STATES OF JERSEY

THE REFORM OF SOCIAL HOUSING (P.33/2013): FIFTH AMENDMENT

Lodged au Greffe on 30th April 2013
by Deputy J.A.N. Le Fondré of St. Lawrence

STATES GREFFE

1 PAGE 2 – PARAGRAPH (a)(i) –

After the words "sections 3.12 to 3.14 of the attached Report of the Council of Ministers dated 4th March 2013" insert the words –

> "Except that at the end of section 3.12.2 after the words "disposal of social housing property" there shall be inserted the following new paragraphs –
>
> For the avoidance of doubt, such regulation would ensure proper governance of surpluses generated by existing social housing providers.
>
> As part of any definition of surplus funds, existing social housing providers ("the entities") would be required to make adequate provision for working capital; for the repayment of loans or other debts; for commitments; for projects and activities of the entities, including provision (by depreciation or otherwise) for the redevelopment of properties owned by the entities; for the acquisition / development of additional properties for social housing; and for contingencies; all in accordance with the powers for so doing under the terms of their statutes as approved from time to time.
>
> The regulations may also require the calculation and disclosure of subsidies (both capital and revenue) received by the entities, and may also define under what circumstances such subsidies should be repaid to the States of Jersey.".

2 PAGE 2 – PARAGRAPH (a)(iii) –

For the words "a return to" substitute the words "setting a ceiling of" and after the words "3.12.9 of the attached Report" insert the words "except that section 3.12.9 shall be amended in the manner set out in Appendix 1 to the amendment of Deputy J.A.N. Le Fondré of St. Lawrence dated 30th April 2013".

DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE

REPORT

Amendment 1

Summary

This amendment uses the wording of an agreement that has existed for approximately 12 years, and introduces it, for the purposes of clarity, into the proposals for Social Housing being brought to the States Assembly.

Background

As members will be aware, I am Honorary Secretary of Les Vaux Housing Trust ("LVHT"), a position I have held for approximately 17 years. Whilst it is possible that some members may try to assert that I have a conflict of interest on this matter, I would hope it is clear that not only is the matter not pecuniary – LVHT is a charitable enterprise – it also the case that I have a degree of experience in matters pertaining to the provision of social housing in Jersey.

Housing Trusts as a body are still relatively small compared to the States Housing Department, but they do provide a valuable service and are extremely efficient in supplementing services provided by the States. I say 'relatively small' however collectively they do operate over 1,300 units of accommodation, representing nearly 22% of the entire social housing sector (including charities and parishes). Indeed the top 3 Trusts (by size) manage over 1,200 units for a cost of approximately 4.4% of revenue. This has developed over a period of approximately 24 years, and from a standing start (i.e. a position of zero units).

The main source of income for the Trusts is rent. In addition, the Trusts are sometimes in receipt of both capital subsidies to assist with the development of specific sites, and also revenue subsidies – mainly subsidies (in the past) relating to the amount of interest a Trust would incur on its borrowings. Each development will have generated its own specific funding issues, with some developments not receiving any subsidy, and some receiving both interest subsidy and capital subsidy.

Tenants pay their rents to the Trusts from their own income. This may include income support, but will depend upon the individual circumstance of that tenant. However just as some tenants will be claiming income support, there will also be tenants (including pensioners) who do meet the objectives of the Trusts, i.e. who are in need of assistance in being accommodated, but who do not claim income support, whether due to not qualifying for it, or also because it is not in their nature to do so.

The net result of the revenue received by the Trust, offset by the expenditure incurred by a Trust will generally be a surplus. That surplus is then utilised (amongst other things) to pay back the loans that the Trust has undertaken in order to fund the purchase / development of the estate in question.

Like any organisation which does not have any other significant source of income, Trusts must be very prudent in how they manage their affairs, and must also look to the long-term.

Equally, as with any prudent organisation, particularly one that is concerned with the provision of affordable accommodation for Islanders, it is essential that Trusts ensure that their properties are properly maintained, both presently, and also into the future. Ultimately provision also needs to be made the future replacement of such property. This is a matter of simple, long-term, prudence, and ensuring that the interests of both tenants and the tax payer are properly looked after.

Members will therefore hopefully appreciate that there is a difference between a 'cash' surplus in any one year, and an actual surplus after making such prudent, adequate provision.

