



Regulator of
Social Housing

Consultation on a new Rent Standard from 2020

May 2019



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Foreword

In September 2018 the Government consulted on a Direction to the Regulator of Social Housing in regard to publishing a Rent Standard. Following the consultation the Government published the results of the consultation along with the final Direction to the Regulator in February 2019.

Given the Government's Direction to the Regulator, we are limited in the scope of the changes we can make to our Rent Standard following the consultation. This consultation therefore focuses on whether we have appropriately reflected the Government's Direction to us, rather than on the content of the Direction itself.

We are launching this consultation about a proposed new Rent Standard to be introduced from 1 April 2020 as a result of that Direction.

The Government's Direction to the Regulator recognised that the four years of requirements on rents under the Welfare Reform and Work Act 2016 and Regulations made under it will soon end. Following the period of social rent reductions brought in by this legislation, the Government has committed to introducing a five-year rent settlement of rent increases up to CPI +1% from April 2020.

In addition to the five-year rent settlement the other major change brought about by the Direction was to introduce the requirement that the Rent Standard, and the regulation of rents by the Regulator, apply to local authority registered providers as well as to private registered providers.

This is a significant change for both the Regulator and local authorities, and it will entail the introduction of new systems to collect information from local authorities on rents. In advance of the new Rent Standard coming into effect we are giving local authorities the opportunity to submit data in a pilot year to ensure that the transition to regulation of local authority rents goes as smoothly as possible and that any potential data issues can be identified and addressed in advance of our regulatory role starting.

The Government has published a comprehensive Rent Policy Statement that covers rent setting in both private registered providers and local authorities; in setting our Rent Standard we must have regard to this Policy Statement.

We welcome your views on our proposed new Rent Standard; following this consultation we will publish our response and a finalised Rent Standard well in advance of 1 April 2020.

Simon Dow,
Interim chair – Regulator of Social Housing

1. Scope of the consultation

Topic of this consultation	<p>The Regulator of Social Housing is proposing to replace the existing Rent Standard. The proposed changes have come about as a result of the Secretary of State for Housing, Communities and Local Government issuing a Direction¹ to the Regulator to produce a new Rent Standard which has regard to the Rent Policy Statement published in February 2019.</p> <p>We are consulting on a proposed new Rent Standard, and will review the draft Standard in light of the responses received to the Government's consultation². The new Standard, incorporating any changes that may be made following responses to this consultation, will be published in advance of coming into force on 1 April 2020.</p>
Scope of this consultation	<p>Before setting any regulatory standard, the Regulator is required by s196(1) and (2) of the Housing and Regeneration Act 2008 to consult one or more bodies appearing to the Regulator to represent the interests of private registered providers, and with the Charity Commission where the proposed Standard will affect registered charities. The Regulator is also required to consult</p> <ul style="list-style-type: none"> • bodies representing the interests of secured creditors of registered providers (s196(1)(b)) • bodies appearing to it to represent the interests of tenants of social housing (s196(1)(c)) • bodies appearing to it to represent the interests of local housing authorities (s196(1)(e)) <p>The Regulator is using this consultation to meet those requirements and we have written to relevant bodies regarding this consultation. It represents an opportunity for any interested persons and organisations to influence how the Rent Standard is drafted.</p>
Geographical scope	These proposals relate to England only.
Impact assessment	Impacts are considered in our business engagement assessment (Annex 3).

¹ <https://www.gov.uk/government/publications/direction-on-the-rent-standard-from-1-april-2020>

² <https://www.gov.uk/government/consultations/rents-for-social-housing-from-2020-to-2021>

2. Basic information

To	Private registered providers, local authority registered providers, tenants, lenders and other stakeholders who have an interest in social housing.
Body responsible for the consultation	The Regulator of Social Housing.
Duration	This consultation will last for 12 weeks from 7 May 2019. The closing date is 30 July 2019.
Enquiries	For any enquiries about the consultation please contact our Referrals and Regulatory Enquiries team on 0300 124 5225 or enquiries@rsh.gov.uk who will be pleased to help.

3. How to respond

Please respond online via SurveyMonkey³:

<https://www.surveymonkey.co.uk/r/rentstandard2020consultation>

Please be aware that unless you complete the survey and click on the 'submit' button your response will not be registered as a completed return. However, incomplete responses will be seen by the Regulator and will be reviewed to determine whether they raise any new issues which it would be relevant for the Regulator to consider.

If for any reason you are unable to complete a response on Survey Monkey you can email your response to the questions in this consultation to: consultation@rsh.gov.uk or write to RSH at the address set out below.

