

RENT SETTING POLICY

Date Reviewed	January 2022	Next Review Date	January 2023
Reviewed By	Director of Finance	Approval By	BCHG Board
Equality Impact Assessment	N/A	Responsible Officer	Chief Executive
Distribution	Extranet/Teams/Schemes	Version No.	07

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:

- **Integrity** – to set rents in line with regulation and legislation
- **Positivity** – rent changes proactively explained to tenants by our colleagues
- **Respect** – communicate effectively to meet the diverse needs of our tenants
- **Quality** – keep our communication and explanations clear and simple

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 2021 onwards.

3. Related Policy / Procedure and other Documents

Lettings Policy

Homes England Funding Agreements
Development Procedures
Rent Setting and Adjustment Procedure

4. Legal and Regulatory Framework

- Rent Act 1977
- Landlord and Tenant Act 1985
- Housing Act 1988
- Policy Statement on Rents for Social Housing 2019
- Rent Standard 2020
- Welfare Reform & Work Act 2016

The Regulator for Social Housing's Rent Standard 2020 (Rent Standard) requires Registered Providers to charge Social and Affordable Rents in accordance with the Government's Policy Statement on Rents for Social Housing 2019 (Rent Policy Statement).

The Rent Policy Statement sets out the rent setting framework for Formula and Affordable Rents, and limits rent increases to the Consumer Price Index (CPI) plus 1% (subject to a rent cap).

5. 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.

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.

6. 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 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 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, until the rent is brought back to within the rent flexibility level.

Upon re-let no rent will be set at a level that exceeds formula rent plus the rent flexibility level, subject to rent caps.

7. 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 in considering this policy 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.

8. 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 increase by September CPI+1.5% annually.

No. of Bedrooms	Rent Cap 2019/20	Rent Cap 2020/21	Rent Cap 2021/22	Rent Cap 2022/23
1 and bedsits	£141.43	£145.96	£148.88	£155.73
2	£149.74	£154.53	£157.62	£164.87
3	£158.06	£163.12	£166.38	£174.03
4	£166.37	£171.69	£175.12	£183.18
5	£174.69	£180.28	£183.89	£192.35
6 or more	£183.00	£188.86	£192.64	£201.50

9. 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%.

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.

Rent setting on re-let rents

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

10. Registered Rents

Tenancies that began before 15th 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).

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.

11. 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%.

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.

12. 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%.

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.

13. 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.

14. 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.