Therefore it is important that any perceived surplus of income over and above annual expenditure is properly defined and is adjusted to take account of monies genuinely required for future investment in, and maintenance of, Trust estates.

Paragraph 3.12.2 in P.33/2013 refers to 'prioritising resource allocations within the social housing sector' and later refers to the production of regulations for Social Housing Providers to 'observe in relation to prioritising the allocation of resources to the sector…'.

All this amendment seeks to do is add a further sub-paragraph to this section of the report, which clarifies requirements to be applied in defining 'surpluses' generated by the existing Social Housing providers. The intention being that surpluses will therefore be identified and treated in an objective and even handed manner, which meets the long-term and prudent objectives of providing social housing in the Island.

The suggestion that capital and revenue subsidies may be disclosed seeks to start to address some of the matters surrounding subsidies paid to the Trusts and to bring some clarity to the matter.

Surpluses have long been a perceived issue. This amendment is based around the wording of an agreement that has existed for approximately 12 years, and introduces it, for the purposes of clarity, into the proposals for Social Housing being brought to the States Assembly.

I hope Members will be supportive of the principles behind the amendment.

Amendment 1 – Financial and manpower implications

There are no manpower implications arising from this amendment.

There are no known financial implications arising from this amendment.

Amendment 2

Summary

This amendment aims to provide flexibility with regard to rent levels to order to meet the differing financial models of the various social housing providers. It still permits the existing arrangements being proposed by the Housing Department – particularly in respect of the new Housing Company, but the intention is to ensure flexibility, and allow social housing providers the ability to keep their rents below 90% of market rates should they, in using their professional judgement, so choose.

Background

One of the key (and possibly most controversial) proposals of P.33/2013 is the recommendation to set all social housing rents to 90% of market rents. This is mitigated by various measures, including restrictions being applied whilst tenants remain in their existing accommodation, and phasing in the increases, however it has attracted a significant amount of attention from members, the existing Housing Trusts, and from Scrutiny.

Scrutiny have allocated almost 30 pages (around $^1/_5$), of their report to this matter. For ease I have included their relevant key findings, as well as some key paragraphs, in Appendix 2. [Items of interest have been highlighted in red].

Members already have a number of choices in front of them in relation to this policy. They range from straight forward acceptance, to setting the 90% level to 82%, to deferring any decision on this until the detailed proposals are seen.

This amendment is offered as an alternative choice for members.

It is clear that the Minister for Housing has put forward a case to increase rents to 90% of market, in order to support the viability of his proposals. However it is also clear that Scrutiny, in examining this matter, has identified many issues. A number of those concerns remain unanswered at the time of writing this amendment.

For example –

> **"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"** [1]
>
> "**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."**[2]
>
> **"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**

[1] Key finding 26.
[2] Key finding 30.

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"[3]

I remain to be convinced that it is absolutely necessary for rents to be increased to 90% of market in order to provide the financial viability for the new Housing Company. It certainly does not appear to be the case that the private sector social housing providers are seeking an increase to 90% market levels in order to meet their present financial commitments. However one must try to keep a balanced view on this subject. What is self-evident is that the financial models of each of the social housing providers will vary.

It is also the case that we are dealing with social housing, which is meant to be housing those who are more vulnerable in our society, including those who are simply unable to afford accommodation in the private sector.

Accordingly I am of the view that the compulsion for all social housing providers to ultimately achieve rents which are 90% of market, and to maintain them thereafter is a measure that should only be applied in extremis.

When one looks at UK practice, the principle is that guideline rents are set, which are defined as a ceiling, NOT a target. The key principle for social rent is defined as "a level that allows [social housing providers] to meet their obligations to their tenants, maintain their stock (to at least decent Homes Standard) and continue to function as financially viable organisations, including their commitments to lenders". "…This figure is a ceiling not a target. It is open to providers to increase rents by a lower figure where circumstances justify doing so…"[4]

It seems to me that this is a principle which should be followed in Jersey, and which will enable the professionals who act for the Social Housing providers to use their professional judgement and expertise in assessing what rents are appropriate to the financial circumstances of their particular organisation, and their particular tenants, whilst remaining within the parameters set with regard to rental levels. This also removes one of the elements of compulsion that Scrutiny have been critical of elsewhere.

