BPF

FUTURE SOCIAL HOUSING RENT POLICY

A CONSULTATION RESPONSE

PREPARED AND SUBMITTED BY
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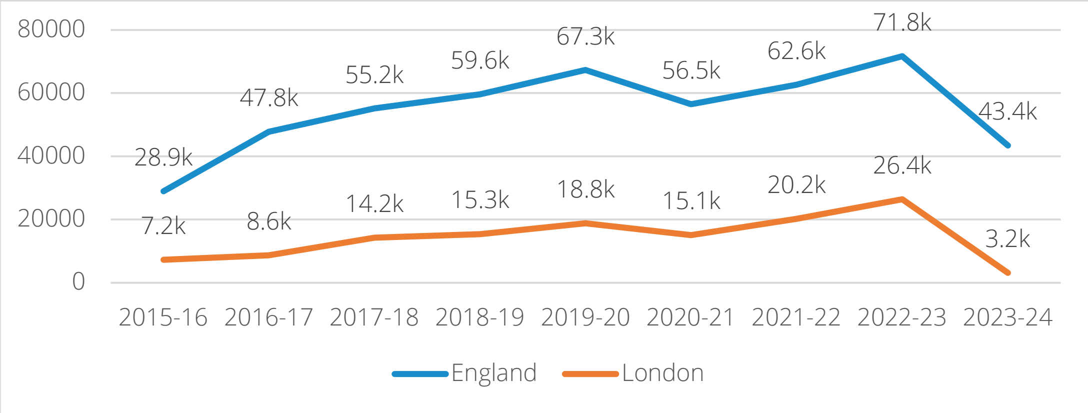
Introduction

1. The Government has ambitious targets to deliver 1.5m homes over this parliamentary period and increase the delivery of social housing. Such ambitions can only be achieved with ambitious policies, and the support of all sources of investment – public, not-for-profit, and for-profit. Our response articulates why for-profit investment is both needed and ready to be supportive. But as stated, ambitious housing targets also need the support of ambitious housing policies. Doing simply what has been done before will not get us collectively to 1.5m homes and more social housing. On that basis, we would recommend the Government considers a rolling 10-year statement so long as there is a default position and presumption in favour of continuing to roll the current agreement, rather than a reopening of the debate each year.
2. We would also encourage a convergence mechanism allowing housing associations to gradually increase rents that are below the earnings-linked rent formula. It is estimated that a convergence mechanism could unlock 90,000 new homes by generating £3.5bn in additional rental income over 10 years (Source: NHF).
3. This will be the first long-term rent settlement where there is a for-profit sector that is established and growing. The wider sector's relationship with private capital is still nascent and fragile but a confident statement by Government going beyond the norm (5-year rent settlement) has the capability to expand the sector and contribute to the Government's housing targets.
4. What private sector investment offers, is additional capacity building for a not-for-profit sector that has multiple challenges but is ambitious to rise to them. We have analysed the financial position of the sector in depth over the last two years, initially through our White Paper "Delivering a Step Change in Affordable Housing Supply"[1]. The original white paper estimated an absolute maximum capacity of the not-for-profit sector of 60-70,000 homes a year, but since then due to various factors, new supply is materially lower and under even greater pressure (Chart 1 Illustrates Affordable Housing New Build Starts at just over 43,000, in the latest year). This, against a long-term need of 145,000 homes and 1.29 million households on social housing waiting lists across England.

[1] Delivering a Step Change in Affordable Housing Supply, Legal and General and BPF, March 2022. https://bpf.org.uk/media/4900/delivering-a-step-change-in-affordable-housing-supply.pdf

Chart 1: Affordable New Build Starts on site



Source: MHCLG, Affordable Housing Supply in England, 2023/24

5. A five-year settlement will only allow housing associations to at best stabilise their positions from a decade of lost capacity reflecting 2016-20 rent cuts, 2022/3 rent caps, and various economic and other factors (higher interest rates, an inflation spike and impact on costs, fire safety expenditure, existing stock improvement).

6. There has also been a spate of recent regulatory changes, which all have their policy rationales, but add to sector costs. Recent changes include:

   a. the establishment of the new Building Safety Regulator
   b. fundamental change to the way the Regulator of Social Housing regulates consumer standards.
   c. new powers and a statutory basis for the Housing Ombudsman Service.

