



## Rent Setting Policy

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## **1. Introduction**

Empower Housing Association (EHA) is a specialist, supported housing provider which develops and manages quality housing designed to meet the needs of, and create better outcomes for, adults with disabilities enabling them to live within their community independently.

EHA works in partnership with families, Social Services/Local Authorities (LA), Care Providers and a range of Commissioners, to provide bespoke accommodation, often commissioned in response to demand and designed individually to meet a range of needs.

## **2. Scope of the Policy**

This policy sets out EHAs approach to rent setting and rent increases and decreases for all properties.

EHA provides SSH and it's 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 2023 and the 2022 Policy Statement on Social Housing.

## **3. The Policy**

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.

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 2022.

SSH is also one of the excepted categories from the Rent Standard 2023 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 LA 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).

EHA ensures that it works closely with Commissioners, LA 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 EHA, comparable 'market rent' information is often not available within a specific locality. Where such information is available, EHA 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.

As a Registered Housing Provider offering social housing, EHA 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 housing market.

EHA will set rents which are below market rates which help ensure its rents are affordable to tenants and support the associated viability of the organisation.

EHA will be transparent around the way in which we set rents to our tenants, Commissioners and any associated partners.

We will communicate clearly and transparently with our tenants and Commissioners in relation to the setting of rents and any changes will be compliant with the relevant legislation.

Service charges are subject to separate legal requirements and are limited to covering the cost of providing the services and will be included in the relevant EHA Service Charge policy which is currently in development.

The Board of EHA will undertake an assessment (in line with the requirements in the Rent Compliance Policy) of compliance to ensure that any accommodation which is identified as SSH, or any other excepted category from the Rent standard 2023, complies with the specific criteria. EHA has a comprehensive compliance procedure as part of the Rent Compliance Policy to enable assurance to be provided to Board.

### **3.1 Social Rent Setting**

As outlined in section 2 of this policy the housing that EHA provides will generally be supported housing or SSH subject to accommodation meeting specific criteria requirements.

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 2023) and will be set exclusive of service charge.

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.

EHA 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.

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

Rents will be set in compliance with the RSH Rent standard 2023 and at below market levels which are approved/acknowledged by the relevant LA Commissioner and eligible for Housing Benefit.

Any service charge items will be separately identified and included in costs which are discussed and agreed with the relevant LA.

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.

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

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

### **3.4 Scotland Properties**

EHA also have properties located in Scotland which are not subjected to the English Regulator of Social Housing rent testing method; however, EHA have agreed to monitor and review the levels of support provided to our tenants in line with the SSH criteria. In relation to the Market Rent test, EHA 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 LA where possible to determine acceptable rent levels.

### **3.5 Market Rates**

EHA assess market rates for its rents according to the individual characteristics of the property, reflecting rates charged of a similar size, quality and location.

Due to the bespoke and specialist nature of accommodation provided by EHA, obtaining absolute comparisons can often be difficult. Where a market rent comparison cannot be achieved a range of tests will be completed as identified in our Rent Compliance Policy.

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

When EHA 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.

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).

In addition to any financial appraisal, where accommodation is defined as SSH or any other excepted category from the RSH Rent standard 2023, EHA's Board will be provided with assurance around any specific criteria that needs to be achieved 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.

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.

No new development will proceed fully without full Board approval however Board may approve the expenditure of further potential abortive costs e.g. to understand risks relating to development, land conditions etc.

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

When a new property is commissioned, EHA 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

Rents will be set in compliance with the RSH Rent standard 2023 and at below market levels which where possible are approved by the relevant LA Commissioner and eligible for Housing Benefit.

Any service charge items will be identified at the feasibility stage and included in costs which are discussed and agreed with LA.

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

Rents and service charges are not usually 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).

### **3.9 Rents following improvements**

Where a property or scheme has received improvements, major works or has been remodelled EHA may increase the rent payable providing the tenancy agreement contains a suitable rent increase clause. Rents may be increased to recover costs incurred in improving the property.

A consultation exercise will be carried out with tenants in advance of any improvement works being carried out as part of the process to increase the rent. Approval to increase the rents will

also be required from the local Housing Benefit department in advance of any improvement works being carried out

### 3.10 Service Charges

Service charges usually reflect additional services which may not be provided to every tenant, or which may be connected with communal facilities rather than being particular to the occupation of the property. Service charges are subject to separate legal requirements and are limited to covering the cost of providing services. A specific Service Charge Policy is being developed which will detail EHA’s approach to setting service charges and recovery.

### 3.11 Rent Reviews

Rents and service charges will be reviewed in line with the tenancy agreement to ensure accommodation financial viability. Rent increases may be set using terms within the lease for a property. Unless otherwise determined in the lease, rents will be increased by not be more than the highest figure given by the following three methods of calculation:

1. The increase in the Consumer Prices Index published by the Office for National Statistics (CPI) plus 2%, of the existing rent;
2. 10% of the existing rent; or
3. The difference between the existing rent and the prevailing market rent for equivalent accommodation at the appropriate time of testing in line with the agreed terms within the tenancy agreement
4. in line with the agreed terms within the tenancy agreement

Any increases will be notified to the relevant Commissioners.

Tenants will be notified by letter of reviewed charges in line with the required notice stipulated in Tenancy agreements 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.

### 3.12 Market Rent Compliance

EHA 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 EHA Core rent.

Properties will be risk assessed in the following way:

Risk Level	Criteria	Actions	Review Period
	Property above 0%	These rents will be frozen and may be deemed non-social.	Every 1 Year
	Property between 0% and -10%	These properties have passed the test but within a 10% margin.	Every 2 Year
	Property -10% lower	These have passed the test	Every 5 Years

		with a margin higher than 10%.	
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The market rent levels within a LA which the property is located will be reviewed to assess if the change in market rents for the area had moved significantly different to inflation at a point in time each year. If this is found to be the case, then each property being reviewed would be re-assessed for compliance.

#### **4.0 Responsibilities**

EHA Housing Management Team will be responsible for implementing this policy. Support will be provided to colleagues to adhere to this policy, providing clear and timely guidance where required.

#### **5.0 Related Legislation, Regulation and Codes of Practice**

- Housing Act 1996
- Housing and Regeneration Act 2008
- Rent Standard 2023
- 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
- Government Policy Statement on Rents for Social Housing 2022
- Social Housing (Regulation) Act 2023

#### **6.0 Related Policies, Procedures and Documents**

- Rent Compliance Policy
- Equality Diversity and Inclusion Policy
- Tenancy Agreement
- Service Charge Policy (in development)

#### **7.0 Reporting and Monitoring**

EHA's Board will monitor compliance with this policy and approve all appraisals for any new or amended existing schemes and any annual rent increases.

#### **8.0 Consultation and Publicising Policy**

No consultation with tenants or stakeholders is required for the introduction of this policy and the policy is published on EHA website.

#### **9.0 Review**

This Policy will be reviewed annually or sooner if there is a change in regulation or legislation.

#### **10.0 Equality Impact Assessment**

An Equality Impact Assessment has been completed for this policy.