This amendment does not seek to detract from other amendments that have already been lodged on this matter. But in the event that members choose not to support those proposals, hopefully this amendment will at least offer a further choice for them to consider, and one that is consistent with UK best practice on this subject, thus respecting the independence of the organisations[5], but setting the parameters within which we wish them to operate.[6]

[3] Page 78 of S.R.6/2013.
[4] Source : Homes & Communities Agency – the regulator for social housing providers in England.
[5] I would note that Paragraph 3.20 of P.33/2013makes reference to a requirement to comply with the adopted rents policy. I am advised by the Greffier of the States that there is no need to amend this paragraph as it does not form part of the proposition.
[6] In bringing this amendment I have endeavoured to change the wording of section 3.2.19 solely to achieve the intention of introducing a guideline rather than a mandatory target. As such, inclusion of certain paragraphs from the original report should not be taken to indicate automatic agreement with their content.

Amendment 2 – Financial and manpower implications

There are no manpower implications arising from this report.

The key financial implications of rental levels to the States will be the impact upon the proposed new company. If the directors of that company consider that they still wish to follow the proposals set out in P.33/2013 there will not be any additional financial implications to the States.

Additionally the Minister has stated that this is an 'in-principle' debate and the detailed financial implications will only be assessed when the proposed new policies are debated in detail.

SECTION 3.12.9 AS AMENDED
[Changes highlighted in blue]

3.12.9. Proposing and delivering the social housing rent policy;

Rents across the social housing sector, (both for States housing and for the Housing Trusts), are currently set in relation to 'fair rents'. These represent an upper limit for the rent of a social rented property with a given number of bedrooms. The Fair Rent Levels are also used by the Social Security Department in setting housing component Income Support limits for Tenants in both the social and private rented sectors.

A 'fair rent' is not precisely defined in legislation, which states only that 'fair rents' should 'follow, but not lead' the market. The Housing Strategy for the 1990s (P.142/1991) made clear that fair rent levels should be set to near market equivalents. In practice this has been taken for many years to mean that a 'fair rent' should be set at 90% of the open market rent for a comparable property.

However, in recent years, 'fair rents' have not been increased to follow comparable open market rents. 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.

This has led to a situation where the average rent of a home in the States owned social rented stock is now 70% of its market equivalent. Moreover, the range of rents varies considerably.
The subsidies within the current rental structure go against the principle of Income Support provided by the Social Security Department being the sole, unified support system for those unable to support themselves

Finally, because social rent levels are behind market levels, the viability of private development of affordable homes has been depleted to the point that no private sector social housing schemes have been commenced since the economic downturn and only those involving States land or other subsidy are now possible (Source: Planning and Environment Department: Interim Review of Residential Land Availability. 2011).

In England the Homes & Community Agency ("HCA") is the social housing regulator. The approach followed by that regulator is to set a guideline – a rent ceiling – with some flexibility attached to that ceiling – but which rents would not normally exceed. The rental limit is then increased annually by reference to the Retail Price Index plus (at present) a factor of 0.5%.

The key principle in England is that the Guideline Limit is a ceiling, not a target. It is open to providers to increase rents by a lower figure where circumstances justify doing so.

In summary, a reinvigorated, sustainable and enforceable rent policy is ~~therefore~~ needed and responsibility for developing this policy would rest, henceforward, with the Strategic Housing Unit. Approval of this Report and Proposition would enable the Strategic Housing Unit to propose a social rent policy regulation to the Minister for Housing and thereafter to the States for consideration.

The most appropriate level of rent policy will be a key decision for the States Assembly to take when regulations are brought forward, but in the interim ~~a return to the existing~~ a rent policy of not more than 90% of equivalent market rents is considered essential for the following key reasons –

i. The back-log maintenance to achieve the Decent Homes Standards in the States Housing stock was assessed as being approximately £48 million in 2010 by Ridge and Partners LLP. The Business Case proposed for the wholly States-owned Housing Company (R.15/2013) makes clear that this backlog cannot be addressed to enable the States owned stock to meet Decent Homes Standards within the 10 years proposed by the Minister for Housing unless a return to the 90% near market rent is achieved. A 90% near market rent policy enables social housing providers to provide homes on a sustainable basis that would track market prices, but not drive inflation in the wider property market.

