



Department for
Communities and
Local Government

Consultation on Protecting Local Authority Leaseholders from Unreasonable Charges

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About this Consultation

Scope of the consultation

Topic of this consultation:	The consultation is on a proposal to update the Mandatory Directions to councils to include in the programmes described in the 1997 Directions all central government funding for repair, maintenance or improvement, including Decent Homes Grant from the 2013 Spending Review. The proposal is to have a £10,000 cap on leaseholder works on homes outside London, and £15,000 on homes within London.
Scope of this consultation:	This consultation seeks views on the proposal, and invites consultees to comment as well as respond to specific questions.
Geographical scope:	England
Impact Assessment:	There is no Regulatory impact on the private sector and no impact assessment has been prepared.

Basic Information

To:	This consultation is directed at councils which may bid for future central government assistance for works of repair, maintenance or improvement, provided by the Secretary of State or the Homes and Communities Agency. This will include those councils eligible for the 2015/16 Decent Homes funding announced as part of the Spending Round 2013. Other interested bodies would be leaseholders whose homes may be included in such works programmes, the Local Government Association, London Councils, Leasehold Advisory Service (LEASE), Homes and Communities Agency (HCA), Greater London Authority (GLA), Local Government Association (LGA) Chartered Institute of Housing (CIH)
Body/bodies responsible for the consultation:	This consultation is being run by the Department for Communities and Local Government (DCLG).
Duration:	This consultation will run for six weeks from 7 October until 18 November.
Enquiries:	Please contact leaseholdmandatorydirections@communities.gsi.gov.uk ;
How to respond:	By e-mail to Address leaseholdmandatorydirections@communities.gsi.gov.uk ;

	<p>Or by post to:</p> <p>Sally Hunt Department for Communities and Local Government Zone 1/E1 Eland House Bressenden Place London SW1E 5DU</p>
Additional ways to become involved:	Should a particular group want to meet and discuss the proposed changes, this may be arranged by emailing the address above
After the consultation:	DCLG will analyse consultation responses and take them into account in future bidding and allocation processes. This will include funding awarded for Decent Homes in the 2013 Spending Round
Compliance with the Code of Practice on Consultation:	<p>This consultation document and consultation process adhere to the Government's consultation principles, these can be found at: https://www.gov.uk/government/publications/consultation-principles-guidance</p> <p>Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).</p> <p>If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.</p> <p>The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be acknowledged unless specifically requested.</p> <p>Your opinions are valuable to us. Thank you for taking the time to read this document and respond.</p> <p>If you have any observations about how we can improve the process please contact: DCLG Consultation Co-ordinator Department for Communities and Local Government Zone 6/H10 Eland House</p>

	Bressenden Place London SW1E 5DU Or by email to: Consultationcoordinator@communities.gsi.gov.uk
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Ministerial Foreword

Ministers are well aware of the profound effect high charges for major works can have on leaseholders. Recent press reports have highlighted isolated cases of wholly unjustified demands on leaseholders. I want to be sure that all such future Government funded programmes come with protections for local authority leaseholders. Of course, leaseholders must pay their fair share of costs to maintain their homes, and they should pay as required under the terms of their lease but I, and the Minister for Housing, do want to limit any excessive claims on these owner occupiers.

There are Directions for the mandatory reduction of service charges to social landlords that cap leaseholder charges to £10,000 for specific programmes where Government has funded repair or regeneration. These Directions date back to 1997 and they were last extended in 1999 to take account of funding available through the Private Finance Initiative. They only relate to specific, named, programmes.

I now propose to update the Mandatory Directions to include all future central government assistance for works of repair, maintenance or improvement, provided by the Secretary of State or the Homes and Communities Agency, and the most immediate funding affected will be the Decent Homes grant announced in the 2013 Spending Review. There are also Directions for the discretionary reduction of service charges relating to Government programmes listed in the Directions.

The consultation includes drafts of the new Directions.