7. Elements of these changes are still to be worked through including the scope and application of "Awaab's Law", professionalisation of the sector, the access to information scheme and forthcoming revisions to the Decent Homes Standard. The Law Commission also published a consultation in September 2024 seeking to designate a new "principal regulator" for community benefit societies in either the Charities Commission or the Financial Conduct Authority. For social landlords who are also community benefit societies this could bring additional burdens from the oversight of effectively a fourth regulator. The cumulative effect of these changes is significant and if expectations, requirements and regulatory burden continue to increase, whilst rental increases do not keep pace with the inflation affecting service costs then this will inevitably impact long term viability, investment in both preventive maintenance, and growth.

8. However, even with a five-year rent settlement housing associations will still not be able to increase supply significantly. Many of the pressures will continue to act as a drag on their supply. At best, a settlement of five years will simply slow down / reduce the shortfall in supply.

9. There is a positive need for new investment that will help support the sector and the Government's aspirations. We would propose that:

a. The Government needs to consider social housing as social infrastructure to galvanise global capital to invest in English social housing.
b. To do this, the Government plays a vital role in driving market sentiment. Announcements, such as on the rent settlement, send a vital signal to global capital around the investment community.
c. The signalling of long-term thinking and policy will have value over and above actual funding, as it will reinforce the ability of investors to gain confidence in the Government and its stewardship over social homes.
d. It is estimated that £20bn-£30bn[2] is ready to invest in the sector over the coming five years. That money is assuming that Government will be supportive of the sector over that timeframe.
e. Taking the more prudent estimate of £20bn and assuming leverage on the £20bn at (say) 50%, and a unit price of £250k a unit, which would equate to 240,000 homes the Government can stimulate through supportive policy.

10. It is why we support a longer-term settlement of 10 years.

11. Additionally, there is a double advantage to this policy beyond just attracting new capital.

    a. A stable, long-term policy direction creates higher valuations – this leads to lower grant requirements per unit. Or, in other words, the Government's grant expenditure goes further.

    b. It also supports all providers in accessing debt to work alongside their own resources to build new homes. Given such, either more homes could be built with the same grant or grant levels may be able to be somewhat moderated.)

    c. It also leads to increased valuations for existing providers which expands sector capacity.

12. Ultimately, increased supply of social housing also has significant spillover effects, both economic and social. It supports a range of economic activity in the UK construction sector, increasing capacity to build homes of all tenures. Social housing also changes lives. A stable home helps people find and retain employment and leads to good education and health outcomes.

13. It is worth stressing that private investment and subsidy should not be confused. Subsidised housing requires subsidy in some shape or form. Expansion of supply does still require Government to invest in the Affordable Homes Programme, but what we set out is that more capacity will be there from the for-profit and not-for-profit sectors, with a longer settlement. And, without sufficient capacity in the sector a sufficiently sized affordable homes programme would go unspent – or at the very least cost more per home as increasing levels of subsidy would be needed to plug the capacity gap.

[2] Spotlight: Equity investment in affordable housing, Savills, May 2022.
https://www.savills.co.uk/research_articles/229130/328321-0

Question 1

Do you agree with our proposal that the government should set a rent policy that will remain in place for at least the next 5 years, from 1 April 2026 to 31 March 2031?

14. It is welcome that the Government is considering a more stable rental policy. As we have stated elsewhere, however, a rolling 10-year policy would support the Government's wider aspiration of growing housing supply by 1.5 million homes and expand social housing provision. A five-year settlement will simply be seen as business as usual and not a policy for sector expansion.
15. It is vital the settlement is also adhered to for its full duration. There have been multiple changes to rent policy over the past decade, despite the basic premise that any rent settlement would be in place for the long-term.
16. Key issues have been in 2015 when the then existing rent policy was ripped-up and replaced (without any signalling or consultation) with a 1% nominal fall in rents for each of the following 4 years.
17. The impact was twofold. Firstly, it wiped out a huge amount of capacity of housing associations. Secondly, it deeply undermined investor confidence in the sector insofar as the stable, 'boring' cashflows could no longer be relied upon. The impact has been one of reduced investor confidence, reduced valuations of housing stock and thereby reduced scale of investment deployed over the past 8 years.
18. Whilst for more understandable reasons given the cost-of-living crisis, the existing CPI + 1% rent increase framework was again overridden in 2022 (for increases in April 2023), which further undermined confidence in the sector. Investment into social housing is not a high return activity – generally investors are seeking alternatives to the gilt market. The trade-off for accepting low returns is stability.

