future criteria needs to be given in order to ensure the needs of tenants are met.

8.2.6 Supply

Throughout the review, the Sub-Panel has been acutely aware on the anticipated role of the Housing Trusts in increasing the supply social and affordable homes. Although the Trusts are small organisations and provide a small proportion of Jersey's overall affordable and social housing, their role looks set to change and grow under the Reforms being considered. The Full Business Case for the Housing Company states that the Housing Trusts will also develop an additional 203 new properties[313] and the Minister for Housing has on several occasions voiced his intention to see the Trusts significantly involved in stimulating supply.

JHT informed the Sub-Panel of "positive preliminary discussions" with Ministers and senior officers regarding proposed development of new rented homes by JHT, and the Chairman made clear that he was anxious to accelerate the process. [314] He further stated that "JHT has the financial capacity and the desire to make a further substantial contribution to reducing the housing need in Jersey, which is unacceptably high." [315]

The general view held by the Chairmen of the Trusts was that Trusts should not be seen to be in competition with the public sector and each other with regard to new housing development. Better communication should be developed to avoid competing on price, which would not be "socially right."[316]

[309] Written submission, Les Vaux Housing Trust, 3rd July 2012
[310] Written submission, Les Vaux Housing Trust, 3rd July 2012
[311] Written submission, Christians Together in Jersey Housing Trust, 3rd July 2012, p.1
[312] Written submission, Christians Together in Jersey Housing Trust, 3rd July 2012, p.1
[313] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.104
[314] Letter from the Chairman of Jersey Homes Trust, 5th September 2012, p.1
[315] Letter from the Chairman of Jersey Homes Trust, 5th September 2012, p.1
[316] Sub-Panel Meeting with the Chairmen of the Housing Trusts, November 2012.

During a Public Hearing the Minister for Treasury and Resources agreed that the States needed to make more use of Housing Trusts to share the burden of developing new housing, identifying that the Trust sector was a “good model” that needed to be supported.[317] However he made clear that this was to be achieved through leveraging the significant cash surpluses on the Trusts’ balance sheets for the benefit of social housing. [318]

8.3 Parishes

The Parishes provide a small proportion of affordable and social housing which they are currently responsible for administering and maintaining. During Public Hearings the Treasurer for the States outlined the role for parishes in providing appropriate accommodation for particular groups, and that the Treasury was looking to find ways to support parishes in their development of local Housing.[319] The Minister for Treasury and Resources highlighted the Trinity affordable homes scheme as a “brilliant scheme for shared equity” and “the best of the parish system at work.” [320]

Recognising this small but important contribution, the Sub-Panel were keen to establish how the proposed Reforms might affect the Parishes, especially to identify whether the Parishes might at any time fall under the regulatory framework and face similar compliance procedures as the Housing Trusts. A letter from the Chairman of the Comité des Connétables established that the Connétables had received assurances that parishes could choose to become Social Housing Providers (and so therefore be registered and regulated) but there would be “no such requirement within the Law” for them to do so. [321] Furthermore, Connétables had been offered use of the Affordable Housing Gateway to allocate residents to their own housing schemes which it considered could be “a useful tool”, but again, it was not compulsory for Parishes to use it - unlike the Trusts. [322] The Sub-Panel understands that the Parishes have been encouraged to use the Affordable Housing Gateway in order to reassure the public and States that they are allocating housing to those most in need rather than being selective. Although the Chairman of the Comité considers that Parishes will continue to have a choice in whether they use the Affordable Housing Gateway criteria to make allocations, the Sub-Panel feels that it is likely that they will be considered as social

[317] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.4
[318] Public Hearing with the Minister for Treasury and Resources, 26th July 2012, p.4
[319] Public Hearing with the Minister for Treasury and Resources, p.23
[320] Public Hearing with the Minister for Treasury and Resources, p.23
[321] Letter from the Comité des Connétables, 21st January 2013, p.1
[322] Letter from the Comité des Connétables, 21st January 2013, p.1

housing providers and therefore be expected to sign up to using the same allocation criteria and processes in the future.

With regard to the Regulator, the Chairman went on to state that it is neither "necessary or appropriate" for parishes and parish housing trusts to come within the remit of the Regulator, since all management and accounting would remain within the parishes' responsibility. The Chairman felt it was important that the "proposals [for regulation] are clear so that parishes and trusts relating to parishes will not be caught in the proposals."[323] Adding further emphasis, he stressed that "it is essential that legislation enacting the proposals is drafted accordingly so as to ensure that sheltered housing established by a parish does not come within the remit of the proposed Regulator or Strategic Housing Unit."[324]

The concerns of the Comité are shared by the Sub-Panel. From the evidence gathered and the expert analysis undertaken during this review, the Sub-Panel believes that it is likely that the social housing reforms – broad reaching as they are – will affect Parish provision in some way, especially as many would consider that they fall into the category of a social housing provider. The Sub-Panel would like to see greater clarity provided about how social and affordable homes delivered by the Parishes will be affected by the reforms being proposed.

Key Finding: The Sub-Panel believes that it is likely that the social housing reforms will affect Parish provision in some way, especially as many would consider that they fall into the category of a social housing provider.
Recommendation: A protocol should be established and agreed between the Housing Minister and the Parishes within 6 months to provide clarity about how the Gateway system will impact on social and affordable homes delivered by the Parishes.

[323] Letter from the Comité des Connétables, 21st January 2013, p.2
[324] Letter from the Comité des Connétables, 21st January 2013, p.2

9 PROSPECTS FOR FUTURE PROVISION OF ADDITIONAL SOCIAL AND AFFORDABLE HOUSING

The Report clearly states that increasing the supply of social and affordable housing is a key objective of the reforms proposed. However the Sub-Panel has concluded that the present reforms are not sufficient to make any meaningful contribution to the future provision of affordable and social housing.

