

STATES OF JERSEY



THE REFORM OF SOCIAL HOUSING (P.33/2013): FIFTH AMENDMENT (P.33/2013 Amd.(5)) – COMMENTS

**Presented to the States on 13th May 2013
by the Council of Ministers**

STATES GREFFE

COMMENTS

The intention of this amendment is to –

1. Introduce to the proposition concerning regulation of the Social Housing Sector a requirement that any subsequent regulation would ensure proper governance of surpluses generated from the operation of Social Housing providers and to introduce a definition for surplus funds within the proposition; and
2. Revise the proposed return to fair rent levels such that the 90% of market equivalent rent policy proposed in P.33/2013 is set as a ceiling rather than a requirement for Social Housing Providers.

This amendment is not the best way to achieve the objectives sought for the following reasons –

As the author of the amendment will be aware, the 4 Housing Trusts in receipt of public benefit and proposed to be regulated under the regulations proposed under P.33/2013, have all operated under Funding Agreements with the Minister for Housing and the Minister for Treasury and Resources since their establishment.

Within these funding agreements are requirements, not only that those Housing Trusts will return surpluses to the States of Jersey, but also include guarantees that such surpluses will only be surrendered after adequate provision for working capital and repayment of loans and other debts has been made. These guarantees are identical to the requirement proposed in the first part of this Amendment.

The Council of Ministers have no objection to the wording proposed in the first part of this Amendment regarding the use of surpluses by Social Housing providers. Indeed similar wording is likely to be employed in the Transfer Agreement proposed within P.33/2013 to establish the relationship between the proposed Housing Company and the States as sole owner. However to make this a requirement of any subsequent regulation appears entirely unnecessary as there is no intent from the changes proposed in P.33/2013 to alter the Housing Trust's Funding Agreements in any way.

The inclusion of such a requirement would pre-empt the States Assembly's further consideration of the scope and type of regulation appropriate for Jersey, which is proposed under the Health, Social Services and Housing (HSSH) Scrutiny Sub-Panel's amendment (P.33/2013 Amd.) which the Council of Ministers is accepting.

Accordingly, it is recommended that the States reject the first part of this amendment.

The second part of the amendment, suggesting that the return to Fair Rent Levels of 90% equivalent market rents should be set as a ceiling and not a requirement, appears attractive on first review, but in fact would be pernicious and not achieve the required transformation needed in the sector.

The amendment suggests that because the financial models of the different Social Housing providers will vary, there is no need for the introduction of a requirement to charge a Fair Rent Level, and refers to the Income Support findings and recommendations within the HSSH Scrutiny Sub-Panel's report (SR.6/2013) as supporting evidence.

However, it is important to remember that the Housing Trusts as a whole have yet to commission independent professional condition surveys of their properties to see whether their housing stock complies with the Decent Homes Standard in the same way that the Housing Department has done.

Three Trusts have co-operated with the Minister for Housing in developing longer term business models to address this. However, one Housing Trust which accepts that it has a significant proportion of its stock currently not meeting the Standard, has declined to provide a business case or other financial model. This is needed to demonstrate how, with the very low level of maintenance being spent on the properties concerned, that Housing Trust will ensure that the stock will be refurbished to that Standard. As a result, the Minister for Housing and Council of Ministers cannot be confident at present that this Housing Trust has made adequate provision for the future to maintain homes to this Standard, which must be of serious concern to the States and the Trust's tenants.

It is also the case that the majority of Housing Trusts rents are known to be below the 90% Fair Rent Level proposed under P.33/2013. Some of the Housing Trusts have been building up surpluses, which they are working with the Ministers for Housing and Treasury and Resources to re-invest in new social homes. Other Housing Trusts have chosen to use their surpluses to begin to pay back their loans, the vast proportion of which is under-written by the States by means of an interest rate cap guarantee.

The reforms proposed in P.33/2013 intend to formalise through regulation the requirement to ensure that all social homes meet the Decent Homes Standard. While one Housing Trust maintains that it can achieve its obligations to achieve Decent Homes Standards with sub-market rents, it is unlikely that this will be so. This is particularly the case if, as proposed under P.33/2013, the Housing Trusts are to take a larger role in the development of new social housing. The Transformation Programme also proposes that Housing Trusts pay back their loans to enable future surpluses to be re-invested in new housing, and contribute to the costs of the rental component of Income Support received by their tenants, as the current Housing Department does, and the Housing Company proposed under P.33/2013 will do.

If the second part of this amendment were to be accepted, this would send the wrong message to the Housing Trusts. It would suggest that change is not needed and that it is acceptable for tenants to suffer homes that do not meet Decent Homes Standards. The Minister for Housing is encouraging Housing Trusts to embrace transformation, to accept a culture of continuous improvement, to encourage much greater tenant engagement in the provision of their services and to practice modern good governance practice. It is pleased to note that the majority of Housing Trustees welcome the changes proposed in P.33/2013.

If the 90% near market rent were accepted as a ceiling, then –

- this would mean that Social Housing providers could decide to continue to offer a hidden and un-tested subsidy. This subsidy would only benefit those most able to afford to pay the Fair Rent Level. As P.33/2013 makes clear, the intent of the Transformation Programme is for a consistent and transparent 10% level of subsidy below market level to be provided for those in social housing. For those requiring additional support, they would need to use the

unified Income Support system, which was designed specifically for this purpose. The current arrangements deflect from this intent;

- this will lead to confusion and inequities within those seeking to be housed via the Affordable Housing Gateway. It could lead to the situation where a Social Housing provider charging lower rents is preferred by those able to afford to, but not wishing to, contribute to the costs of their housing;
- rental income alone would be unlikely to be sufficient for supporting the maintenance of social homes, let alone supporting the development of more new ones without significant further capital investment by the States.

A lower rent than the proposed 90% level will mean that the social housing sector will continue to operate sub-optimally, preventing the public investment achieving the best possible outcome for tenants and the taxpayer. This would mean that less new social housing would be available for the many Islanders currently on the Affordable Housing Gateway.

Accordingly, it is recommended that the States also reject the second part of this amendment to propose that the return to Fair Rent Levels be set as a ceiling rather than a requirement.