

## Rent Policy

**Date written:** December 2017

**Date(s) reviewed:** July 2018

January 2019

January 2020

January 2021

**Policy Summary Statement:** Methods used to set, and review rents vary depending upon the type of tenancy and any specific agreements associated with the provision of the property. Rents are set annually by the Board and will comply with statutory and regulatory requirements. The majority of rents will be charged weekly and in accordance with the relevant tenancy agreement.

The Group will comply with any Government and Regulatory Standards around rent setting; including the most recent Rent Standard issued by the Regulator of Social Housing (RSH) in February 2020, effective from 1 April 2020.

Rents for properties are reviewed and set annually as part of the Group's annual budget process. This rent policy is effective for all rents charged from 1 April 2021.

**Review:** This policy is to be reviewed annually and may be subject to earlier revision in the case of regulatory or legislative change.

**Objective:** To set and review rents in compliance with all relevant statutory and regulatory requirements.

**Scope:** The rent policy covers rent setting and rent review arrangements for all Bernicia properties and is relevant to all tenancies (including leases) where a rental interest is charged.

**Background:** The Bernicia Rent Policy was based upon RSH's 2015 Rent Standard and reflected revisions introduced in 2016 following the implementation of the Welfare Reform and Work Act 2016 and the merger with Four Housing. The Act required registered social housing providers to reduce the rent payable by a tenant by 1% annually for four years from April 2016.

In February 2019 the Ministry of Housing, Communities and Local Government (MHCLG) issued a Policy Statement which set out the government's policy on rents

for social housing from 1 April 2020 onwards. The new policy permits annual rent increases of up to CPI+1% on both social and affordable properties from 2020 for a period of at least 5 years.

MHCLG's policy statement was used to inform the Regulators 2020 Rent Standard.

Unless stated otherwise, any reference to rent within this document does not include service charges or water rates and only refers to the Formula Rent previously referred to as Target Rent.

**Date for review:** 1<sup>st</sup> January 2022

**Responsibility:** Executive Director, Finance

## Policy Details

### 2020 LIMIT

In the year following the end of the Social Rent reduction period, the maximum weekly rent for an existing tenant is the "2020 limit".

The 2020 limit is the average weekly rent for the tenant's accommodation in the fourth relevant year specified in section 23(6) of the WRWA 2016 increased by CPI+1%.

The 2020 limit applied to both social and affordable rent housing and was only with regards to rents set and charged during 2020/21.

### RENT REGIMES

The different rent regimes which underpin this Rent Policy are:

#### Social (Formula) Rent

**Setting** - Assured social rents are subject to the Regulator of Social Housing (RSH) Rent Standard. As set out in MHCLG's Policy Statement on Rents for Social Housing 2019 and RSH 2020 Rent Standard, the formula used to calculate a weekly Social (Formula) Rent uses data from January 1999:

- 70% of the national average rent
- Multiplied by relative county earnings
- Multiplied by bedroom weighting

Plus

- 30% of the national average rent
- Multiplied by the relative property value

These values have been defined by the Regulator in the Rent Standard (and previous rent restructuring guidance) and have been used as the base in our rent calculations. Each year, from 1999 to March 2016, the sector rent was increased by the relevant

inflation index + 1% in accordance with the Rent Standard. From April 2016, the sector rent was reduced by 1% with the exception of properties that were covered by a full or partial exemption from the social rent requirements of the WRWA 2016. In these cases, increases of CPI+1% were applied in each of the allowable years.

The rent set may include an upwards tolerance “Rent Flexibility”:

- If the accommodation is supported housing, including temporary social housing up to 10% of formula rent; or
- If the accommodation is not supported housing, up to 5% of formula rent

If applying this flexibility, providers must ensure that there is a clear rationale for doing so which takes into account local circumstance and affordability.

Bernicia will carry out an affordability assessment at the beginning of each rent setting round (October/November). This assessment will take into account both local market rents at post code beacon level and average earnings (as published by the Office of National Statistics) at Local Authority level in determining affordability.

The results of the assessment will be considered by the Director of Housing and will inform the rent levels set for the forthcoming period. The results will also be presented to Board along with the rent plan for approval.

**Increases** – The weekly rent of any existing tenant may not be increased by more than:

- CPI+1% in any year; or
- If the tenant’s rent exceeds the rent flexibility level, CPI in any year.

Formula rents are also subject to rent caps each year to ensure continued affordability to tenants in high property value areas. The rent cap is the upper limit which associations can charge for a property irrespective of its formula rent, so if the formula exceeds the capped rent, then the capped rent is charged. The rent cap varies by number of bedrooms, but not by location or value of property. The rent caps are published each year by the Regulator.