Key Finding: The present reforms are not sufficient to make any meaningful contribution to the future provision of affordable and social housing. The demand for social housing has increased in recent years, yet the proposals do not explicitly state how this need can be met by the proposed Housing Company or any other Social Housing Provider.

9.1 New Supply Arising from the Reforms

As mentioned in Section 7.8, the quantity of new supply arising from the proposed reforms is not immediately clear from the figures provided in the Report and Full Business Case. The Business Model proposes to deliver 434 new homes over 20 years; however this is funded by the sales of 330 existing homes.[325] It is proposed that these 330 homes will be affordable in perpetuity, and therefore are counted in the Business Plan towards the total stock number.[326] The Sub-Panel considers that these figures should not be included in the reforms, as this risks conflating affordable housing to purchase with social rented stock.

The Business Plan also states that 578 units will be refurbished[327], and that the Housing Trusts are expected to gain 203 properties. Overall this amounts to a net gain of 287 new units by Year 30. [328] The Sub-Panel understands that refurbishment and realignment will allow for better use of the existing stock, but finds it difficult to conceive how these projections will be able to cater for the rapidly increasing demand for social housing from a growing population.

9.2 Sale of Housing

The Report proposes sales of 300 properties (15 per annum) to “enable re-alignment of the stock and encourage home ownership and affordable housing solution development.” [329] This proposal is less than that originally set out by the Minister in previous iterations of the

[325] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013)
[326] The Reform of Social Housing (P.33/2013) p.42
[327] States of Jersey Housing Transformation Programme: Full Business Case (R.15/2013), p.68
[328] The Reform of Social Housing (P.33/2013) p.4
[329] The Reform of Social Housing (P.33/2013) p.33

proposals, which aimed to selling 15 properties a year for 30 years. Although this represents a concession to the Sub-Panel's concerns about reducing the stock size at a time of increasing demand the Panel do not believe that this goes far enough to address the issue of supply. The Sub-Panel acknowledge that selling off units that are entirely inappropriate for social housing may assist in raising funds but does not generally agree with the principle of selling off social housing when it is already in short supply.

Key Finding: Selling off units that are entirely inappropriate for social housing may assist in raising funds but the Sub-Panel does not generally agree with the principle of selling off social housing to private individuals when it is already in short supply.

The Report states that affordable stock (social rented and sub-market ownership) will increase by 414 units[330], but the Sub-Panel considers that the two types of stock should not be conflated. Furthermore, it considers that widely available, viable schemes to enable social Tenants, or indeed other low income households to purchase the social homes being sold do not currently exist. Under P.6/2007 it was proposed that homes can be sold with up to a 25% deferred payment, but the scheme has significant shortcomings as identified by a previous Health, Social Security and Housing Scrutiny Panel in their report on the Social Housing Property Plan (S.R.12/2007).[331] Furthermore, the scheme has to date only seen 119 social housing Tenants take advantage of the scheme to become homeowners[332]. Given that the forecast in P.6/2007 was for 800 sales over 10 years[333], 6 of which have already lapsed, the Sub-Panel considers that this scheme has not been a success. The Sub-Panel considers that until an up-to-date, workable shared equity scheme for new build affordable housing – not existing or new social housing stock - is brought forward that reflects the constraints of the current property and lending market, the projected sales reported in P.33/2013 should not be included in new supply figures.

The Report states that sales of properties after year 20 would create cash surpluses for the Housing Company but could "alternatively be deferred or delayed if the demand for social rented accommodation was so required."[334] The Sub-Panel considers that the likelihood of demand for social rented accommodation to rise is high, a finding emphasised by Professor Whitehead in her review in which she concluded that house prices and the limited supply of

[330] The Reform of Social Housing (P.33/2013), p.68
[331] Health, Social Security and Housing Scrutiny Panel: Review of the Social Housing Property Plan (S.R.12/2007), p.15
[332] Written Question to the Minister for Housing by Deputy J.A.N. Le Fondré of St. Lawrence. Answer tabled on Tuesday 19th February 2013
[333] The Social Housing Property Plan (P.6/2007), p.25
[334] The Reform of Social Housing (P.33/2013) p.42

affordable homes would mean that Jersey would require a large rented sector "for the foreseeable future." [335] Furthermore Jersey's Housing Assessment 2013-2015 identified that there is an overall potential shortfall of more than 400 units of social housing over the next three years, with the greatest potential shortfall arising in 2-bedroom properties.[336] As previous rounds of the Housing Needs Survey had recorded overall potential surpluses of social housing, this finding suggests that demand for social housing has increased in recent years.[337]

9.3 Role of the Trusts in Increasing Supply

The Report states that the Housing Trusts plan to develop 3 sites projected to generate 203 new Units.[338] The Sub-Panel notes that there is a reliance on the Trusts to deliver new affordable and social homes to support the aims of the Department and proposed Housing Company. It is important that any proposals affecting the Housing Trusts that are agreed to as part of this package of reforms should not be detrimental to the ability of the Trusts to deliver new housing supply, and in particular the States should pay close attention to the scope and scale of the regulator on this point. Care should also be taken to avoid competition between the Housing Company and the Housing Trusts with regards to pursuing the same sites for development. Good communication between the Housing Company and Trusts is paramount to avoid duplication of effort and misunderstandings, and to ensure that the needs of Islanders are met via whichever provider is able.

Key Finding: The Trusts will develop 203 new units of accommodation over 30 years as identified in the Report, and there is an assumption that Trusts will continue to make a significant and meaningful contribution to the supply of affordable and social homes.

Recommendation: The requirement for the Housing Trusts to contribute towards the Housing component of Income Support should be reviewed and reported back to the States within 2 years, to ensure that the Trusts are able to operate efficiently and deliver additional stock.

Recommendation: Care should be taken to avoid competition between the Housing Company and the Housing Trusts with regards to pursuing the same sites for development and clear guidance published about developing sites for social housing.

