



## RENT POLICY

Date Reviewed	March 2023	Next Review Date	January 2024
Consultation	Completed	Reviewed By	Director of Finance
EIA	As part of rent cap consultation and budget	Responsible Officer	Chief Executive
DPIA	NA	Approval By	BCHG Board

### 1. Purpose

The purpose of this policy is to set out on how rents are calculated for Black Country Housing Group (BCHG) properties in accordance with regulation, legislation and our constitution and charitable status.

As a 'Social Business investing in people and communities' we aim to provide affordable accommodation, which is an important investment in the people and communities we serve.

For tenants our annual rent increase is effective from the first Monday of each April and is charged across a 52 week period. For shared owners our annual rent increase is effective from the date as per their lease agreement and is charged across the year.

Rent setting is based on a relationship of trust and our approach is to embed our core values in the following ways:

- **We not me** – rent changes proactively explained and consulted on with tenants.
- **We do what we say we will** – keep our communication and explanations clear and simple.
- **We care** – treat our tenants with respect and empathy.
- **We do the right thing** – set rents in line with regulation and legislation.
- **We love to learn** – ensure our colleagues are well trained and remain up to date with developments in government policy changes.

### 2. Scope

This policy applies to supported living, retirement living and general needs tenancies and covers social, affordable, shared ownership, intermediate and secure (registered) rents across our tenures.

This Policy does not apply to the setting of charges or fees for our Residential Care Homes.

This Policy is effective for all rents from April 2023 onwards.

### 3. Definitions

Social Rents include rents charged under the following tenancies:

- Assured
- Starter
- Fixed term (excluding those built with Affordable Rents Programme)

Properties acquired under the former Mortgage Rescue scheme will be reported as Intermediate Rents and let at 80% of Market Rent plus any relevant service charge.

Affordable rents are charged at 80% of Market Rent

### 4. Related Policy / Procedure and other Documents

Lettings Policy

Homes England Funding Agreements

Development Procedures

Rent Setting and Adjustment Procedure

### 5. Roles and Responsibilities

The Director of Finance has the overall responsibility for this Policy

Delivery of the Policy is the responsibility of the Head of Finance and the Finance team.

### 6. Policy Statement

As a 'Social Business investing in people and communities' we aim to provide affordable accommodation, which is an important investment in the people and communities we serve.

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Rent setting is based on a relationship of trust and our approach is to embed our core values in the following ways:

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## **7. Policy Details**

### **7.1 Data Processing**

*All data in relation to rents linked to tenancies is held on the core housing system of BCHG and processed in accordance with our Data Protection Policy.*

*Non personal data in relation to core property rents is held separately. This includes source data for 1999 rents used for calculation of Social Rents*

### **7.2 Legal and Regulatory Considerations**

- Rent Act 1977
- Landlord and Tenant Act 1985
- Housing Act 1988
- Policy Statement on Rents for Social Housing (as updated December 2022)
- 2020 Rent Standard
- 2023 Rent Standard
- Welfare Reform & Work Act 2016

The Regulator for Social Housing's 2023 Rent Standard (Rent Standard) requires Registered Providers to charge Social and Affordable Rents in accordance with the Government's Policy Statement on Rents for Social Housing (Rent Policy Statement).

Supported Housing (as defined in paragraphs 2.39 and 2.40 of the Rent Policy Statement – see section 6 below) is exempt from the 2023 Rent Standard and should continue to be set in accordance with the 2020 Rent Standard. The 2020 also requires Registered Providers to charge Social and Affordable Rents (as applicable) in accordance with the Rent Policy Statement

The Rent Policy Statement sets out the rent setting framework for Social and Affordable Rents, and limits annual rent increases to the Consumer Price Index (CPI) plus 1% (subject to a cap of 7% increase for existing general needs tenants in April 2023).

### **7.3 Equality Diversity & Inclusion**

The Rent Policy ensures that BCHG charges rents in line with regulation, statute and contract and ensures that affordable rents are charged that are fair for all.