Question 2

What impact would a longer settlement have, and what alternative length should a settlement be? (e.g. 7 years / 10 years?)

19. As stated, we would strongly urge a new settlement of at least 10 years.
20. This would be one way for Government to make subsidies go much further. As risks to cashflows are reduced through the settlement, the capital subsidy required per home also further reduces. It is estimated this would attract a value of up to c. £4bn to £6bn a year at the larger output levels needed which in turn can be used to increase delivery.
21. A longer-term settlement would give a clear signal that Government is supporting its housing targets with policy support.
22. It would attract more for-profit investment into the sector, flowing from greater certainty and stability.

Question 3

Would a rolling settlement of 5 years (where the 6th year is set 5 years in advance) provide additional stability or certainty?

We seek stability and therefore would support mechanisms that give the sector additional information on the trajectory of rents. A settlement would do this, if designed in such a way that CPI+1% rent increases are the default option without the need for consultation unless the government alters the settlement beyond this.

Ensuring that there is a clear trajectory would provide financial certainty for investors, lenders and housing associations.

Question 4

What impact would these alternative lengths of rent settlement have on providers' willingness and ability to invest in new and existing homes?

23. The impact would be huge. As we set out in our introductory remarks and response to question 2, the impact could be as much as £4bn to £6bn a year in additional investment, and an additional 240,000 homes, if a longer period of rent settlement was chosen.

Question 5

Are there rent policy measures that would provide confidence in the stability of our policy in the event of an inflationary spike?

24. There are lessons from the past, and from other jurisdictions.
25. The previous Government intervened to cap rents during an inflationary spike. Whilst the outcome may have been sub-optimal for the sector, with a cap of 7%, the way it was done was creditable, with an open dialogue and extensive consultation with the sector.
26. Contrast that with the experience in Scotland, where rent caps were introduced with a feeling stakeholders were not consulted, and therefore it came as a surprise, damaging investor sentiment.
27. The cap of 7% was also reached having taken account of the fact that organisations in the sector act responsibly, through their boards in balancing the needs of tenants, and other support landlords can provide to those in most need.

Question 6

Are there other steps that the government should take to build confidence in the stability of its rent policy?

28. It is important that the Government sets rents periodically taking account of a range of factors that undoubtedly will change, and consulting as is being done now. Having taken a decision in this sector, however, it is important that the Government sticks with whatever decision it makes. Intervention in previously made decisions will undermine sector stability and investor confidence in investing in the sector.
29. We have set out elsewhere in this response how a long-term rent settlement coupled with no mid-stream interventions can help support investment and reduce subsidy.

Question 7

Do you agree with our proposal that rents should be permitted to increase by up to CPI+1% per annum?