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[335] The Reform of Social Housing (P.33/2013) p.9
[336] Jersey's Housing Assessment, 2013-2015, p.1
[337] Jersey's Housing Assessment 2013-2015, p.1
[338] The Reform of Social Housing (P.33/2013) p.33

9.4 Housing for Life

The Report clearly states that a key objective for the proposed Housing Company will be to provide a better security of tenure for residents.[339] The Sub-Panel note that this reflects the position of the Minister for Housing during Public Hearings early in the development of the proposals, in which he agreed that security of tenure was central to his definition of social housing.[340] The Sub-Panel agree that security of tenure is important for vulnerable and low-income Tenants whether housed in the public or private sector, but believes that this is much more achievable when there is a constant level of supply of new units. Given the relatively small amount of new supply created by the current reforms, the Sub-Panel consider that it would be more appropriate to look at ways of ensuring that Tenants are in the right accommodation for their needs, and assisting those Tenants who can and wish to move into other tenures to do so.

The Sub-Panel notes that Tenants are not means tested once in social housing, and this means that individuals whose circumstances have improved beyond requiring States assistance are not encouraged to move on. This is evident in data which shows that 178 Tenants living in States social housing currently earn over £40,000 joint household income and do not receive Income Support.[341] In the view of the Minister for Housing given to the media, these individuals have “nowhere else to go” because the kind of intermediate affordable purchasing options that might be relevant to them do not currently exist.[342] The Sub-Panel agree that without a raft of alternatives including purchasing and alternative tenancy options for middle-income families it may not be reasonable to consider bringing in an income cap on social housing.[343] It also recognises that circumstances for each particular household may be different – for example, some of those listed above may be approaching retirement and a significant drop in income. This could mean that they would be forced to leave social housing with a high joint income only to be eligible for it again in a few years’ time.

Anecdotal evidence suggests that there is under-occupation occurring in some circumstances, especially in the much-needed 3 and 4-bedroom categories where children have grown up and left home. Some of these Tenants may be open to the notion of

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339 The Reform of Social Housing (P.33/2013) p.12
340 Public Hearing with the Minister for Housing, 26th July 2012, p.2
341 The Reform of Social Housing (P.33/2013) p.54
342 News article, Channel Online, Tuesday 5th March 2013 http://www.channelonline.tv/channelonline_jerseynews/displayarticle.asp?id=504183
343 News article, Channel Online, Tuesday 5th March 2013 http://www.channelonline.tv/channelonline_jerseynews/displayarticle.asp?id=504183

downsizing to a smaller property or moving into the private sector, but the lack of new supply of smaller accommodation[344] is preventing mobility within and between sectors.

The Sub-Panel consider that the absence of a formal “exit gateway” for individuals whose circumstances have improved means that encouraging tenants to stay in their home for life is not a sensible approach when the Island has a fixed limit on the amount of social housing with little hope of maximally increasing supply.

Key Finding: The absence of a formal “exit gateway” for individuals whose circumstances have improved means that encouraging tenants to stay in their home for life is not a sensible approach when the Island has a fixed limit on the amount of social housing with little hope of maximally increasing supply.
Recommendation: An exit gateway combined with savings initiatives or shared equity schemes should be developed to cater to the needs of those wishing or able to move out of the social sector if their circumstances significantly improve.

9.5 Developing Affordable Housing Schemes

The Minister for Housing has made a clear case for the requirement for more affordable housing products to meet the needs identified through the Affordable Housing Gateway during the evidence gathering process. At a Public Hearing he stated that Jersey has an “unsophisticated” housing market and that the lack of intermediate housing products means that people do not have the choice or opportunity to buy a house in a tenure other than a traditional freehold.[345]

The Report proposes that the role of developing affordable housing policies will become a key activity for the new Strategic Housing Unit as part of its Island-wide Housing Strategy. The Strategic Housing Unit will also be charged with developing a range of affordable housing solutions relevant for Jersey.[346] This is expected to be assisted by data measuring demand for low-cost home ownership and financial support required gathered by the Affordable Housing Gateway, and the Strategic Housing Unit may achieve delivery of subsequent affordable housing products via “sponsoring of legislative changes by regulation.”[347]

[344] Jersey’s Housing Assessment 2013-2015, p.1
[345] Public Hearing with the Minister for Housing, 26th July 2012, p.29
[346] The Reform of Social Housing (P.33/2013) p,19
[347] The Reform of Social Housing (P.33/2013) p.20

At present, the Sub-Panel understands that the responsibility for the provision of "affordable housing" is largely the remit of the Minister for Planning and Environment, in that his Department provides the sources and sites for housing developments across all tenures facilitated by the Island Plan.[348] The Housing Department is responsible for establishing and administering the Affordable Housing Gateway, which is the mechanism by which households that cannot afford open market housing access residential accommodation appropriate to their needs.[349] However in a letter to the Sub-Panel the Minister for Planning and Environment stated that "it is ultimately a decision of the landowner and the development industry to bring sites forward for development"[350] , suggesting a lack of sufficient power to influence provision. The Minister indicated the role of the States of Jersey as owner of an extensive land and property portfolio, and the Sub-Panel has identified that the States is perceived to have pursued best financial value from property sales rather than best social value in the past, thus missing an opportunity to support provision of sub-market housing. The Sub-Panel feels that the States should make a stronger commitment to utilising land at a price that enables the development of affordable housing.

Key Finding: The States has at times appeared to pursue best financial value from property sales rather than best social value, thus missing an opportunity to support provision of sub-market housing.

The establishment of the Strategic Housing Unit proposes to see overall responsibility for affordable housing schemes fall to the Chief Minister. [351] The Sub-Panel feel that the Report does not adequately establish how the Chief Minister will be able to succeed in developing Affordable Housing Schemes where the present political system has been challenged, even with the support of the Strategic Housing Unit and data from the Gateway. The political will to get these kinds of schemes moving is critical to helping develop a "stepping stone" option for social housing Tenants who can afford to buy and wish to do so, as well as for other lower income households who are 'trapped' in the private rented sector.

