

Appendix 3



**HRA Rent Setting Policy
(DRAFT July 2020)**

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HRA Rent Setting Policy

1. Introduction

Rent is the main source of revenue for the HRA, paying for the management, maintenance and modernisation of our existing homes. It is also the primary source of funds for repaying the loans that enabled us to leave the centralised subsidy system and to build or acquire new council properties. The HRA Business Plan 2019 sets out the council's aspirations and strategic direction for its housing stock. It explains in detail the financial challenges faced by Canterbury City Council's HRA and the need for a reliable rental income stream to maintain our housing stock to an acceptable standard and fund a financially viable development programme. This policy seeks to balance these financial pressures with the fact that the housing market in Canterbury District is unaffordable for many households.

2. Purpose of this policy

This policy explains how the council will calculate and charge rent for all the residential properties in its Housing Revenue Account (HRA) and the factors involved with this decision. The purpose of this policy is to:

- Ensure that the council adheres to government legislation and regulation when setting rents.
- Provide a clear and consistent framework for setting and reviewing the rents of all properties accounted for in the HRA.
- Provide as much financial certainty for the HRA as possible.
- Maximise the income available to maintain our existing housing stock and to construct or acquire new homes.
- Support the delivery of the HRA Business Plan.

3. Scope

This policy applies to all properties and assets that are accounted for in the HRA, including:

- Rented residential accommodation.
- Service charges for HRA rented residential accommodation.

It does not cover:

- Rents and service charges for General Fund residential properties.
- Ground rents and service charges for leasehold residential accommodation.
- Garages.
- Shops and commercial premises.

4. Rent policy background

Since 2001, rents for properties let at Social Rent (all of the rented homes in the HRA at 31 March 2020) have been based on a formula set by the government. This creates a 'formula rent' for each property, which takes account of the relative value of the property, relative local income levels, and the size of the property. A principal aim of this formula-based approach is to ensure that similar rents are charged for similar social rent properties.

In 2011, the government introduced Affordable Rent, which permits rents to be set at up to 80% of market rent (inclusive of service charges). The introduction of Affordable Rent was intended to fund the construction of more new homes at a sub-market rent. Landlords can only let new properties at Affordable Rent where certain conditions apply. Within the terms of the government's Affordable Homes Programmes, existing vacant properties may be converted from Social Rent to Affordable Rent in certain circumstances.

From April 2015, the government made it possible for social landlords to charge a full market rent where a social tenant household has an annual income of at least £60,000. This was designed to allow landlords to make better use of their social housing, rather than requiring them to provide sub-market rent properties to households with relatively high incomes.

Government policy has also limited maximum annual changes in Social Rent and Affordable Rent levels. From April 2016, the Welfare Reform and Work Act 2016 required social landlords to reduce their rents by 1% each year for four years (the 'social rent reduction'), which had a significant negative impact on the financial health of the HRA.

In October 2017, the government announced its intention to set a rent regime for local authority landlords and housing associations that permits annual increases of Social Rents and Affordable Rents of up to CPI + 1% from 1 April 2020, for a period of at least five years ('the new policy'). It did not override landlords' statutory obligation to complete the four year social rent reduction as required by the Welfare Reform and Work Act 2016.

The new policy recognises the need for a stable financial environment to support the delivery of new homes. It provides a degree of reassurance for financial planning in the short term, but no clarity thereafter. It also does not allow the council to recover the increases forgone in previous years.

To control this new settlement, rather than legislate, the Secretary of State for Housing, Communities and Local Government required the Regulator of Social Housing to prepare a new Rent Standard to apply from 2020 to all registered providers of social housing, including local authorities.

From 1 April 2020, registered providers must comply in full with all the requirements and expectations set out in this Rent Standard. They must also comply with the Rent Policy Statement on Rents for Social Housing 2019 on the setting, increase and decrease of rents and service charges.

5. Legislation and Guidance

- Housing Act 1985 Section 24
- Landlord and Tenant Act 1985
- Local Government and Housing Act 1989
- Housing and Regeneration Act 2008 (a) Section 197
- Guidance on rents for social housing - Department for Communities and Local Government, May 2014
- Rent Standard Guidance - Homes and Communities Agency, April 2015
- Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016
- Welfare Reform and Work Act 2016
- Direction on the Rent Standard 2019
- Policy Statement on Rents for Social Housing issued by the Secretary of State on 26 February 2019
- Rent Standard 2020 - Regulator of Social Housing, 1 April 2020

6. Relevant council documents

- HRA Business Plan 2019
- HRA Revenue And Capital Budget 2020/21
- Tenancy Strategy 2020