At the end of each tenancy the property shall be relet at the formula + flexibility subject to the results of the affordability assessment.

## **Affordable Rent**

To support an RP’s development programme, some Assured tenancies can be let on affordable rent terms. These rents are set at a level which is no more than 80% of the estimated market rent for the accommodation (including all service charges) based on a valuation in accordance with a method recognized by the Royal Institute of Chartered Surveyors (RICS) as required by the Rent Standard.

From October 2016, Bernicia discontinued the conversion to affordable rent tenancies. However, for the remaining current Affordable Rents, a calculation will still be required upon relet, to determine whether a further Affordable rent is charged, compared to a

Formula rent. The formula rent is deemed to be the 'floor' i.e. the rent charged should not drop below this level.

The affordable rent for each property will be re-evaluated (also known as rebased) each time the property becomes vacant using a RICS approved method. The option to re-let conversions at a social rent shall also be considered at this point. It is important to note that properties developed as Affordable units as part of a Homes England Development Programme will remain affordable units even when the Formula rent 'floor' is applied.

The total Affordable Rent amount will include any housing benefit eligible service charges within it. Non-housing benefit eligible service charges will be charged in addition. Where Bernicia collects Water Charges on behalf of the Water Authority, that charge will be in addition to the Affordable Rent.

**Increases** - All tenancies which are charged an Affordable Rent and are included under the provisions of the Welfare Reform and Work Act 2016 will have their Affordable Rent increased by a maximum of CPI+1% each year.

### **Fair Rents (Registered Rents)**

Fair rent may apply to tenancies that started before 15 January 1989. A fair rent is registered with the Valuation Office Agency. Once it is registered, this is the maximum amount that any landlord can charge until the rent is reviewed or cancelled. Tenants with fair rents will have signed a secure tenancy agreement.

The valuation office sets a fair rent and when deciding the amount to register as a fair rent, the rent officer will consider:

- The property age, character, location and condition
- Quantity and quality of any furniture provided.

The rent officer will ignore

- any disrepair that may have been caused by the tenant to the property
- unnecessary improvements made
- any personal circumstances

The date of increase varies according to the date of registration which can be at any point in the year. Once received, the fair rent assessment is reviewed by Bernicia's Rent & Service Charge Officer.

The maximum weekly rent is the **lower** of the fair rent set by the Rent Officer and formula rent (subject to both rent flexibility and rent caps).

Registered providers may not increase the rent of a tenant with fair rent protection by more than CPI+1% in any year (even if the tenant's rent is below the formula rent level and the fair rent assessment is increased by more than that amount). If the rent charged exceeds the rent flexibility level the maximum increase is CPI in any year.

When a fair rent tenancy comes to an end the new tenancy shall be let at formula + flexibility subject to the results of the affordability assessment.

## **LCHO - Shared Ownership Rents**

Initial rent is set as a percentage of the unsold equity in the property. The initial rent must not therefore exceed 3% of the capital value of the unsold equity. The RSH encourage Housing Associations to set rents that average no more than 2.75% of the value of the unsold equity at the point of initial sale. Bernicia has adopted this but may adopt other arrangements if there was a need to increase affordability at point of sale. This would need to be approved as part of the initial scheme appraisal.

The rent is then applied as a weekly charge by multiplying the unsold capital value and dividing this by 52 weeks.

If further shares in the property are purchased, the rent should be reduced using the same calculation based on the remaining unsold equity.

For Shared Ownership for Older People, the maximum staircase ceiling is 75% and at that point rent cannot be charged.

**Increases** – LCHO products are excluded from the Rent Standard. Shared ownership rents will be reviewed annually with reference to the agreed review date held within the lease and reviewed under the rent review clause in the individual lease. The RSH now requires that leases restrict rent increases to a maximum of RPI + 0.5%. Shared ownership tenants will be informed of any change to their rent at least one month before that rent is applied.

## **LCHO - Rent to Buy/Rent to Homebuy/Intermediate Rent**

The purpose of these schemes is to provide opportunities for home ownership. Homes are made available to rent with a shorthold tenancy at a reduced rate of 80% less of local market rents. The rent is set through the same formula as an Affordable Rent property. This provides the prospective owner the opportunity to save as the rent is 80% of the overall market rent. During the tenancy period the tenant should make application to purchase the property on Shared Ownership terms.

If the Rent to Homebuy tenant is unable to purchase during the term of the lease, the property is marketed for shared ownership sale, rather than another period of Rent to Homebuy. If the property is unsold an application can be made to the RSH to convert the property to social rented. If accepted, then Formula rent should be used to let the property.