9.6 Current Affordable Housing Policies

Currently the Minister for Planning and Environment is entirely responsible for developing affordable housing policies within the framework of the Island Plan 2011 (P.48/2011). In particular, Policy H3: Affordable housing is intended to provide most of the affordable

[348] Letter from the Minister for Planning and Environment, 9th October 2012, p.2
[349] Letter from the Minister for Planning and Environment, 9th October 2012, p.3
[350] Letter from the Minister for Planning and Environment, 9th October 2012, p.3
[351] The Reform of Social Housing (P.33/2013) p.20

housing needed in the Island by requiring all new private residential developments, which provide six or more homes, to include either a proportion of affordable homes as part of the development or to make a commensurate cash contribution for the construction of affordable homes elsewhere by the States or other appropriate bodies.[352] Whilst in principle this policy has been agreed, a workable affordable housing scheme has yet to be developed because of disagreements between the construction industry, developers and the Planning Department as to how this should be implemented in practice. It is a source of continuing frustration to the Sub-Panel and other States Members that this vital policy is not delivering the much-needed affordable housing that it was intended to. The Sub-Panel is also concerned that other policies (such as H1 and H2) have failed to produce the kind of supply needed to reduce the rising demand on the waiting list and meet the needs of the Island's community with regards to affordable housing. The debate continues about whether re-zoning Green or Brownfield sites will occur, and this is a major decision which requires a review of the Island Plan.

9.6.1 Jersey HomeBuy Scheme

In 2008 a Jersey HomeBuy scheme (P.74/2008) was brought to the States by the then Minister for Planning and Environment. The scheme, brought as an amendment to the Island Plan Policy H1 defined the scheme as follows:

> Jersey HomeBuy is housing where the purchaser buys the whole property, but initially pays only such part of the first time buyer housing value as may be determined by the Minister for Planning and Environment. The legal arrangements regulating the unpaid balance of the full value must be approved by the Minister for Housing and the property must remain in the first time buyer market in perpetuity.[353]

Comments by the then Health, Social Security and Housing Scrutiny Panel considered that the detail of the scheme was not sufficient for it to implemented,[354] a concern that continued to be raised specifically with regard to the poorly established Gateway mechanism, legal arrangements and allocation procedures of the scheme.[355] This view was confirmed in 2011 by the Public Accounts Committee who reported that the Head of Conveyancing at the Law

[352] Island Plan 2011
[353] Jersey Homebuy Housing: Amendment To Island Plan Policy H1, 21st May 2008, p.2
[354] Jersey Homebuy Housing: amendment to Island Plan Policy H1 and comments from the Health, Social Security and Housing Scrutiny Panel (P.74/2008), 9th July 2008
[355] Jersey Homebuy Housing: amendment to Island Plan Policy H1 and comments from the Health, Social Security and Housing Scrutiny Panel (P.74/2008), 9th July 2008

Officers' Department had described the policy as `half-baked` and expressed concerns that it was pushed through despite the lack of formal sanction by the States Assembly.[356]

Following this review, the current Minister for Planning and Environment announced that a new Homebuy2 scheme would be developed based upon a form of intermediate housing, allowing the purchase of property at an initial discounted value. The Panel notes that the new HomeBuy2 scheme is still in development and ultimately will need to be endorsed by the States Assembly.

9.6.2 States Loan System

Past policies aimed at providing financial assistance in buying a house have included the States Loan System, established in 1950 to assist households to buy land or property. There are 200 longstanding loans remaining to the value of £4.6 million[357] but the scheme is now largely inactive. The prospect of expanding the scheme is unlikely and deemed to be politically unpopular given that such a move would have the effect of inflating house prices in response to the significant rise in the credit market.[358]

In December 2012, an alternative to the old States Loan System was launched in the form of the Starter Homes Loans Deposit Scheme. The pilot scheme is intended to help households who can afford to make repayments with a discounted deposit loan from the States, and will be targeted at those households falling into eligibility criteria and aiming to buy properties in the lower quartile range.[359] During a statement to the States Assembly, the Minister for Housing said that the scheme would assist households who have saved a 5 per cent deposit by lending them a further 15 per cent of the deposit at zero per cent interest from a States fund. The remainder of the money would need to be borrowed from a private mortgage lender who would satisfy themselves that the loans could be repaid. The Minister told the House that discussions with external lenders had indicated that they would support the scheme.[360]

The Minister also said that the scheme is planned to operate for 6 months and will commence, subject to States approval from April 2013. The initial investment of £3 million, which would be repaid over 20 years, is expected to benefit 100 households. The money has

356 Homebuy Or Shared Equity Scheme: Approval By The States (P.163/2011) p.4
357 Hansard, Questions, Deputy G.C.L. Baudains of St. Clement of the Minister for Housing regarding an alternative to the States Loan Scheme, 29th May 2012
358 Hansard Deputy G.C.L. Baudains of St. Clement of the Minister for Housing regarding an alternative to the States Loan Scheme, 29th May 2012
359 Hansard, 4th April 2012, 6.1
360 Hansard, 4th April 2012, 6.1

been procured from the Dwelling House Loans Fund, which was established to support home ownership. According to the Minister, this new targeted scheme is an appropriate use of funds as it remains within the objective of assisting islanders to buy affordable housing.[361]

Several members expressed concerns that until adequate sites have been released for the development of affordable houses, schemes such as the Starter Homes Loan Deposit Scheme will only drive demand for the existing supply of lower-quartile accommodation, thereby pushing prices up even further.[362] For a fuller examination of this scheme, the Sub-Panel directs the reader to the recent report by the Corporate Services Scrutiny Panel (S.R.5/2013).

Key Finding: Existing affordable housing policies are uncoordinated and ineffective. They have failed to produce any meaningful affordable housing schemes for the Island.