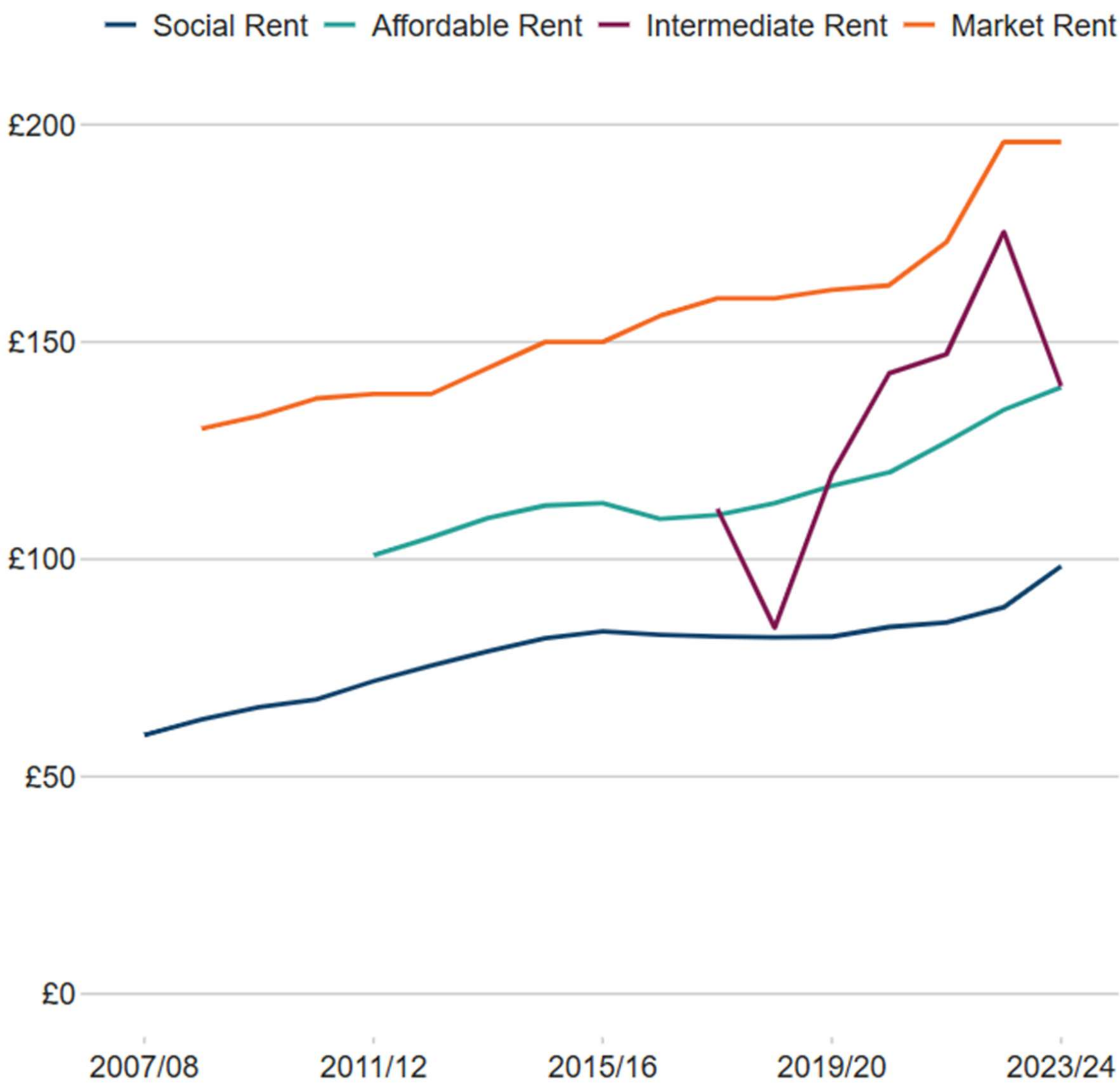
30. We support the use of CPI+1%, which has become the standard for the sector over a prolonged period now. From an investor perspective, investment in social housing is competing with other fixed-income investments, such as the gilt market, or infrastructure sectors, and so must be competitive.
31. Using CPI is also transparent, with the index independently set and readily available.
32. A rate of CPI+1% for 10 years also allows rent policy to support the wider sectors' necessity to invest in a range of significant priorities, including housing stock improvements (including improving energy efficiency), supporting building safety work, and supplying more homes.
33. We have also stressed our support for rent convergence, which is a further way of building the sector's capacity. It would also deliver greater fairness, with tenants paying equal amounts for similar properties. It would generate significantly more rental income which housing associations could reinvest into new and existing homes. It would, however, must deliver a mechanism which increased rents gradually so that no tenant would pay more than the value set by the social rent formula which is linked to local earnings.

Question 8

What do you consider would be the impact of our proposed rent policy on affordability for rent payers and the willingness and ability of registered providers to invest in new and existing homes over the next 5 years?

34. A rent settlement of CPI+1% over a period of 10 years must be seen in the context of other housing costs. As Chart 2 below illustrates the gap between market rent and social and affordable rent has been widening as market rents have risen rapidly for a few years now, as have mortgage costs.

Chart 2: Median weekly rents (£) by type 2007/08 to 2023/24



Source: Social housing lettings in England, tenancies: April 2023 to March 2024, MHCLG, Dec 24.

35. If the social housing sector expands, then having more people in social housing saves those individuals and the state money, in comparison with them being housed in the private rented sector.

36. Many households will be protected from rent increases as their rent is paid in full via the benefits system, unlike those on benefits in the private rented sector, where local housing allowance will commonly not cover total rent. However, it will still be more cost effective to the state than paying LHA rates on PRS properties.