You will see that the proposal is that there should be two caps: £15,000 for homes in London and £10,000 for homes outside of London. This acknowledges the higher prices in the capital, and that the nature of the stock, with many homes in tower blocks, makes it more expensive to repair and maintain.

I welcome your comments on the proposed changes to the Directions.

A handwritten signature in black ink that reads "Eric Pickles". The signature is written in a cursive style with a blue ink flourish at the end of the name.

Rt Hon Eric Pickles
Secretary of State for Communities and Local Government

Intended changes

1. Since the 1997 Mandatory Directions were issued, Government has continued to provide very significant funding for council homes, but the last time these were updated to include other investment programmes was in 1999, when the Private Finance Initiative (PFI) was added. We now intend to include all future government funding for repair, maintenance or improvement. This will include the Decent Homes funding announced as part of the 2013 Spending Review. The Decent Homes Programme has brought much needed investment to council homes and improved the assets of councils and their tenants and leaseholders alike. However, leaseholders may sometimes have difficulty in paying their share of the costs, and we want to ease this as far as possible.
2. Directions for the mandatory reduction of service charges were introduced in 1997 and extended in 1999, capping leaseholder charges where Government was contributing to the cost of these particular programmes. This was to protect leaseholders against charges for amounts and within time scales they could not reasonably be expected to meet.
3. Ministers intend that all future central government assistance for works of repair, maintenance or improvement, provided by the Secretary of State or the Homes and Communities Agency is included in the Directions. DCLG is now consulting on drafts which update the Directions to include such funding. The proposal is that there should be two caps: £15,000 for homes in London and £10,000 for homes outside London. This acknowledges the higher prices in the capital, and that the nature of the stock, with many homes in tower blocks, makes it more expensive to repair and maintain.

Question 1: Do you believe that the right balance will be struck between the interests of leaseholders and those of the councils and their other residents if:

- A. We update the Mandatory Directions as proposed, and;**
- B. we update the Discretionary Directions as proposed?**

Decent Homes funding

4. These caps are not intended to affect any funding already confirmed, but would affect any allocations made from the 2013 Spending Round Decent Homes funding.
5. For that funding, only councils which have more than 10% of stock non decent should be eligible to bid, and if successful, they will only receive sufficient funding from Government to reduce the number of non decent homes to 10% of the stock.
6. This is the tail end of the Decent Homes Programme, and almost all councils have achieved the Decent Homes Standard over the last 10 years. At this stage, there should be few localities where the stock needs significant “catch up repairs”, and we do not expect the proposed extension to the Directions to have an adverse effect on councils completing the Programme.

Question 2: Do councils eligible to bid for Decent Homes Funding have evidence that a cap of £10,000 outside London, or £15,000 in the capital will prevent them achieving the Decent Homes Standard on homes where the works are part or wholly funded by Government?

Question 3: If a council believes that it would have to cap the leaseholder charges, how much of the costs will be borne by the council, and how would it pay for this?

Draft Directions

7. Draft Directions for the discretionary reduction of service charges have also been prepared. These Directions extend the Social Landlords Discretionary Reduction of Service Charges (England) Directions 1997 so that it also applies to future central government assistance for works of repair, maintenance or improvement, provided by the Secretary of State or the Homes and Communities Agency enabling a social landlord to reduce service charges to an amount that is less than the mandatory cap in circumstances where this is considered appropriate.
8. Drafts of the proposed extensions are in the Appendix.

Question 4: Are there any other comments on the draft Mandatory and Discretionary Directions?

Appendix

Draft Directions for the Mandatory and Discretionary Reduction of Service Charges

The Social Landlords Discretionary Reduction of Service Charges (England) Directions 2013

The Secretary of State for Communities and Local Government makes the following Directions in exercise of the powers conferred by sections 219 and 220 of the Housing Act 1996.

Citation, commencement and application

1.—(1) These Directions may be cited as the Social Landlords Discretionary Reduction of Service Charge (England) Directions 2013 and shall come into force on XXXX 2013.