9.7 Challenges involved in Increasing Supply of Social and Affordable Housing Products

The key challenge for the Strategic Housing Unit will be delivering workable affordable housing products that overcome the issue of a high-value housing market, driven by higher wages, high construction costs and finite land resources. Finding ways to reduce construction costs has been a line of enquiry for the Minister for Planning and Environment[363] and should be further investigated by the Strategic Housing Unit.

Policy H3 has caused a significant amount of delay in the development of affordable housing because the industry is unwilling to commence projects on sites that will see their profit levels dip below viable levels. According to the Minister for Planning and Environment, the States' lack of clarity about committing the policy in the long term has lead to a situation whereby landowners are sitting on land and waiting until the policy is no longer in place to sell land at higher levels.[364] There also appears to be a lack of political initiative regarding schemes to encourage the release of land in Jersey.

This has resulted in the focus turning towards States owned land, in accord with Policy H1. Sites earmarked for affordable housing developments included Summerland and Ambulance Station sites on Rouge Bouillon for over 170 homes, and applications for the redevelopment

[361] Hansard, 4th April 2012, The Minister for Housing makes a statement regarding the Starter Homes Deposit Loan Scheme
[362] Hansard, 4.4.12, 6.1
[363] Letter from the Minister for Planning and Environment, 9th October 2012, p.3
[364] Letter from the Minister for Planning and Environment, 9th October 2012, p.3

and conversion of the former Jersey College for Girls site.[365] The Sub-Panel was disappointed to see the plans for JCG only resulted in 40 affordable homes, the majority being Category B “open market” properties.[366] These plans were subsequently rejected, and the Sub-Panel hopes that more suitable plans that utilise this States asset for social and affordable housing developments are brought forward quickly.

9.8 Conclusions on Supply

The Sub-Panel feels that building more social and affordable housing is critical to meeting Jersey’s housing needs and is disappointed with the lack of detail and ambition around new supply in the present reforms. The detailed Scrutiny process has shown that there are clear limits to the Housing Company’s contribution to supply. In order to properly transform Jersey’s housing (even just the affordable housing sector) a more solid commitment to other mechanisms for supply is needed.

The future delivery of affordable housing requires a cross-cutting, multi-agency approach driven by a clear policy direction which meets the approval of the States, Tenants, developers and landowners. This is a significant undertaking and the Sub-Panel considers that it is important that the Housing Minister is supported by the Ministers for Planning and Environment, and Treasury and Resources to take greater responsibility in ensuring that the Island’s housing supply needs are met.

[365] Letter from the Minister for Planning and Environment, 9th October 2012, p.3
[366] See http://www.jerseydevelopment.je/projects/current-developments/former-jersey-college-for-girls.aspx for details

10. CONCLUSION

Throughout this review, the Sub-Panel have been mindful of its Terms of Reference, which primarily instruct the Sub-Panel to consider whether the policy proposals being put forward under the Housing Transformation Programme are the most appropriate and able to address the known housing issues in Jersey. At the end of the review process and after nearly a year's consideration of the evidence, the Sub-Panel has mixed conclusions about the reforms presented in P.33/2013 and R.15/2013.

The Sub-Panel consider the introduction of an independent social housing regulator as inappropriate for a relatively small social housing sector that does not appear to have a track record of poor governance amongst its social housing providers. It is the Sub-Panel's opinion that regulation should only be required if specific and significant examples can be identified which require the powers of an independent regulator to put right. In the course of this review no such evidence has been forthcoming, and the Sub-Panel has concluded that the motivation to introduce a regulator has been driven primarily by the desire to direct and control the output of social housing providers, including how and what they invest in, and who they let their properties to. The Sub-Panel has concerns about the implications of agreeing to the introduction of a regulatory body that may constrain or curb the abilities of those providers to continue to adequately house the community, a commitment agreed to by the States Assembly as a Strategic Priority. The Sub-Panel also considers that the introduction of a regulator is disproportionate to the small size of the social sector in Jersey. Similarly sized jurisdictions such as the Isle of Man and Guernsey have not yet considered the introduction of an independent regulator to be necessary, but instead have focused on establishing benchmarking clubs and Codes of Conduct to establish a regulatory framework for providers. It has therefore proposed in this report that similar alternatives to a Regulator should be investigated.

On the issue of rent reform, the Sub-Panel were deeply uncomfortable with giving their approval to a proposal to bring social rents in line with the over-inflated property market, which in its opinion subverts the purpose of social housing in providing sub-market accommodation. The increase in rental yield arising from such reforms comes with the heavy consequence of increasing the Income Support bill to financially support households who cannot afford to pay for the uplift when they move to a new tenancy. Furthermore Tenants may be unwilling to move from their existing property if they believe a new tenancy will bring with it higher rents, and this could have negative consequences for mobility within the sector.

In the absence of a clear policy definition of the role and purpose of social housing – *who* it is for, *what* it is for and the position of the States in providing it – it has been difficult to consider the appropriateness of the current rent reform proposals, or to identify potentially workable alternatives.

Finally, the issue of new supply of social housing exercised the Sub-Panel throughout the present review. It is the opinion of the Sub-Panel that the reforms being proposed do not make a meaningful contribution to the lack of supply facing the Island, nor do they offer creative or dynamic alternatives to selling off existing stock. A key priority for the Minister is therefore to ensure that the levels of supply arising from the current proposals are increased as a matter of urgency, and that measures are taken to ensure that the Housing Company can respond quickly to demand when necessary. The existence of an Annual Return to the Treasury made by the Housing Company is a source of concern for the Sub-Panel, as it may represent an impediment to the development of new social housing if it is to be continually renegotiated to respond to rising funding requirements in other States areas – especially Income Support. It is important that the independence and the ability of the Housing Company to be dynamic and self-supporting is enshrined and enhanced by future Assemblies. In the Sub-Panel's view, this underpins the success of the Housing Transformation Programme.