Please include “**Rent Standard**” as your subject heading.

Written responses can be sent to:

Referrals and Regulatory Enquiries team
Regulator of Social Housing
1st Floor – Lateral
8 City Walk
Leeds LS11 9AT

If you are responding in writing or by email, please make it clear which questions you are responding to. When you reply it would also be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation.

Please include:

- your name
- your position (if applicable)
- the name of organisation (if applicable)
- an address (including post code)
- an email address, and
- a contact telephone number.

³ Survey Monkey is an international company based in the USA and any data entered on their platform is stored and located in the USA and countries in which their affiliates are located and in which their service providers are located or have servers. You can obtain full details of their [Security Statement](#) and [Privacy Policy](#) in relation to the data they hold on their site.

Representative groups are asked to give a summary of the people and organisations they represent and (where relevant) who else they have consulted in reaching their conclusions when they respond.

We intend to publish an analysis of all formal responses after the closing date of this consultation. This will include a list of all respondents to the consultation and anonymised responses. Individual responses will not be acknowledged unless specifically requested.

Equalities statement

RSH is mindful of its statutory equality duties under section 149 of the Equality Act 2010.

The Regulator will take a proportionate approach to its equality obligations and has identified no equalities implications for this consultation. However, based on responses to this consultation, the Regulator reserves the right to revisit these matters if new information comes to light.

4. Executive summary

- 4.1 The Secretary of State for Housing, Communities and Local Government published on 26 February 2019 a Direction to the Regulator to set a Rent Standard that will apply from 1 April 2020. That Direction was published alongside the Government's Policy Statement on rents (the Policy Statement), to which the Regulator is required to have regard when setting its Rent Standard.
- 4.2 The Regulator is now consulting on a proposed 2020 Rent Standard which reflects the Government's Direction to us.
- 4.3 This consultation document includes a business engagement assessment with an equality analysis.
- 4.4 The proposed 2020 Rent Standard is set out at Annex 1 to this consultation document. It requires, as an outcome, that registered providers comply in full with both its own provisions and those of the Policy Statement. It goes on to detail the circumstances and properties to which it applies and does not apply. It sets out specific expectations relating to the following areas:
 - the 2020 limit;
 - rules on Social Rent (including fair rent);
 - rules on Affordable Rent;
 - movement between different types of rent.
- 4.5 Responses to this consultation must be received by 30 July 2019 in order for the Regulator to consider them.

5. Introduction

- 5.1 Government policy over rents, alongside the grant funding for development, are key pillars of the social housing sector. Since the introduction of the Rent Restructuring exercise in April 2002, RSH and its predecessor bodies have, at the Direction of Government, issued requirements and guidance to registered providers of social housing (providers) in respect of rents. This has included the maximum levels of rent they can charge, and how they should deal with changes to tenancies, new lettings, and annual increases in rents. The most recent iteration of this was the Regulator's Rent Standard (including the Rent Standard guidance) in 2015⁴.
- 5.2 In 2016, Parliament passed the Welfare Reform and Work Act⁵ which, together with Regulations made under it, created a legislation-based regime of rents reducing across the sector by 1% per year until 2020. This regime is referred to hereafter as the social rent reduction. Providers have, since 2016, been required to reduce rents by 1% per year in all stock unless it was subject to an exception.
- 5.3 In October 2017, Government announced⁶ that at the end of the Welfare Reform and Work Act it would return to annual rent increases of CPI +1% up to 2025, implemented through the Regulator's Rent Standard rather than through legislation.
- 5.4 In September 2018, further details of the proposed rent regime for 2020 to 2025 were issued in the form of a Rent Policy Statement⁷. This Policy Statement set out in comprehensive detail how providers were to approach each aspect of rent setting and increase. The consultation on the Direction to the Regulator issued at the same time as the Policy Statement indicated that, for the first time, the Regulator would be regulating the rents of local authority registered providers as well as private registered providers (PRPs).
- 5.5 Views were invited on the Policy Statement, and alongside it, the Secretary of State issued for consultation a draft Direction to the Regulator of Social Housing (RSH) to issue a new Rent Standard to apply from April 2020.