### **7.4 Policy Detail**

#### **7.4.1 Exemptions from the Rent Standard**

There are a number of property types that are exempt from the Rent Standard including Care Homes, Specialist Supported Housing, Temporary Social Housing, Shared Ownership (including those with a Secure tenancy) and Intermediate Rents (as defined in Chapter 5 of the Rent Policy Statement).

The setting of charges and fees for our Residential Care Homes is not covered by

this policy.

Rents for Shared Ownership and Rent to Buy properties will be set in accordance with the specific terms of the relevant agreements and any funding conditions.

Shared Ownership properties with a Secure tenancy are subject to the Rent Act 1977 and have their rents set every two years by the VOA Fair Rents Officer.

#### **7.4.2 Rent Flexibility Levels**

The Rent Policy Statement contains flexibility for registered providers to set rents at up to 5% above formula rent for general needs properties and up to 10% above formula rent for supported housing. Tolerances cannot be used for affordable rent properties.

The Rent Policy Statement states that landlords making use of upward tolerances must have a 'clear rationale' for doing so, having regard to local circumstances and affordability.

Therefore, the Board will annually consider carefully the aims, objectives and obligations of BCHG and whether it is necessary and appropriate to apply a tolerance. If so, the level of tolerance will also be determined having regard to local circumstances and affordability.

"Supported Housing" is defined in the Rent Policy Statement as: -

*"low cost rental accommodation provided by a registered provider that:*  
*(a) is made available only in conjunction with the supply of support;*  
*(b) is made available exclusively to households including a person who has been identified as needing that support; and*  
*(c) falls into one or both of the following categories—*  
*(i) accommodation that has been designed, structurally altered or refurbished in order to enable residents with support needs to live independently; and*  
*(ii) accommodation that has been designated as being available only to individuals within an identified group with specific support needs.*

*For the purposes of this definition, 'support' includes:*

- sheltered accommodation*
- extra care housing*
- domestic violence refuges*
- hostels for the homeless*
- support for people with drug or alcohol problems*
- support for people with mental health problems*
- support for people with learning disabilities*
- support for people with disabilities*
- support for offenders and people at risk of offending*
- support for young people leaving care*
- support for teenage parents*
- support for refugees"*

Having reviewed our properties, it is BCHG's position the definition of "Supported Housing" includes our Retirement Living and Supported Living accommodation.

Where an existing tenant's rent exceeds the rent flexibility level, the annual rent increase must not be any more than CPI, (or 7% for April 2023 increases) until the rent is brought back to within the rent flexibility level.

Upon first and re-let of properties, rent will be set at formula rent (this to have been increased by the full CPI+1% (11.1% for 2023) plus the rent flexibility level, subject to rent caps (which will continue to be increased by CPI+1.5% annually).

### **7.4.3 Rents for Social Tenants with High Incomes**

The Policy Statement states: -

*"The government does not expect registered providers to adhere to its social rent and affordable rent policy requirements in relation to social tenants with high incomes."*

The Board has carefully considered the Government's expectation and chooses not to exercise the right to charge a full market rent where a social tenant household has an annual income of at least £60,000 because a) having carried out research the likely number of tenants is very low b) the cost and difficulties in managing such a scheme c) the likely reaction of BCHG's tenants, partners and stakeholders.

### **7.4.4 Rent Caps**

BCHG will not set any rent above the level of rent caps as shown in the table below. Note that these rent caps will continue to increase by September CPI+1.5% annually (11.6% for 2023/24).

<b>No. of Bedrooms</b>	<b>Rent Cap 2023/24</b>
1 and bedsits	£173.79
2	£184.00
3	£194.22
4	£204.43
5	£214.66
6 or more	£224.87

### **7.4.5 Social Rents**

Social Rents include rents charged under the following tenancies:

- Assured
- Starter
- Fixed term (excluding those built with Affordable Rents Programme)

In all cases, rent increases are subject to the terms and conditions of a particular tenancy agreement, but are also subject to legislative and regulatory provisions as summarised in this policy.