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11.3 Review Hearings

The Sub-Panel held the following Public Hearings:

Monday 2nd July 2012

Session 1: Senator F. du H. Le Gresley, Minister for Social Security

Thursday 4th July 2012

Session 1: Mr M. Ferey, Chief Executive of Citizens Advice Bureau Jersey

Session 2: Deputy S. Power, Former Minister for Housing

Session 3: Mr. P. Seymour, The Mortgage Shop

Tuesday 24th July 2012

Senator I.J. Gorst, Chief Minister

Wednesday 25th July 2012

Session 1: Deputy R.C. Duhamel, Minister for Planning and Environment

Session 2: Mr. D. Therezien, Treasurer of Les Vaux Housing Trust and Mr C. Marsh, Voisin Hunter (Managing Agents)

Thursday 26th July 2012

Session 1: Senator P.F.C Ozouf, Minister for Treasury and Resources

Session 2: Deputy A.K.F Green, Minister for Housing

Session 3: Mr. C. Russell, Housing Tenants Forum Panel

11.4 Written Submissions

The Sub-Panel received written submissions from the following:

- Jersey Women's Refuge
- Jersey Citizen's Advice Bureau
- Les Vaux Housing Trust
- Jersey Homes Trust
- Christians Together in Jersey Housing Trust
- Housing Tenant's Forum Panel
- Voisin Hunter Ltd

11.5 Sub-Panel Visits

The Sub-Panel made the following evidence gathering visits:

Thursday 28th June 2012

- Victoria Cottage Homes
- Convent Court & Caesarea Court, Val Plaisant
- Lesquende, St Brelade
- La Collette Low Rise

- Old Le Squez

12. APPENDIX

Appendix 1 – Affordable Housing Gateway

The Affordable Housing Gateway was launched in January 2012 and is now the single, common, waiting list for affordable housing in the Island. Each applicant is interviewed and assessed against a single set of criteria. If accepted, that are then placed in the most appropriate priority Band based on the characteristics of their circumstances:-

BAND	CHARACTERISTICS OF APPLICANTS
1	Homeless i.e:- • Under Eviction Notice (Court Order in Place) • In Tied Accommodation where employment has ceased • Unable to occupy or return to present home because of Urgent Medical Issue • Have no rights to stay in current accommodation such as staying with friends or family • Forced to live apart from family because present accommodation isn't suitable • In "hostel" or "shelter" type accommodation; Existing tenant needing to Transfer for decant reason Existing tenant under occupying Any combination of Band 2 characteristics
2	Grave overcrowding (opposite gender children sharing a room or more than 2 children in one room) Poor housing standards Moderate Medical Cases (by Medical Officer of Health determination) Other social housing transfers
3	Private Rented Sector tenants who are adequately housed but are unable to afford the current rent – with or without financial assistance.
4	Presently Adequately Housed - little or no housing need but simply wish to change home
5	Register for those who wish to purchase but require some kind of financial assistance to do so.
6	Multi-Agency Supported Housing – Applicants who will require ongoing landlord support to live independently and are only likely to be housed by certain landlords who can offer that 'extra care'.

Appendix 2: English Decent Homes Standard[367]

SECTION 4: A Decent Home – Summary of the Definition

Introduction

4.1 The definition of what is a decent home has been updated to reflect the Housing Health and Safety Rating System (HHSRS) which replaced the Housing Fitness Standard on 6 April 2006. Landlords will find it helpful to refer to the two volumes of statutory guidance on HHSRS1. The general principles of application have been expanded as set out in paragraph 4.4 below and paragraphs 4.5 and 4.6 clarify what properties are covered by the Decent Home standard. A decent home meets the following four criteria:

a) It meets the current statutory minimum standard for housing

4.2 Dwellings which fail to meet this criterion are those containing one or more hazards assessed as serious ('Category 1') under the HHSRS.

b) It is in a reasonable state of repair

4.3 Dwellings which fail to meet this criterion are those where either:

- one or more of the key building components are old and, because of their condition, need replacing or major repair; or
- two or more of the other building components are old and, because of their condition, need replacing or major repair.

c) It has reasonably modern facilities and services

4.4 Dwellings which fail to meet this criterion are those which lack three or more of the following:

- a reasonably modern kitchen (20 years old or less);
- a kitchen with adequate space and layout;
- a reasonably modern bathroom (30 years old or less);
- an appropriately located bathroom and WC;
- adequate insulation against external noise (where external noise is a problem); and
- adequate size and layout of common areas for blocks of flats.

4.5 A home lacking two or fewer of the above is still classed as decent, therefore it is not necessary to modernise kitchens and bathrooms if a home meets the remaining criteria.

[367] A Decent Home: Definition and guidance for implementation. Department for Communities and Local Government. June 2006 – Update. Retrieved from http://ow.ly/jt6Fe 27th March 2013

d) It provides a reasonable degree of thermal comfort

4.6 This criterion requires dwellings to have both effective insulation and efficient heating. It should be noted that, whilst dwellings meeting criteria b, c and d are likely also to meet criterion a, some Category 1 hazards may remain to be addressed. For example, a dwelling meeting criterion d may still contain a Category 1 damp or cold hazard.

General principles of application

4.7 When applying the Decent Home standard, social landlords should consider the wider mixed communities schemes and regeneration programmes, and follow environmental sustainability objectives and the Buildings Regulations. Social landlords should bear in mind the following. More detailed advice on implementing the standard is given in Section 6:

- Decent homes must be sustainable in the long-term. Decisions on which homes to invest in must be made in the context of the long term demand for the stock. Decent Homes work should not be undertaken in isolation from wider mixed-communities schemes and regeneration programmes;
- It is a **minimum** standard that all social housing should meet by 2010 or other renegotiated deadline and which can be measured consistently across all social housing stock;
- It is a standard that **triggers action**, not one to which work is necessarily carried out;
- Landlords are not expected to make a home decent if this is against a tenant's wishes as work can be undertaken when the dwelling is next void (see paragraph 6.11). For reporting purposes, these properties are not counted as non-decent until they are void;
- Landlords should have regard to Government environmental sustainability objectives in specifying and designing works and components in maintenance programmes;
- Landlords must comply with the current Building Regulations, guidance for which is available on the DCLG website2, when carrying out works to which they apply, and in general should use the Regulations as a guide as far as possible;
- Landlords are not expected to carry out only that work which contributes to making homes decent. Other factors may be considered:
    - Building components may fail early, typically these should be dealt with on a responsive basis;

- Environmental and security works, which are not included in the decent home standard but which contribute to creating and sustaining the quality of local environments, may be considered high priority in some areas; and
- Landlords may also wish to consider which relevant Lifetime Home Standards are appropriate when carrying out work to properties, and whether the work to be undertaken can be modified to help meet the needs of people with disabilities.