If the Rent to Buy tenant is unable to purchase during the term of the lease, the property can be converted to social rented. Formula rent should be used to let the property.

**Increases** – LCHO products are exempt from Rent Standard. Annual increases will be in line with the tenancy agreement (dependent upon the product this will normally be RPI+0.5% or CPI+1% unless the rent would increase above the market rent). For

re-lets or extensions at the end of a shorthold tenancy period, the rent should be recalculated using the agreed Affordable Rent methodology.

## **Market Rent properties**

Rents are fixed by reference to the local market. They are reviewed and adjusted on an annual basis on the anniversary of the tenancy.

## **SUPPORTED HOUSING**

The definition of supported housing used by the RSH is:

‘The term supported housing applies to purpose designed or designated supported housing’

Purpose designed means:

‘the building has been purpose designed or remodelled to enable the client to adjust to or continue to live independently, and this required specific design features’

Designated supported housing is

‘A building or buildings with no special design facilities and features that are designated for a specific client group with support services in place to enable them to adjust to or remain independent’

There are two classifications of supported housing rents. Some supported housing rents are exempt from the RSH rent standard and some are not exempt.

### **Exempt**

Some rents are exempt from the Rent Standard and the RSH has issued guidance indicating where any exemption may be applied. From time to time directives will be received from government outlining specific conditions that may apply over and above the existing standard. Therefore, each year any government guidance should be reviewed to understand its impact on the setting and review of supported housing rents. If no additional guidance is received, then the Rent Standard guidance will be used.

The following property classifications and properties meeting all of the criteria set out within each category are exempt from the standard:

- Specialised supported housing
- Temporary social housing
- Care homes

### **Specialised Supported Housing**

Specialised supported housing means housing:

- which is designed, structurally altered, refurbished or designated for occupation by, and made available to, residents who required specialised services or support in order to enable them to live, or to adjust to living, independently within the community;
- which offers a high level of support equal to that provided in a care home or for clients whom the only acceptable alternative would be a care home;
- which is provided by a private registered provider under an agreement or arrangement with a local authority or a health service (within the meaning of the National Health Service Act 2006) and for which the rent charged or to be charge complies with the aforementioned agreement or arrangement; and
- in respect of which at least one of the following conditions is satisfied:
  - i) there was no or negligible public assistance, or
  - ii) there was public assistance by means of a loan (secured by means of a charge or at mortgage against a property).

## **Temporary Social Housing**

For the purpose of this policy 'temporary social housing' means the provision of low-cost rental accommodation to a person who is classified as homeless under the Housing Act 1996 where the following conditions are met:

- a) an assured shorthold tenancy agreement or licence is in place
- b) There is a nominations agreement with a local authority for housing statutory homeless,
- c) the local authority retains the responsibility for finding permanent homes, and
- d) the registered provider:
  - holds the social housing on a lease or licence with a term of between 2 and 30 years, or
  - holds the social housing on a lease with a term of 30 years or more or holds the freehold title to the social housing and acquired the social housing without public assistance.

Exempt services will be reviewed against the above criteria annually in November against the criteria by the Head of Strategic Finance, with supporting evidence to support the assessment being provided by the Assistant Director Care and Support. Any services not continuing to fit the rules for exemption will be re-categorised as non-exempt, and the non-exempt supported housing rent increase formulae applied.

Advice must also be sought when exempting property; if all necessary criteria are satisfied then the property is exempt.

New properties and existing properties would need to be similarly reviewed against this standard annually.

## **Setting**

Exempt services, i.e. those service provisions that meet either:

- a) all of the criteria above, or
- b) all of the criteria above with the exception of grant funding

will have rents set in conjunction with the commissioning body and using the Association's internal standard calculation:

Social rent + up to 10% flexibility + management charge

## **Increases**

Rents are reviewed in April each year. The increase will be calculated in line with:

- The Rent Standard Guideline Limit (currently CPI at September of the previous year + 1%), or
- CPI at September of the previous year only (where rents exceed flexibility levels), or
- Applying the rent review terms of the scheme as agreed by the commissioning body.

## **COMMERCIAL RENTS**

Commercial rents will be set using an external commercial valuer and be based on the standard RICS methodology.

Commercial rents will be reviewed periodically in line with the terms of the lease and adjusted using updated commercial valuation where required. They are reassessed following the termination of each lease.

## **GARAGE RENTS**

Garage rents are agreed by the Board of each Registered Provider and are not subject to any restriction on the level of increase. However, subject to board agreement otherwise, rents will be increased in line with the guideline limit of September CPI + 1% each year.