ii. Outline business models have been developed for the 4 Housing Trusts that it is proposed are regulated under the draft Social Housing (Jersey) Law 201- using data and assumptions provided by the Housing Trusts. These indicate that a return to a ceiling of 90% of near market rent would enable the avoidance of deficits or calls on the States for interest rate subsidies. This level is also needed by the Housing Trusts whose homes are understood not to meet Decent Homes Standards. The 90% level is also likely to be necessary to ensure sustainable business models for the majority of Housing Trusts when a range of economic conditions are considered through sensitivity analysis. ~~Not to introduce a consistent rent policy would create inequities in provision between providers and would distort incentives for Tenants accessing social housing through the Affordable Housing Gateway.~~ It should be noted that condition surveys have not been carried out by Housing Trusts against the Decent Homes Standard at this time. Likewise, Housing Trusts have yet to carry out independent rent assessments on their properties. However it is recognised that the circumstances of each individual trust will vary, and accordingly, flexibility is required within the application of any policy. This will be achieved by allowing the Trusts to set their rents within (i.e. up to) the parameters established under the new policy.

iii. Current sub-market rent levels have lead, inevitably, to a situation where the value of the existing portfolio is understated and insufficient rental income is generated to maintain the States portfolio whilst also maintaining the annual return.

iv. In respect of new developments. The accepted means of assessing the viability of social housing developments and the capital value of the homes constructed is a calculation primarily arrived at from the potential rental yield, less necessary expenditure, over a specified period. In Jersey the practice has been to repay borrowing for social housing development over a maximum of 25 years.

v. Even allowing for inflationary increases, debt repayment models based on the current sub-market rent levels demonstrate unequivocally that there is insufficient new rental income to develop new social housing without some form of development subsidy being provided.

vi. Hitherto the States has addressed this lack of viability through the provision of development subsidies. In the Housing Trust sector in particular, it has been necessary for the States to support the development of new homes through a combination of the provision of land at nominal value, direct capital subsidy or more commonly through the provision of interest rate subsidy agreements where the States is required to meet the cost of Housing Trust borrowing if interest rates rise above pre-determined levels. This has been greatly assisted by the provision of re-zoned, (previously green zone), land where a significant uplift in land value has meant that homes can be acquired from developers at values consistent with sub-market social housing rents.

vii. In its approval of the Island Plan 2011, the States has directed, inter alia, that further development of the green zone should be avoided and it is therefore anticipated that new affordable housing will have to come from the development of sites with existing uses and higher intrinsic values. The additional land cost will require higher levels of capital subsidy unless the yield from social housing rents can be increased to a level which will support both development costs and land acquisition. As a matter of principle, the Minister for Housing considers it would be unacceptable to ask those Social Housing (current States and Housing Trust) Tenants currently receiving Income Support to meet the cost of returning to near market rents as the primary basis of Income Support is to provide a safety net for those in greatest need.

However, ensuring that all Social Housing Tenants are treated fairly and protected according to their means is also considered vital. The Minister for Housing recognised the concerns of fellow States Members, the Health, Social Security and Housing Scrutiny Sub-Panel and Housing Trusts about the potential impact on low earning Tenants. It is recognized that, while the impact on low income households may be affordable in the vast majority of cases, even a phased increase may be difficult for these households (particularly pensioners) to plan for in times of austerity.

Therefore, the proposed Fair Rental ~~Level~~ Ceiling of 90% of market rents would only apply to those Tenants moving to new tenancies enabling them to plan for the increased rent as they do so. This would protect Tenants in receipt of the housing component of Income Support and for Tenants not in receipt of the housing component of Income Support it provides a balance between requiring those who can afford to pay more to do so and recognising that Tenants have entered in to tenancy agreements and planned their finances on the basis of the prevailing rent levels.

~~As approximately 7% of tenancies are re-let each year, and the achievement of Decent Homes Standards will require refurbishment of 578 properties during the 10 year period, the hidden rent subsidy will be progressively removed, but in a way that allows individual Tenants to plan for increases were that ceiling to be applied. It is expected that approximately 55% of new tenancies will be to tenants from the waiting list. Therefore, the Income Support paid for these tenancies will replace Income Support currently paid in the private sector.~~

~~The Housing Department and Social Security Department have reviewed what the financial, social and economic impact of returning to the 90% equivalent market Fair Rent Level and removing the hidden rent subsidy would be for Tenants, Social Housing Providers and the States. The social and economic impact assessment follows and the financial implications are set out at the end of this Report.~~

