



# Rent Setting Policy

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## 1.0 Introduction

- 1.0 This policy sets out Empower Housing Association's (Empower) approach to rent setting and rent increases and decreases for all properties.
- 1.1 The policy is reviewed annually to reflect any changes to regulation, legislation, market or organisational requirements.

## 2.0 Background

- 2.0 Empower is a specialist, supported housing provider who develop and manage quality housing designed to meet the needs of, and create better outcomes for, the UK's most vulnerable people; specifically those with mental, physical and/or learning disabilities.
- 2.1 Empower works in partnership with a range of commissioners, including Local Authority and health services to provide bespoke accommodation, often commissioned in response to demand and designed individually to meet a range of needs.
- 2.2 Supported and Specialised Supported Housing (SSH) is often developed to higher standards/quality than mainstream housing due to the properties being purpose built in many cases with specific space, accessibility and adaptation requirements which meet the individual needs of tenants. In addition, accommodation is often required in very specific locations with good access to local amenities and public transport which can increase development costs.
- 2.3 SSH is a form of supported housing defined within the Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 and the Government's Policy Statement on Rents for Social Housing 2019.

SSH is also one of the excepted categories from the Rent Standard 2020 where the following criteria apply:

Supported housing (as defined in chapter 2 of the Policy Statement on Rents for Social Housing)

(a) which is designed, structurally altered, refurbished or designated for occupation by, and made available to, residents who require specialised services or support in order to enable them to live, or to adjust to living, independently within the community;

(b) which offers a high level of support, which approximates to the services or support which would be provided in a care home, for

residents for whom the only acceptable alternative would be a care home;

(c) 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);

(d) for which the rent charged, or to be charged, complies with the agreement or arrangement mentioned in paragraph (c); and

(e) 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 a mortgage against a property).

2.4 Empower provides Supported and Specialised Supported Housing and its rent setting approach is therefore different depending upon the nature of the accommodation. Social rents will be set in accordance with the Regulator of Social Housing (RSH) Rent Standard 2020 and the 2019 Policy Statement on Social Housing.

2.5 Empower ensures that it works closely with commissioners, Local Authority and Health partners to ensure that the rents charged for the properties it provides are fair, equitable and transparent. Due to the specialist nature of the accommodation provided by Empower, comparable 'market rent' information is often not available within a specific locality. Where such information is available, Empower will take consideration of this when making decisions about the best route to compliance in setting rent levels and will take expert RICS advice as and when required.

### 3.0 **Legal and/or Statutory Requirements**

- Housing Act 1996
- Housing and Regeneration Act 2008
- Rent Standard Guidance
- Housing Benefit (general) Regulation 1987 (as amended)
- Welfare Reform and Work Act 2016
- Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016
- Landlord and Tenant Act 1985

### 4.0 **Policy Statement**

- 4.0 Empower's Board will monitor compliance with this policy and approve all appraisals for any new or amended existing schemes and any annual rent increases.
- 4.1 As a Registered Housing Provider offering social housing, Empower will ensure it complies with the requirements of section 69 of the Housing and Regeneration Act 2008 when setting its rents.

Accommodation is low cost rental accommodation if—

- (a) it is made available for rent,
  - (b) the rent is below the market rate, and
  - (c) the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.
- 4.2 Empower will set rents which are below market rates which help ensure its rents and service charges are affordable to our customers and support the associated viability of the organisation.
- 4.3 Empower will be transparent around the way in which we set rents and services charges to our customers, commissioners and any associated partners.
- 4.4 We will communicate clearly and transparently with our customers and commissioners in relation to the setting of rents and service charges and any changes will be compliant with the relevant legislation.
- 4.5 The board of Empower will undertake an annual assessment of compliance to ensure that any accommodation which is identified as SSH, or any other excepted category from the Rent Standard 2020, complies with the specific criteria.

#### **Social rent Setting**

- 4.6 As outlined in section 2 of this policy the housing that Empower provides will generally be supported housing or SSH subject to accommodation meeting specific criteria requirements.
- 4.7 Social rents will be set for supported housing where the accommodation does not meet the criteria for SSH (or any of the other excepted categories from the Rent Standard 2020) and will be set exclusive of service charge.
- 4.8 The formula for Social Rent will be based on: -

- 70% of the average rent for the Housing Association's sector multiplied by relative county earnings compared to the national average multiplied by bedroom weighting\*

Plus

- 30% of the average rent for the Housing Association's sector multiplied by the relative property values compared to the national average

\*Bedroom weighting can be found in Guidance on Rents for Social Housing produced by DCLG in May 2019.

- 4.9 Empower may use the additional 10% rent flexibility for supported housing when setting social rent, as set out in the Regulator of Social Housing rent standard. When the rent is being set, the services on offer and overall viability of the scheme will be considered to determine if the rent flexibility is required. Empower's Board will approve any circumstances where it is used.

#### **Setting Rents for SSH**

- 4.10 Rents will be set in compliance with the RSH Rent Standard 2020 and at below market levels which are approved by the relevant Local Authority Commissioner and eligible for Housing Benefit.
- 4.11 Any service charge items will be separately identified and included in costs which are discussed and agreed with Local Authorities.
- 4.12 Rent for SSH housing will be set using the Rent Calculation approved by the Board as part of the Development scheme parameters. This calculation will be reviewed at least annually by the Board.

#### **Non-Social Housing Rents**

- 4.13 In exceptional circumstances, Empower may have properties that do not meet the definition of Social Housing. The Board of Empower will review and approve any such properties prior to the rent being confirmed.