What types of property are covered by the standard?

4.8 The standard applies to all social housing – *except leasehold and shared ownership properties. Social housing* includes sheltered housing and non-self contained or supported housing. The Standard does not apply to Care Homes providing nursing care and regulated by the Commission for Social Care. Social housing in the RSL sector is defined in the guidance notes to the Regulatory and Statistical Return (RSR).

4.9 Although leasehold and shared ownership properties are excluded from the social sector side of the target, they can be included as part of the private sector if the properties are occupied by vulnerable people. Landlords may also choose to include certain properties in the work programme due to special circumstances. Property managed or owned by community-based and tenant-led groups.

4.10 The Government wishes to encourage local authority tenants to explore future options for the ownership and management of their homes.

4.11 As the standard applies to all social housing, it will apply to property managed by another social landlord such as a tenant-led RSL, a Community Gateway Association (CGA) or a Community Land Trust. A CGA is a type of not-for-profit organisation that can be used to manage the stock or take ownership of it as an RSL. A Community Land Trust (CLT) is a model for the mutual ownership of land. The local authority could pass land or housing to a CLT that could in turn use the asset to generate income and would need to enter into an arrangement with a RSL. ALMOs and PFI schemes do not involve a change of landlord.

Appendix 3: Letter from the Chairman of the HSSH Sub-Panel to the Political Steering Group of the Housing Transformation Programme, 21st December 2012

States of Jersey
States Assembly

États de Jersey
Assemblée des États

Scrutiny Office

Political Steering Group
Housing Transformation Programme
Cyril Le Marquand House
The Parade
St Helier
Jersey
JE4 8UL

Our Ref: 517/20

19th December 2012

Dear Minister

I am writing to you in your role as member of the Political Steering Group that has overseen the developed of the Housing Transformation Programme. The Sub-Panel understands that there has been a delay with the lodging of the propositions associated with the Housing Transformation Programme and that there may be changes to some of the original proposals outlined in the White Paper and subsequent Reports and Propositions.

The Sub-Panel urges the Political Steering Group to use this opportunity to revisit some of the decisions made during the development of the HTP, especially with regard to the proposed financial model. Throughout its review the Sub-Panel has felt particular concern about the non-negotiable nature of the fixed return to the Treasury and the 90% rents proposal, which were highlighted in the Interim Report (S.R.5/2012). The Sub-Panel feels that adjusting these proposals would strengthen the financial model and give confidence to

Members on the long-term stability of the Programme, as well as its ability to provide the type and quantity of social housing needed in Jersey.

This letter seeks to identify how certain decisions were arrived at and to comment on areas in which the Sub-Panel and its expert advisor feel adjustments could be made.

Financial Model

1. Have the Political Steering Group considered reducing or breaking the cycle of money between the Housing Department/Company and the Treasury?
2. What options that would deliver a lower return to the Treasury, lower rents and still meet the outcomes required of the Housing Transformation Programme were considered?

Political Control of Social Housing

1. What is the case for replacing the political leadership of the Minister for Housing with a technocratic operation under the Strategic Housing Unit? How does the Political Steering Group expect this will deliver the best social housing policy for Jersey?
2. How will political accountability for housing be maintained without a Minister to coordinate housing-related policies across three different Departments?

Supply vs. Need

The net total new housing stock resulting from the Housing Transformation Programme is 137 homes over 30 years. The Sub-Panel feels that this lack of growth in the social housing stock is inadequate to meet the growing needs of the community, and is a small output in return for such a significant restructure of the delivery model. Furthermore, it is concerned that the substantial return to the Treasury is the factor which limits growth in new social housing over time.

1. What consideration has been given to creating a greater number of units over a shorter period of time using capital grants rather than revenue raised from property sales?
2. What is the case against providing up-front grants to complement the use of revenue from sales and rents to fund new developments?

3. Does the Political Steering Group acknowledge that reducing the proposed Company's return to the Treasury would free up more resources to build new social housing?

Regulation

The Sub-Panel is concerned that in its proposed format the Social Housing Regulator risks being over-centralised.

1. Is it the Political Steering Group's explicit intention to use the regulator to drive investment decisions of providers of social housing?
2. What risks have been identified with this approach?
3. Why is an interventionist regulator considered to be a better option than a system of financial incentives and practical support?

Provision for Older People

The Sub-Panel is concerned that some of the social housing tenants affected by the Housing Transformation Programme are elderly and/or have a disability, and do not have the kind of economic mobility or access to income as people of working age.

1. Apart from transitional support to cover the increase in rents, what consideration has been given to the proportion of elderly social tenants who will pay rent from their pensions?
2. How has the financial model been adjusted to reflect this?

The Sub-Panel asks that written answers are provided for these questions which are intended to form the basis for a Public Hearing to be held in January 2013. The time and date for this hearing will be arranged in the New Year.

Yours sincerely,

Deputy K.L Moore
Chairman
Health, Social Security and Housing

Appendix 4: Housing Annual Return & Income Support System – Briefing Note

Introduction of Income Support System

The concept behind the Income Support System was for a single system with one current means test related to a series of components within one benefit. The driving forces were simplification, incentives and fairness.

It sought to combine means-tested benefits such as Parish Welfare, Rent Abatement/Rebate, Family Allowance and income barred Disability Benefits into one integrated benefit.