- Tenancy Policy 2020

7. The Policy

The council will set rents for its residential accommodation in the HRA in accordance with the Policy Statement on Rents for Social Housing issued by the Secretary of State on 26 February 2019 and the Rent Standard 2020 issued by the Regulator of Social Housing, on 1 April 2020 and any subsequent amendments in legislation regulation or guidance. In summary, the key points of this policy are:

- All properties let under existing tenancies continue to be let at formula rent (social rent).
- All existing supported housing, including sheltered housing and other accommodation designated for older people, that becomes vacant and available for re-let will be let at formula rent. Rent flexibility will not be applied to this type of housing.
- The council will seek to enter into agreements with Homes England or the Secretary of State to convert 100 existing general needs properties a year from Social Rent to Affordable Rent as they become vacant to help fund the construction of new council homes. 100 homes a year equates to about 75% of the general needs housing that became vacant each year over a three year period. It takes account of significant annual fluctuations in void numbers and excludes four-bedroom properties. Supported housing and accommodation for older people will be excluded from this agreement.
- The council will enter into agreements with Homes England to build new homes at Affordable Rent to help fund investment in new council housing.
- Affordable Rents will not exceed the lower of 80% of gross market rent (including service charges) or Local Housing Allowance.
- All other existing general needs dwellings that become vacant and available for re-let, and all newly built or acquired general needs dwellings that are not let at Affordable Rent will be let at formula rent (social rent) + 5% rent flexibility from 2020/21 onwards to boost the funds for planned maintenance on the existing stock and to contribute towards a programme to build and/or acquire new council homes.
- Formula rents and Affordable Rents will increase by CPI + 1% each year from 2020/21 for a period of five years.

8. Social Rent

8.1 Overview

This section applies to all residential accommodation let at a Social Rent. This means all low cost rental accommodation except:

- Accommodation let at Affordable Rent
- Rents for social tenants with high incomes
- Shared ownership low cost rental accommodation
- Intermediate rent accommodation
- Specialised supported housing
- Relevant local authority accommodation
- Student accommodation
- PFI social housing
- Temporary social housing

- Care homes

These exemptions are defined in the *Policy statement on rents for social housing*, which was published by the Ministry of Housing, Communities and Local Government in February 2019.

At 31 March 2020 all of the council's housing accommodation in the HRA is let at a Social Rent at a level that is no higher than formula rent, subject to the rent flexibility level.

8.2 Calculating formula rent

Weekly formula rent is equal to:

- 70% of the national average rent in April 2000
- Multiplied by the average manual earnings for the county in which the property is located divided by the English average manual earnings, both at 1999 levels.
- Multiplied by a bedroom factor (or weight)
- Plus 30% of the English average rent
- Multiplied by an individual property's value divided by the English average property value, as at January 1999 prices.

Putting the relevant information into the above formula gives the formula rent for 2000/01 for the property, which must then be uprated, for each year, using the relevant uplift.

The relevant information and annual uplift is contained in the *Policy statement on rents for social housing* (February 2019). This may be amended from time to time, and the council will adhere to the most current edition.

If the rent for a property that becomes vacant is below formula rent, it will be recalculated at the formula rent level from 2020/21 onwards.

8.3 Changes to Rents

Formula rents will increase by CPI + 1% each year from 2020/21 onwards for a period of five years. CPI will be taken as at September of the previous year.

8.4 Rent caps

Formula rent is subject to a rent cap based on the number of bedrooms in a property. Where formula rent would be higher than the rent cap for a particular property, the rent cap will be used instead. The rent cap is expected to increase by CPI + 1.5% each year.

8.5 Rent flexibility

The council has limited discretion over rent levels for individual properties, to take account of local factors and concerns. This provides flexibility to set rents at up to 5% above formula rent for general needs properties and 10% for supported housing. This is known as rent flexibility.

All existing general needs dwellings that become vacant and available for re-let, and all newly built or acquired general needs dwellings (that are not let at Affordable Rent) will be let at formula rent + 5% rent flexibility from 2020/21 onwards. The rationale for this decision is to boost the funds for planned maintenance on our existing stock and to contribute towards a programme to build and/or acquire new council homes.

All supported housing that becomes vacant and available for re-let will be let at formula rent. Rent flexibility will not be applied to supported housing, including sheltered housing and other accommodation designated for older people. The rationale for this decision is to avoid deterring

older households from moving out of larger family homes, and because some of this accommodation may be less popular and more difficult to let.

The rent for an occupied property which exceeds the rent flexibility level, but is below the rent cap, will increase by no more than CPI each year, until the rent is brought within the rent flexibility level for general needs properties and within the formula rent level for supported accommodation.

The rent for a general needs property which exceeds the rent flexibility level will be reduced to formula rent plus the rent flexibility level when the property is re-let. The rent for supported accommodation that exceeds formula rent will be reduced to formula rent when it is re-let.