37. Older households in the social housing sector will also see their pension rise by reference to the triple-lock.

38. Social housing providers will also target relief at those most in need, using discretionary payments.

39. A long-term rent-settlement at CPI+1% would make such a difference to delivery. It would allow private capital to support a not-for-profit sector in need of capitalisation.

40. Significant institutional investment has already been deployed in affordable housing. Approximately £10bn has been committed to the sector in just the last 5 years, by "High Street" names and FTSE 250 firms including the likes of Legal & General, M&G, Blackstone – via Sage Homes, Gresham House, Man Group and Octopus. This investment sits alongside the over £90bn lending that institutional investors have made to the traditional housing association sector.

41. As of 2023, For Profit Registered Providers (FPRPs) own more than 29,272 homes and For-Profit RPs currently account for two of the largest six developers of new social housing, driven by an increase in general needs rented homes and low-cost home ownership homes owned by FPRPs. Over the next five years, we do expect to see greater levels of activity from new entrants taking the total number of homes owned by FPRPs to c.113,000 homes in 2028. This would represent investment of c.£25bn.[3]

42. However, Institutional capital is successfully being deployed at greater scale in other housing assets; the fundamentals of investment in affordable housing are the same and (with policy tweaks suggested in this paper) the existing investment in affordable housing can reasonably be expected to be able to be scaled significantly. Notably, the purpose-built student accommodation market has grown to support 453,000 student bedspaces in the private sector, out of 719,000 bedspaces overall (266,000 being university-owned). This has been supported by investment of £86bn. The Build to Rent market for homes has grown from nothing to be the recipient of £71bn of investment in a little over a decade.

Question 9

Do you have views on other measures, outside rent policy, that could help to rebuild registered providers' capacity to invest in new and existing homes?

43. Our response is framed around capacity-building and the role private sector investment can play in that. We have also, however, stressed the importance of subsidy. Additional subsidy for the sector will be required if it is to meet the Government's housing ambitions.

44. With that in mind, we urge the Government to press ahead with its plans for the successor to the 2021-26 Affordable Homes Programme and ensure that the funding made available matches its housing ambitions. We have tried to illustrate in our response, how through a long-term approach to the rent settlement, and housing policy more generally, greater stability and certainty can mean subsidy can be made to go further.

45. We have several other suggested ways in which the Government could support greater private investment in the sector:

[3] Spotlight: Equity investment in affordable housing, Savills, May 2022.
https://www.savills.co.uk/research_articles/229130/328321-0

Subsidy

46. Government capital subsidy deployed alongside private capital reduces the housing benefit bill and delivers outstanding value for money for the public purse.

47. In addition, a long-term commitment to an affordable housing grant programme would allow institutional investors to plan capital commitments – and would help to grow the capacity of the sector to develop more affordable homes.

48. Historically, the UK has been focussed on providing subsidy either through grant, via housing benefit, or indirectly through section 106 planning obligations. Whilst all subsidy is essential, and very welcome, we would strongly recommend reviewing other mechanisms that have been successfully deployed globally., for example, the US Low-Income Housing Tax Credit.

49. Most immediately, we would note that long-term institutional investors still cannot access the debt guarantee schemes that housing associations have been able to for nearly a decade. For new entrants, the impact can be a radical increase in new affordable housing delivery, often either with no or significantly lower levels of capital grant being required.

Fiscal support for investment

50. FPRPs are treated differently by government to traditional housing associations with the outcome that equity investment in affordable housing can be less attractive to institutions than other housing assets and that capital subsidies required by FPRPs are likely to increase as a consequence.

SDLT. Most housing associations do not pay SDLT on any acquisitions, yet FPRPs only benefit from SDLT relief when using Homes England or GLA grant funding. This means that FPRPs are often less competitive when negotiating s106 acquisitions or when acquiring existing portfolios from the housing association sector. This has the odd result of less capital being engaged in the traditional housing association sector (either because they are deploying capital in s106 acquisitions because of a fiscal advantage or because sale prices of portfolio sales are reduced because of the SDLT burden). We would suggest an SDLT exemption is introduced for any (affordable?) acquisition by any RP – [thus providing SDLT relief for delivery of affordable housing rather than based on the designation of the acquiring RP]. At the margins, this could also tip land sale in favour of affordable housing as compared to (say) industrial or private housing.