Social rent properties may not be converted to market or intermediate rent products. They may be converted to Affordable Rent properties if this is in accordance with an agreement with Homes England.

Service charges are added in addition to the rent and are subject to BCHG's Service Charge Policy.

#### Annual Rent Increases 2020/21 – 2024/25

For the 2020/21 financial year the maximum weekly rent for an existing tenancy was the '2020 limit', subject to the rent cap.

The 2020 limit was the rent in place as at the end of the 2019/20 financial year, increased by September (2019) CPI+1%.

For the five year period from 2020 Social Rent charges using the 2020 limit can be increased by no more than the rate of inflation using the CPI reported for September of each year plus 1%, or for rent increases in April 2023, 7%.

Where an existing social tenancy rent exceeds the Rent Flexibility level, an annual rent increase of no more than CPI can be applied until the rent is brought back within the rent flexibility level, or for rent increases in April 2023, 7%.

#### Rent setting on re-let rents

Rents for new tenants will be set based on formula rent (as defined in the Rent Policy Statement) plus the relevant rent flexibility level (as determined by BCHG's Board), subject to rent caps.

#### **7.4.6 Supported Housing Rents**

Properties which meet the definition of Supported Housing (see section 6 above) are exempt from the 2023 Rent Standard and should continue to be set in accordance with the 2020 Rent Standard.

BCHG Board has considered its ability to apply a rent increase of up to September CPI+1% (11.1%) in April 2023 and has concluded that the exemption will be disregarded on the basis that a significant proportion of tenants are not in receipt of benefits.

The 7% cap will therefore also be applied for Supported Housing so that these tenants can also benefit from the protections that the rent cap provides.

#### **7.4.7 Registered Rents**

Tenancies that began before 15<sup>th</sup> January 1989 remain 'secure' with a 'fair rent' set by an independent Rent Officer of the Valuation Office Agency every two years. The Rent Officer will determine a maximum rent that can be charged and will take regard of the property age, character locality and local rents.

In the case of tenancies subject to fair rent protection, the maximum weekly rent is the lower of the fair rent set by the Rent Officer, and formula rent (subject to allowing for both the rent caps and the rent flexibility level).

#### Annual Rent Increases 2020/21 – 2024/25

For tenants with fair rent protection BCHG will not increase the rent by more than CPI+1% in any year (even if the tenant's rent is below the social rent level and the maximum fair rent is increased by more than that amount). For rent increases during 2023/24 this increase is limited to 7%.

The maximum fair rent to be charged cannot exceed the fair rent set by the fair rent officer at any time.

For Shared Ownership properties, a 'fair rent' will be set by the VOA every two years and this increase will be applied in full. (The Fair Rent officer will have applied the Maximum Fair Rent calculation which is taking the existing registered rent multiplied by a figure (based on the change to the Retail Price Index from the last registration to the current registration) plus 5%, then rounded up to the next 50 pence.)

#### Rent setting on re-let rents

Where a tenancy subject to fair rent protection ends and the property is re-let, social rent or affordable rent (where applicable) will be charged to the new tenant.

Where a tenant with a secure tenancy moves to another property, the secure tenancy is retained. An application should be made to the Fair Rent Officer for a new fair rent to be set and in the meantime the rent is set at a level equivalent to social rent. Where the rent set by the Fair Rent Officer is lower, the lower rent will be charged from the Effective Date set by the VOA. Where the rent is higher, BCHG will increase the rent from the following April, up to the lower of the rent determined by the VOA and the maximum annual increase permissible by the Rent Standard.

#### **7.4.8 Affordable Rents**

Affordable rent tenancies may not be converted to market or intermediate rent products.

In all cases, rent increases are subject to the terms and conditions of a particular tenancy agreement, but are also subject to legislative and regulatory provisions as summarised in this policy.

Service charges are included in an affordable rent.