8.6 Conversion of Social Rent properties to Affordable Rent

A Social Rent property may be converted to Affordable Rent where it is agreed by Homes England or the Secretary of State. It will not be converted to:

- (a) market rent or
- (b) intermediate rent.

The council will seek to enter into agreements with Homes England or the Secretary of State to convert 100 existing general needs properties per annum from Social Rent to Affordable Rent as they become vacant to help fund the construction of new council homes. 100 homes per year equates to about 75% of the general needs housing that became vacant over a three year period. It takes account of significant annual fluctuations in void numbers and excludes four-bedroom properties. Supported housing and accommodation for older people will be excluded from any agreement with Homes England or the Secretary of State.

9. Affordable Rents

9.1 Overview

Affordable Rent properties are accommodation which Homes England or the Secretary of State have agreed can be let at an Affordable Rent (including service charges).

They are exempt from the Social Rent requirements set out in the previous section of this policy.

Affordable Rents are higher than Social Rents. The council will enter into agreements with Homes England to build new homes at Affordable Rent to help fund investment in new council housing.

9.2 Calculating Affordable Rent

Affordable Rent will not exceed 80% of gross market rent (including applicable service charges).

Gross market rent is the rent the property would reasonably be expected to be let for in the private sector. Factors including property size, location type and service provision will be taken into account when determining gross market rent.

The council will comply with the terms of any agreements with Homes England or the Secretary of State when setting Affordable Rents.

The council will have regard to the local market context, and its Affordable Rents will not exceed 80% of gross market rent or Local Housing Allowance for the Broad Rental Market Area in which the property is located. The Affordable Rent will be the lower of these two figures.

An Affordable Rent will be no lower than the potential formula rent for the property.

9.3 Property Valuations

Valuations for initial rent setting will be made in accordance with a method recognised by the Royal Institution of Chartered Surveyors in 'Royal Institution of Chartered Surveyors Valuation – Professional Standards' (known as the Red Book).

When tenancies come up for re-issue or re-let, the council will seek adequate comparables to re-set rents using a desktop review of recent transactions.

If comparable rents are not readily available the council will commission a full valuation.

9.4 Changes to Rents

The council will not increase Affordable Rents by more than CPI + 1% each year from 2020/21 onwards for a period of five years. CPI will be taken as at September of the previous year.

9.5 Re-setting Affordable Rent

When a tenancy of Affordable Rent housing is let to a new tenant or re-let to an existing tenant, the council will re-set the rent based on a new valuation, to ensure that the new rent is no more than 80% of the relevant market rent or the relevant LHA rate. It will set the Affordable Rent at the lower of these two figures.

If the accommodation is re-let to the same tenant as a consequence of a probationary tenancy coming to an end, the rent will not be re-set.

If the council is re-setting the rent as a result of re-letting Affordable Rent housing to an existing tenant of the specific property concerned, it will not increase the rent by more than CPI + 1%.

9.6 Conversion of Affordable Rent Properties

Affordable rent housing will not be converted (including when they are re-let) to:

- (a) market rent, unless the council adopts a policy in future to charge market rents to social housing tenants with high incomes; or
- (b) intermediate rent.

10. Rents for social housing tenants with high incomes

10.1 Overview

From April 2015, the government made it possible for social landlords to charge a full market rent where a social tenant household has an annual income of at least £60,000.

Households with a high income or significant savings cannot join the council's Housing Needs Register and thus be offered a council home. Also, the vast majority of new tenants in general needs accommodation are offered Flexible Tenancies which are reviewed every five years. A new Flexible Tenancy will not be granted if the tenant has a gross annual income greater than the amount stipulated in the council's Housing Allocation Scheme. This is explained in the council's Tenancy Policy 2020. Therefore, the issue of high incomes among people who have become tenants since April 2016 is managed through these other mechanisms.

Approximately two-thirds of the council's tenants are eligible for means tested Housing Benefit and therefore should come under the £60,000 income threshold.

The council does not have access to information relating to the income of its Secure Tenants, who have tenancies for their lifetimes rather than a fixed term, and cannot insist that this is

provided. No cost-efficient or effective system currently exists to enable the council to ascertain the true household income of existing tenants.

10.2 The circumstances in which market rents will be charged

However, if it comes to light that a council tenant has a gross household income of £60,000 or more, they will be charged a market rent for their home. Valuations for initial setting of market rents will be made in accordance with a method recognised by the Royal Institution of Chartered Surveyors in 'Royal Institution of Chartered Surveyors Valuation – Professional Standards' (known as the Red Book). The market rent will be charged from the beginning of the subsequent financial year and the tenant will receive at least 28 days notice of the proposed increase.