(2) These Directions shall apply to social landlords making a service charge which is—

- (a) payable by a lessee in respect of a dwelling in England; and
- (b) for the costs of repair, maintenance or improvement undertaken wholly or partly with relevant assistance from a programme specified in the Schedule to these Directions.

Interpretation

2. In these Directions—

“the 1997 Discretionary Direction” means the Social Landlord Discretionary Reduction of Service Charges (England) Directions 1997”;

“London authorities” means—

- (i) a London borough council; and
- (ii) the Common Council of the City of London; and

other terms used in these Directions have the same meaning as set out in sections 219 and 220 of the Housing Act 1996.

Extension of the 1997 Directions

3.—(1) For the purpose of service charges made after the date these Directions come into force, the total sum referred to paragraph 5 of the 1997 Discretionary Direction shall be—

- (i) £15 000 for dwellings situated within a London authority; and
- (ii) £10 000 for dwelling not situated within a London authority.

(2) In the Schedule to the 1997 Directions, the following shall also be regarded as Government Assistance Programmes and the 1997 Direction shall apply to these programmes where an application is received after the date these Directions come into force—

- (a) the 2013 Spending Round Decent Homes Funding; and
- (b) any other assistance for the specific purpose of carrying out works of repair, maintenance or improvement provided by—
 - (i) the Secretary of State ; or
 - (ii) the Regulator of Social Housing.

Signed

Date

The Social Landlords Mandatory Reduction of Service Charges (England) Directions 2013

The Secretary of State for Communities and Local Government makes the following Directions in exercise of the powers conferred by sections 219 and 220 of the Housing Act 1996.

Citation, commencement and application

4.—(1) These directions may be cited as the Social Landlords Mandatory Reduction of Service Charges (England) Directions 2013 and shall come into force on XXXXX 2013.

(2) These Directions shall apply to social landlords making a service charge which is—

- (a) payable by a lessee in respect of a dwelling in England; and
- (b) for the costs of repair, maintenance or improvement undertaken wholly or partly with relevant assistance from a programme specified these Directions.

Interpretation

5. In these Directions—

“London authorities” means—

- (i) a London borough council; and
- (ii) the Common Council of the City of London;

“programme” means the programmes set out in the Schedule;

“relevant assistance” means that part of a grant or other financial assistance of any kind from any programme which is used for the costs of works of repair, maintenance or improvement; and

other terms used in these Directions have the same meaning as set out in sections 219 and 220 of the Housing Act 1996.

Mandatory reduction of service charges

6.—(1) Subject to paragraph (2), where—

- (a) a social landlord makes service charges in respect of the costs of repair, maintenance or improvement which have been or are to be undertaken wholly or partly with relevant assistance; and
- (b) such service charges and any services charges which the social landlord proposes subsequently to make for costs incurred in respect of such works to the same dwelling in any period of five years exceed a total sum (“the total sum”) of—
 - (i) £15 000 for a dwelling situated within a London authority; and
 - (ii) £10 000 for a dwelling not situated within a London authority;a social landlord shall reduce such charges in that period of five years to the total sum.

(2) Where the maximum service charge to be made in respect of the same dwelling in any period of five years for the costs of works of repair, maintenance or improvement undertaken wholly or in part with relevant assistance is—

- (a) specified in an application for assistance from a programme as a sum below—
 - (i) £15 000 for dwellings situated within a London authority; and
 - (ii) £10 000 for dwelling not situated within a London authority;
- (b) the application is approved; and

- (c) the Secretary of State agrees that the maximum service charge will be the sum specified in the application or such other sum below—
- (i) £15 000 for dwellings situated within a London authority; and
 - (ii) £10 000 for dwelling not situated within a London authority;
- the social landlord shall reduce any service charge so that it does not exceed the agreed amount.

Signed XXXXXXXX

Date XXXXXXXX

SCHEDULE

Programmes

Programme means—

- (a) the 2013 Spending Round Decent Homes Funding; and
 - (b) any other assistance for the specific purpose of carrying out works of repair, maintenance or improvement provided by—
 - (i) the Secretary of State ; or
 - (ii) the Regulator of Social Housing.
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