Rents (inclusive of service charges) for homes developed or converted under the Affordable Rents Programme will be set at no more than 80% of the gross Market Rent (inclusive of service charges) in accordance with the Regulator's Guidance.

New developments will have an affordability assessment by a qualified RICS

surveyor completed for the specific location, taking account of the Market Rents for the area, demand for property types in the location and the Local Authority's view on affordability.

#### Annual Rent Increases 2020/21 – 2024/25

For the 2020/21 financial year the maximum weekly rent for an existing tenancy was the '2020 limit'.

The 2020 limit was the rent in place as at the end of the 2019/20 financial year increased by September (2019) CPI+1%.

For the five year period from 2020 Affordable Rent charges using the 2020 limit can be increased by no more than the rate of inflation using the CPI reported for September of each year plus 1%, or for rent increases in April 2023, 7%.

#### Rent setting on re-let rents

On re-let to a new tenant, a new Affordable Rent (inclusive of service charges) will be set based on 80% of gross market rent. Market rent will be determined by obtaining a RICS valuation that takes into account the property size, location and services. A full valuation may not be required if there are adequate affordable rent comparables available such as other recent valuations.

Where a proposed affordable rent is lower than formula rent (pre any rent flexibilities) BCHG is entitled and will charge a formula rent with any relevant service charge added on top of this.

Where an affordable rent is being re-let to an existing tenant as a result of a probationary period or a fixed term period coming to an end, the rent must not be re-set.

#### **7.4.9 Intermediate Rents (Former Mortgage Rescue Properties)**

Properties acquired under the former Mortgage Rescue scheme will be reported as Intermediate Rents and let at 80% of Market Rent plus any relevant service charge.

#### Annual Rent Increases 2020/21 – 2024/25

The annual increase will track that of Affordable Rent and therefore be increased by no more than the rate of inflation using the CPI reported for September of each year plus 1%, or for rent increases in April 2023, 7%.

#### Rent Setting on re-let rents

On re-let to a new tenant, a new Intermediate Rent will be set based on 80% of gross market rent, plus any relevant service charge. Market rent will be determined by obtaining a RICS valuation that takes into account the property size, location and services. A full valuation may not be required if there are adequate affordable rent comparables available such as other recent valuations.



#### **7.4.10 Communicating with residents**

Residents will receive at least four weeks' notice of a rent review in accordance with the terms of their tenancy agreements. The rent review letter will meet statutory requirements on format and content.

Tenants requiring notice of a rent increase via a Form 4 in accordance with section 13 of the Housing Act 1988 will receive at least one month's notice.

#### **7.4.11 Complaints and appeals**

Any assured fixed term or assured periodic tenant on either Affordable or Social Rent who feels that their rent has not been set in accordance with this policy can appeal using the complaints procedure.

Where the terms of an assured tenancy agreement do not include a contractual rent review clause and the tenancy is a periodic tenancy then under section 13 of the Housing Act 1988, tenants have the right of appeal to a First Tier Tribunal (Property Chamber) (formerly Rent Assessment Committee) (the "Tribunal") if they feel the proposed rent for an assured tenancy is too high. The Tribunal can only set a market rent for the property.

Secure tenants have a right to appeal to the Tribunal against the fair rent registered. This must be done within 28 days of the re-registration.

A decision of the Tribunal is subject to appeal to the Upper Tribunal (Lands Chamber), within 28 days of the issue of the Tribunal's reasons for its decision, although seeking permission to appeal does involve a cost to the appellant. Appeals may be accepted on legal grounds (process and procedure rather than valuation opinion) at the discretion of the Upper Tribunal.

### **8. Compliance, Monitoring & Reporting**

Any non-compliance with this policy will be reported to the next BCHG Board as it has the potential to create non compliance with the Rent Standard. If this is the case then the Regulator for Social Housing will also be informed.

The Implementation of the policy will be reviewed annually through the rent setting process and agreed by BCHG Board and be subject to regular internal audit.

Any breach of data protection will be reported to the Information Commissioners Office.