10.3 How to appeal against a decision to charge market rent

If a tenant disagrees with the decision to charge a market rent or the level at which the rent has been set, they may use the following appeals process. Tenants do not have the right to request a review of this policy, but they can ask for a review of the decision if they feel it is based on incorrect information or this policy has not been interpreted correctly.

10.4 Stage 1

Appeals must be submitted in writing to the housing management service by the tenant within 15 working days of receiving the letter informing them of the decision to charge a market rent. This letter should clearly state the reasons for the appeal and set out the reasons for the appeal and/or which aspect/s of this policy they feel have not been applied correctly.

The case will be reviewed by a manager in the housing management service who was not involved in making the original decision. A written response will be issued to the appellant within 10 working days of the Stage 1 appeal being received or, in some cases where this is not possible because further information is required, the appellant will be informed of this and given a revised date by which they can expect to receive a response.

10.5 Stage 2

If, after receiving the outcome of their Stage 1 appeal, the appellant remains dissatisfied, they may request a further review. This must be submitted in writing within 15 working days of the appellant receiving the decision on their Stage 1 appeal. This appeal will be dealt with by senior officers from the housing management service and a senior council officer (usually the housing management service's Operations Manager and the Head of Housing and Community). They may seek further information in order to reach a decision, which may include asking for further evidence from the appellant, other officers from the housing management service, or specialist advice where required.

The outcome of the Stage 2 appeal will be issued to the appellant in writing within 10 working days of the Stage 2 appeal being received or, in some cases where this is not possible because further information is required, the appellant will be informed of this and given a revised date by which they can expect to receive a response.

11. Service charges

11.1 Overview

Service charges are variable charges payable directly or indirectly for services, repairs, maintenance, improvements or insurance, or the council's costs of management in respect of a dwelling, usually for services provided in blocks of council-owned flats, often for communal facilities.

In 2015/16 Council adopted the principle of recovering the actual cost of services. By April 2020 only service charges for lighting and cleaning of communal areas in blocks of flats and hostels have been identified and charged to the council's tenants (known as unpooling). The council will continue to identify and unpool reasonable service charges.

Service charges are not governed by the same factors as rent, although the *Policy statement on rents for social housing* encourages the council to keep service charge increases to within CPI + 1%.

11.2 Calculating service charges

The council will:

- Set reasonable and transparent service charges which reflect the service being provided to tenants.
- Ensure that the works are of a reasonable standard.
- Supply tenants with clear information on how service charges are set.
- Identify service charges separately from the rent charge.
- Where new or extended services are introduced, and an additional charge may need to be made, the council will consult with tenants.
- Service charges will be based, where reasonably possible, on actual expenditure for the preceding financial year.
- An asset management strategy and planned maintenance delivery programme will be put in place to enable services charges for leaseholders to be levied in advance, if appropriate. This will help leaseholders to budget for major items of expenditure.
- If service charges are less than actual expenditure they will be raised by CPI + 1% + up to a further £1 per week.
- If actual expenditure is less than the current charge, the service charge will be reduced accordingly.

12. Rent and service charge period

The average weekly rent will be calculated based on the council's annual rent cycle of 50 weeks in a 52 week financial year, and 51 weeks in a 53 week financial year (two rent free weeks a year).

13. Rent variation: timing, roles, responsibilities and authority

The council will vary rent and service charges annually, normally taking effect at the beginning of the financial year in April. Tenants will receive at least four weeks' notice in writing of any changes to their rent or service charges and the reasons for the rent change.

The yearly change to rental and service charges are part of the annual HRA Revenue and Capital Budget budget setting process, which is a decision for Full Council.

The Deputy Chief Executive has delegated authority to agree all Social and Affordable Rents that have to be calculated or changed during the financial year outside the annual budget-setting timetable in accordance with this policy.

The Deputy Chief Executive is ultimately responsible for ensuring adherence to this policy document.

14. Consultation

The council consults the Tenants Consultative Group on the contents of the draft annual HRA Revenue and Capital budget, including proposals to change rents and service charges before

it is considered by Full Council.

The draft annual HRA Revenue and Capital budget, including proposals to change rents and service charges, is available to the general public for consultation as part of the wider budget consultation.

15. Monitoring, Review and Evaluation

Performance of rental income collected is monitored and reported on a monthly basis.

This policy will be reviewed on a three-yearly basis and will be modified as necessary to accord with any new legislation, regulation or changes to the legislative and regulatory framework or significant change to the benefits system.

16. Equality and diversity

We are committed to ensure that this policy does not impact disproportionately on different equality groups. This strategy has been subject to an Equalities Impact Assessment.