Garages rented by non-tenants are subject to VAT.

## **LEGAL AND REGULATORY FRAMEWORK**

Housing Act 1977

Housing Act 1988

Housing Act 1996

Housing Act 2004

Housing and Regeneration Act 2008

Welfare Reform and Work Act 2016

MHCLG Policy Statement on Rents for Social Housing 2019

## RESPONSIBILITY

The Board approves the rents to be applied each financial year on the recommendation of the Executive Director, Finance.

The Director of Housing is responsible for ensuring that the rent changes are applied correctly and communicated in accordance with legislative guidelines.

The Executive Director, Finance is responsible for setting 'Affordable Rents' in accordance with the Rent Policy and Affordable Rent setting procedures.

The rent for properties let as social housing on a Social Rent is initially set using the formula noted under Setting and Reviewing Formula Rent (above), overseen by the Head of Strategic Finance.

## CUSTOMER FOCUS

Rents will be communicated to our customers in accordance with legal requirements and as clearly as possible. Information will be provided at the time of letting with who to contact in case of queries, what to do if tenants experience difficulties paying their rent and the role of the Residential Property Tribunal. Information will also be provided on our website.

## CROSS REFERENCES

Letting Policy  
Service Charge Policy  
Rent Recovery Policy

## EQUALITY & DIVERSITY

An Equality Impact Assessment has been completed as part of the development of this policy and others required as a result of the Government's reforms to social housing.

## RISK

Acting unlawfully or in breach of the RSH regulatory framework.

Loss of income as a result of incorrect application of rent setting and or review methodology

Income generated from Affordable Rents (new build and conversions) or other social rents that is less than business plan assumptions may adversely affect Bernicia's ability to deliver new homes targets including those agreed with the RSH.

Level of rent qualifying for housing benefit or the Housing element of Universal Credit falling below the rents charged by Bernicia. This could have a detrimental impact on the level of rent recovered and a fall in the demand for our housing.

## VALUE FOR MONEY

Effective rent setting will assist in maximising rental income for the Group to support our purpose of providing new affordable homes and a fair deal for existing residents.

## DEFINITIONS

**Consumer Price Index (CPI)** - An inflationary indicator that measures the change in the cost of a fixed basket of products and services, including electricity, food, and transportation. The CPI is published monthly and is often referred to as the cost-of-living index.

**Retail Price Index (RPI)** – This is the UK's monthly index that demonstrates the movement of retail prices. It effectively shows the cost of living as it tracks the prices of UK consumer goods and services.

**Assured Tenancy** – introduced by the Housing Act 1988 it is a tenancy offered on a periodic basis which can only be brought to an end using grounds set out in law.

**Assured Shorthold Tenancy** – introduced by the Housing Act 1988, amended by the Housing Act 1996. It can be a periodic tenancy which gives the landlord a right to terminate without grounds after a period of 6 months, or it can be granted for a fixed term e.g. for 5 years when the tenancy will automatically come to an end.

**Secure Tenancy** – Relevant statute is the Housing Act 1985 as amended by the Housing Acts 1988 and 1996. To gain possession of the property the landlord must prove one or more statutory grounds and obtain a Court Order

**Starter Tenancy** – A form of Assured Shorthold periodic tenancy offered to tenants new to social housing. If the terms of the tenancy agreement are kept an assured shorthold fixed term tenancy will usually be granted following a review of the tenancy at after 12 – 18 months.

**Market Rent** – rents which are based on an open market rental valuation.

**Local Housing Allowance (LHA)** – used by local authorities to assess the amount of housing benefit private rented sector tenants are eligible for. LHAs are capped by property size and are set at the 30th percentile of rents in the broad rental market area.

**LCHO (Low Cost Home Ownership)** – products designed to provide affordable home ownership opportunities including rent to buy and shared ownership.

**Shared ownership** – where a purchaser buys a share in a property and pays rent on the share they don't own. Typically, the purchaser will obtain a mortgage. Over time, the purchaser can buy greater shares until they own the property outright.

**Affordable Homes Development Programme** – the arrangement for delivery of new homes during overseen by Homes England

## **OWNER**

Executive Director, Finance

## **PREPARED BY**

Executive Director, Finance

## **UPDATED BY**

Head of Strategic Finance

## **APPROVAL**

Executive Director, Resources, 17 October 2018

Reported to Board, 14 February 2019

Reported to Board, 18 February 2020

Reported to Board, 16 February 2021

## **EFFECTIVE DATE**

01 February 2020

**REVIEW DATE:** 01 January 2022