Benefit was structured so that financial components build to a tailored level of income suitable for a particular household's needs. There are 3 types of component –

- basic living
- dependant living
- extras e.g. rent subsidy, health, childcare

In establishing the Income Support System, existing budgets were transferred from those departments which had administered the individual means- tested benefit schemes, to Social Security.

Specifically, the Housing Department which operated the Rent Abatement and Rebate schemes had the budget (and cost) for them transferred to Social Security from January 2008. This amounted to £24million, turning the Housing Department into a net income budget. This net income was effectively then redirected through the Consolidated Fund to Social Security to part fund the cost of the Income Support System. In 2013 the equivalent figure is estimated as £26.8 million.

As the Income Support system is a new single system scheme the direct link between the Housing element of support and funding was now broken. However an estimate of the cost, considering the daily rate at the end of each year, and using a simple pro-rating method, gives an allocation of Income Support to accommodation components of an equivalent value of £22.7 million in 2009 and £24.1 million in 2010**. The Employment & Social Security Dept are due to issue their first Annual Report on Income Support, for 2011 in the next month. This will provide the 2011 equivalent figures.

The Annual Return from Housing

As stated above, from 2008 Housing generated a "net income" as £24 million of cost had been transferred to Social Security. This "net income" can be affected in any year depending on rent income levels and cost increases. It has not been linked historically to any factor such as a rate of return or the cost of income support. However, as it arose as a result of a transfer of cost to Social Security it is effectively used to contribute to the total cost of the Income Support System.

The "net income" from the Housing Department to the Treasury is now calculated on a 3 year basis (previously annually) in line with the Medium Term Financial Plan (MTFP) timescales. The MTFP has been prepared on a pre-transformation basis, with an appendix showing the effect of transformation. The return in the period of the MTFP is expected to rise in line with RPI, and to include the additional income arising from the move from 70% to 90% of market rents, for those on Income Support at the time of transition.

Post the proposed implementation of the Housing Transformation programme and the creation of the new Housing Association the "net income" will be redefined as an "Annual Return" from the new Association.

This negotiated "Annual Return" basis provides certainty to Housing (& the new Housing Association) in that they know what their financial commitment is and can plan and budget accordingly.

** From a Written Question to the Minister for Social Security by Deputy Tadier – Monday 12th September 2011.

Appendix 5: Save with Rent Saving Gateway Scheme (Chartered Institute of Housing)[368]

Key Features of the Save with Rent Scheme

The *Save with Rent* Saving Gateway scheme would be one of the delivery mechanisms for the government's Saving Gateway scheme when it is rolled out nationally in 2010. (The government would then match tenants' savings under the scheme.) Some landlords have already said that they would be prepared to organise focus groups with their tenants to discuss what would make the scheme attractive to tenants if landlords' involvement in Saving Gateway was a possibility. Landlords would encourage tenants to join the *Save with Rent* scheme, where the savings account would be with a Saving Gateway account provider. The scheme would have the incentive for tenants that all savings made into the Saving Gateway account and not withdrawn would be matched with funding from the government.

Tenants would make savings in the form of additional payments with their rent, as many do for insurance. The landlord would pass the savings amount straight on to the nominated Saving Gateway account provider – in many cases this may be a local credit union that the landlord is already working closely with. The Saving Gateway account provider would have a direct relationship with the tenant for all transactions. Tenants would be able to add to their Savings Gateway account directly rather than just through their rent, and would get the same benefits from money deposited in this way.

The landlord would be acting as agent for the Saving Gateway account provider and would be involved only in promotion of the scheme, helping the tenant to open an account, and being a conduit for the savings made with rent. The information that landlords make available about the scheme would need to set out the responsibilities of the Saving Gateway account provider, the landlord and the tenant in a way that is absolutely clear, including how to complain and who is responsible for dealing with any complaint.

The Saving Gateway account provider would be responsible for providing an annual statement of their savings to each tenant. This would be the formal record against which matched payments would be made directly by the government into the tenant's account with the provider. Tenants consulted for this study felt strongly that savings should be matched £1 for £1, because the amounts that the majority of tenants could save would be small. They

[368] Save with Rent: how social landlords can help deliver Saving Gateway. Chartered Institute of Housing. Retrieved from http://ow.ly/jtazB 27th March 2013

also sought annual matching for several years, so that the saving habit would have more chance of lasting. In light of these findings, landlords may want to vary the terms of matching compared with the national Saving Gateway scheme. Participating landlords would have the option of topping up the matching arrangements of the government scheme but any additional payments would have to be made by the landlord out of its own resources.

Access to the national Saving Gateway scheme will be restricted to those who are on certain passport benefits or tax credits. Landlords choosing to participate will need to decide whether to offer the *Save with Rent* scheme to all tenants meeting the national criteria or whether to restrict participation to those who are complying with the terms of their tenancy agreement (e.g. tenants with a clear rent account and who are not responsible for anti-social behaviour). Landlords would have the right to terminate the scheme for a participating tenant if they subsequently breached the terms of their tenancy agreement.

As some tenants might be put off by the paperwork involved in setting up a savings account, the landlord would make an arrangement with a money adviser (e.g. Citizens Advice) to help the tenant understand the scheme and fill in the necessary forms. This would include ensuring that interest payments will be made gross where tenants are eligible for this. The adviser may suggest that existing debts should be repaid before the tenant joins the savings scheme, but would not make payments through *Save with Rent*.

It is proposed that joint tenants would be eligible to participate in the scheme, but their *Save with Rent* Saving Gateway account would have to be in the name of just one tenant, who would have to meet the eligibility criteria for the national scheme. The other(s) would be able to open an account directly with a Saving Gateway provider if they were themselves eligible for the national scheme.

If the tenant changes landlord and the new landlord does not offer the *Save with Rent* scheme, the tenant would then need to make their savings directly to the Saving Gateway account provider.