For the two-thirds of States tenants (and half of Housing Trust tenants) who receive any amount of the housing component of Income Support, rents charged will continue to be at a level that would be covered by the housing component of Income Support. Therefore, Tenants entitled to the full housing component of Income Support will continue to have the full amount of their rent paid whilst they remain a Tenant and Tenants entitled to any lower amount of the housing component of Income Support will continue to receive the level of Income Support appropriate to their circumstances. In other words, tenants in receipt of any amount of the housing component of Income Support will not be directly financially impacted by the proposed rent policy in their current tenancies nor if they transfer to another property within the social housing stock provided their circumstances do not change. Given that States' tenants in receipt of the housing component of income support will be fully protected from the proposed rents policy, there is therefore no direct adverse economic or social impact on these tenants. It is recognized, that following the return to Fair Rent Levels, Tenant's earnings would need to increase to a greater extent in order for them to no longer require Income Support.

Existing tenants not in receipt of the housing component of Income Support (approximately one third of States tenants and half of Housing Trust tenants) will not be required to pay additional rent as a result of the proposed return to Fair Rent Levels (other than normal annual increases) whilst they remain in their current properties. Should these tenants transfer to another property within the social housing stock (thus creating a new tenancy), rent will be charged at up to 90% of market rent for the new property. Transferring tenants will be made aware of the rental of the new property before deciding whether to sign the tenancy, so will be fully aware of any impact that this may have on their financial circumstance. Tenants transfer for a variety of reasons, but over half of tenants transfer to smaller properties, which would generally command a lower rental than the larger property from which they are moving. Where

Tenants are moving to properties that have been refurbished to Decent Homes Standards, there will be compensatory savings in energy costs that will also offset the return to Fair Rent Levels.

Work undertaken jointly between the Housing and Social Security Departments has looked at the Social and Economic Impact Assessment of the original proposed rent policy (as set out within R.15/2013). Given that the proposed Fair Rent Level ~~will~~ was only to be implemented on new tenancies, the impact ~~is~~ was considered to be very small. Full details of the analysis undertaken can be found in R.15/2013.

If the States approve this Report and Proposition, it is proposed that the rent policy of 'Guideline Rents' will ~~this rent policy~~ be implemented from April 2014. To enable this to happen the Minister for Social Security will need to be asked to take such steps are as necessary to adjust the rental component of Income Support through Regulations, including setting the appropriate level for the rent component of Income Support in the private sector. A Regulatory Enabling Law and then Regulations would be developed during 2013 by the Strategic Housing Unit to enable the Minister for Housing to request that the States agree that rents in the social housing sector should be capped ~~reset~~ at the Fair Rent Level of 90% of the market rent, applicable for the equivalent home in the private rented sector from April 2014.

In all cases it is emphasised that the principle to be applied will be the establishment of an upper ceiling of 90% of market rent. Social housing providers will be free to use their professional experience to determine the rents appropriate to their own individual circumstances, subject to the rental ceiling which shall be introduced by the proposed legislation. It is intended that the rental ceiling will be increased each year by a specified amount, but the guideline limit will be a ceiling not a target, and it will be open to providers to increase their rents by a lower amount if the Trustees / Directors consider that they are justified in so doing.

APPENDIX 2

KEY FINDINGS PER SCRUTINY REPORT– HOUSING TRANSFORMATION PROGRAMME REVIEW – S.R.6/2013

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 1990s" (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**]

RECOMMENDATIONS:

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**].

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**]

EXTRACTS FROM THE SCRUTINY REPORT

EXECUTIVE SUMMARY

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.

SECTION 6: RETURN TO A NEAR MARKET RENT POLICY

…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. 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.

…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…

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…

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…

…Although moral and political arguments …are clearly made …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.

…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." The Sub-Panel feels that this is the most difficult outcome of accepting the proposed rent reforms – that more tenants will be "trapped" claiming Income Support for housing for longer.

…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...

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". 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. 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. 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 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 especially those suitable for older Tenants, a concern acknowledged by the Minister during Public Hearings.

…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. 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." 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 (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 Report states that additional Income Support costs will be incurred to the States of Jersey as a result of the proposed rents policy. … 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" …

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, 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. …

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.

…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. …

…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.

… 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.

…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…

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…

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 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.

…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.

…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.