#### **Scotland Properties**

- 4.14 Empower also have properties located in Scotland which are not subjected to the English Regulator of Social Housing rent testing method, however, Empower have agreed to continue to use the current SSH Test for all properties to ensure they meet our required criteria. In relation to the Market Rent test, Empower will not use the agreed methodology as it is

classed as a private landlord in Scotland but will look to complete a rental pre-determination to the local authority to determine acceptable rent levels.

### **Market Rates**

- 4.15 Empower assess market rates for its rents according to the individual characteristics of the property, reflecting rates charged of a similar size, quality and location.
- 4.16 Due to the bespoke and specialist nature of accommodation provided by Empower, obtaining absolute comparisons can often be difficult. Where a market rent comparison cannot be achieved, a valuation will be assessed using a RICS (Royal Institute of Chartered Surveyors) recognised method and we may commission a professional valuation from an independent valuer or use a desktop valuation where sufficient data is available.

### **Board Approval for New Developments/Properties**

- 4.17 When Empower intends to commission a new property/development it will provide its Board with a comprehensive report in relation to the project and any associated risks. The report will include:
- Rent Setting Approach
  - Financial Appraisal
  - Risks
  - Stress testing implications
  - Meeting key legislation requirements such as Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016

It will seek Board's full approval before proceeding and/or committing any financial expenditure or costs.

- 4.18 The rent setting approach and financial appraisal will include information relating to how rents are set, net rent, any service charge costs (including sinking fund contributions & major item repair/replacements) staffing costs, management overhead contributions, rate of return on investment, legal lease requirements, legal issues/covenants, and long-term cash flow analysis (including any key assumptions).
- 4.19 In addition to any financial appraisal, where accommodation is defined as SSH or any other excepted category from the RSH Rent Standard 2020, Empower's Board will be provided with assurance around any specific criteria that needs to be achieved in order to meet the definition. This will include necessary approvals from both scheme Commissioners and local Housing Benefit Officers in relation to rent and service charge levels.

- 4.20 A risk register will also be developed and presented to Board to highlight the key risks associated with the development/commitment of finances/lease etc. and how these will be mitigated.
- 4.21 No new development will proceed fully without full Board approval however Board may approve the expenditure of further potential abortive costs e.g. in order to understand risks relating to development, land conditions etc.

### **Setting Rents for New Developments/Properties**

- 4.22 When a new property is commissioned, Empower's Board will agree with the relevant commissioner the requirements for that property. These could be, but are not limited to:
- Location and property type requirements
  - Accessibility and mobility aid/adaptations
  - Any repairs or maintenance considerations

- 4.23 Rents will be set in compliance with the RSH Rent Standard 2020 and at below market levels which are approved by the relevant Local Authority Commissioner and eligible for Housing Benefit.
- 4.24 Any service charge items will be identified at the feasibility stage and included in costs which are discussed and agreed with Local Authorities.

### **Rents on re-lets.**

- 4.25 Rents and service charges are not changed at re-let unless the void period occurs in the specified period prior to the annual review or adaptations have been made to the property which impact upon the financial business plan for the accommodation (e.g., additional adaptations made which incur costs that need to be recovered).
- 4.26 On each relet, the market rent will be reviewed to ensure compliance with the rent standard is maintained.

### **Service Charges**

- 4.27 Empower uses fixed service charges within its properties with the exception of ineligible tenant related costs.
- 4.28 Service charges cover the costs of providing services within the accommodation, this can be staff/management related or property/building related.

- 4.29 Specialised supported housing often has higher associated service charges due to the nature of equipment/adaptation that is provided alongside heavier wear and tear, costs and frequency of replacing furniture and equipment.
- 4.30 Staffing costs can also be higher due to a greater deal of time required for housing management and additional security due to residents' mental disabilities or chaotic lifestyles.

**Rent Reviews**

- 4.31 Rents and service charges will be reviewed annually to ensure accommodation financial viability. Rent increases may be set using terms within the lease for a property. Unless otherwise determined in the lease, any inflationary increase will use the formula rent inflation applicable for the year as published by the Regulator of Social Housing.
- 4.32 Any increases will be discussed and agreed locally with relevant commissioners.
- 4.33 Tenants will be notified by letter of reviewed charges at least 4 weeks prior to any new charge being applied. Information will be written and/or conveyed to tenants in the language and manner which is appropriate for their needs. The review letter will include:
  - Detail of the new charge, including a breakdown of the full charge
  - An explanation as to how the new charge has been calculated.
  - Detail any changes to payment of the new charges.
  - Provide clear contact details.

**Market Rent Compliance**

- 4.34 Empower has a process to ensure ongoing market rent compliance. Each property is risk assessed against its potential for the Market Rent element to exceed the Empower Core rent.
- 4.35 Properties will be risk assessed in the following way:

<b>Risk Level</b>	<b>Criteria</b>	<b>Actions (Review Annually)</b>
Red	Property above 0%	These rents will be frozen and may be deemed non-social
Amber	Property between 0% and -10%	These properties have passed the test but within a 10% margin



Green	Property -10% lower	These have passed the test with a margin higher than 10%
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4.36 The market rent levels within a Local Authority which the property sits will be reviewed to assess if the change in market rents for the area had moved significantly differently to inflation. If this is found to be the case, then each property being reviewed would be re-assessed for compliance.

## 5.0 **Equality and Diversity Implications**

5.0 Empower recognises that there is the potential for impact across the characteristics of Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex or Sexual Orientation.

5.1 Where we are made aware of or identify customers with specific needs, we will be proactive in targeting our communication and support appropriately and consider any specific needs individually.

## 6.0 **Associated Policies and Procedures**

- Rent Compliance Policy

## 7.0 **Implementation**

7.0 Responsibility for implementing this policy lies with Empower's management team

7.1 Support will be provided to staff to adhere to this policy, providing clear and timely guidance where required.