Corporation Tax. FPRPs are liable for corporation tax. To avoid "double taxation" (i.e. tax payable by both the FPRP and the investor on its returns) complicated and expensive tax structures are required (for example the use of the well-established REIT regime). Efficient tax structuring to avoid double taxation is costly and specialist, presenting a barrier to entry to this market and a cost of doing business. BPF members would be keen to explore with government changes to the tax regime which reduce barriers to entry and costs of doing business.

VAT. Most FPRPs outsource housing management to the housing association sector but in doing so incur 20% VAT that is not recoverable – which is a direct "cost" to the investor. We would suggest reducing the VAT burden on management costs (which would also have the added benefit of allowing the large housing associations to devolve management to local partners).

Planning obligations and reporting requirements

51. It has become custom and practice for local planning authorities to mandate "approved" RPs that can acquire s106 stock. This is not a feature of the NPPF and in some cases the list of "approved" providers is nonsensical (for example lists are not maintained nor are they subject to review). The need for new entrants to negotiate variations to or exemptions from these clauses is hugely time consuming and in an increasing number of cases this means that completed social housing is remaining empty whist either clauses are renegotiated, or a planning authority refuses to engage. We are aware that in some cases it is even preventing new phases of developments from proceeding because of a planning obligation for affordable housing to be occupied. It is our view that there is no planning need for "approved" RPs and developers should be free to pass s106 stock to any RP.

52. Similarly, many s106 agreements require proceeds of sale (e.g. on staircasing of shared ownership) to be recycled by the RP in that local authority area. Again, we see no basis for such clause in the NPPF and they strongly discourage investment.

53. Finally, both Homes England and GLA grant agreements impose material reporting obligations on RPs and whilst we accept that where public money is used that recipients necessarily need to be accountable for it but we question the value of the quantum of data collection and suggest that the obligations be refocused on the outcomes that grant is intended to achieve.

Question 10

Do you have any comments on the detail of the draft direction and policy statement that are not covered by your responses to the previous questions?

54. We have comments on the policy statement in Annex B that are set our below:

2.27	Some tenants enjoy 'fair rent' protections. The principles set out above are subject to 'fair rent' requirements. If the 'fair rent' set by the rent officer is lower than the rent that would otherwise be permissible under this policy the tenant must not be charged more than the 'fair rent'. However, 'fair rent' may not be charged if it exceeds the rent permissible under the above policy.	Clarify that the "rent under this policy" is Formula Rent plus flexibility.	Some tenants enjoy 'fair rent' protections. The principles set out above are subject to 'fair rent' requirements. If the 'fair rent' set by the rent officer is lower than Formula Rent plus permitted flexibility, the tenant must not be charged more than the 'fair rent'. However, 'fair rent' may not be charged if it exceeds Formula Rent plus permitted flexibility under the above policy.
2.29	The rents of properties previously let at Social Rent must continue to be set in accordance with the principles set out in this chapter on re-	Clauses 2.29 and 2.30 create ambiguity because they are not aligned in their message.	Propose removal of clause 2.29, or list all classifications that Social Rent units may not be converted to.

2.30	let. This applies even if, before the property is re-let, a higher rent was being charged to tenants with high incomes (see chapter 4). In particular, Social Rent properties may not be converted to: (a) market rent (other than in the circumstances set out in chapter 4); or (b) intermediate rent.	Clause 2.29 says that Social Rent must continue to be set in accordance with Formula Rent upon re-let. However, clause 2.30 only includes two examples of which Social Rent units may not be converted to (market rent and Intermediate Rent). This creates ambiguity because on the one hand there is a requirement to maintain Social Rent status for unit upon relet, but then there are only two example of particular classifications that such units may not be converted to.	
To note		Formula Rent being the floor for Affordable Rent has been removed. This will negatively impact supported housing providers in some cases.	Reinstate: 3.8 An affordable rent should be no lower than the potential formula rent for the property. In cases where the rent would be lower than the formula rent, the formula rent constitutes a floor for the rent to be charged.
3.18	Affordable Rent housing must not be converted (including at re-let) to: (a) market rent (other than in the circumstances set out in chapter 4); or (b) intermediate rent.	This clause creates ambiguity about whether Affordable Rent units can be converted to other classifications which are not listed.	List all classifications that Affordable Rent units may not be converted to.