⁴ <https://www.gov.uk/government/publications/direction-on-the-rent-standard-from-1-april-2020>

⁵ <http://www.legislation.gov.uk/ukpga/2016/7/crossheading/social-housing-rents>

⁶ <https://www.gov.uk/government/news/2-billion-boost-for-affordable-housing-and-long-term-deal-for-social-rent>

⁷ <https://www.gov.uk/government/consultations/consultation-on-a-new-rent-standard-from-2020>

- 5.6 Following the Government's consultation, both these documents have now been published in their final form⁸. This creates an obligation on the Regulator to prepare and consult on the new Rent Standard which will apply from 2020 and fulfil the Secretary of State's Direction, having regard to the Policy Statement. The 2020 Rent Standard is, by Direction, to apply to all registered providers of social housing, including local authority registered providers.
- 5.7 The Regulator may under section 194(2A) of the Housing and Regeneration Act 2008 set standards for registered providers requiring them to comply with specified rules about their levels of rent (and the rules may, in particular, include provision for minimum or maximum levels of rent or levels of increase or decrease of rent).
- 5.8 As required by s.194(3) the Regulator will continue to have regard, in the setting of this Standard, to the desirability of registered providers being free to choose how to provide services and conduct business.

⁸ See Consultation document at: <https://www.gov.uk/government/consultations/rents-for-social-housing-from-2020-to-2021>

6. The proposed 2020 Rent Standard

- 6.1 This section sets out the key areas of the proposed 2020 Rent Standard, and how it differs from the previous rent regime. Respondeees to this consultation should, however, note that many aspects of the 2020 Standard derive from the Secretary of State's Direction and that the Regulator's discretion is limited accordingly.
- 6.2 As required in the Secretary of State's Direction, the Regulator's 2020 Rent Standard will apply to all registered providers. This includes both local authority registered providers and PRPs.
- 6.3 This Rent Standard makes provision for the move from the social rent reduction under the Welfare Reform and Work Act 2016 to an annual increase in rents of CPI +1%. A new mechanism called the 2020 limit has been introduced to act as the baseline for the CPI+1% increase whilst protecting the rent reductions of the previous four years.
- 6.4 The Regulator's overarching aim in creating this 2020 Standard is to meet the requirements of the Direction and ensure that the setting and management of rents is clear and easy to understand for registered providers. Given the detailed and comprehensive nature of the Policy Statement, we considered that it would be simpler and easier for providers to refer to that document, rather than attempting to repeat or interpret its provisions within the Rent Standard or any attached guidance. Therefore, we have as far as possible mirrored the provisions in the Direction and the Policy Statement, and required providers to comply in full with the Policy Statement alongside the Standard.
- 6.5 All definitions used in the Standard are also taken from the Policy Statement. Stakeholders should note the change from previous Rent Standards in the definition of Intermediate Rent.
- 6.6 There have been changes in the requirements on re-basing of Affordable Rent on re-let, and on the circumstances in which Affordable Rent may be used. Details of all changes are contained in the Policy Statement.
- 6.7 The proposed Rent Standard includes specific requirements for local authorities to communicate with the Regulator in an accurate and timely manner. This includes where there are material issues which relate to compliance or non-compliance. The requirement in the Rent Standard is specific to local authority registered providers as the equivalent requirements for private registered providers are already covered in the Governance and Financial Viability Standard.

Consultation question 1: Do you consider that the Regulator has accurately reflected the requirements of the Direction in its proposed 2020 Rent Standard?

Consultation question 2: Do you agree that the proposed 2020 Rent Standard, when read alongside the Policy Statement, gives providers an appropriate level of clarity about the rules on rent with which they will be required to comply?

Consultation question 3: Do you have any other comments in relation to the proposed 2020 Rent Standard?

Consultation question 4: Do you agree with the conclusion of the business engagement assessment including equality analysis, at Annex 3 of the consultation document?

- 6.8 The Regulator considers that the level of detail in the proposed 2020 Rent Standard, when read alongside the Policy Statement, is sufficient and that it is not necessary to publish supporting Rent Standard guidance.
- 6.9 The Policy Statement leaves providers free to obtain their own appropriately qualified advice on property valuations. As such, the Regulator is not proposing to include any further guidance on how to work out depreciated replacement cost valuations for supported housing.
- 6.10 To assist providers, the Regulator proposes to publish on its website an annual update of the CPI figure to be used for rent increase calculations, and the annual rent caps. These figures would not form part of the proposed 2020 Rent Standard but would be provided for information only.

7. About this consultation

- 7.1 This consultation document and the consultation process have been developed to adhere to the consultation principles issued by the Cabinet Office.
- 7.2 In their response, representative groups are asked to give a summary of the people and organisations they represent, and where relevant, who else they have consulted in reaching their conclusions.
- 7.3 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004).
- 7.4 If you want the information you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Regulator.
- 7.5 The Regulator will process your personal data in accordance with the DPA and the General Data Protection Regulation. In the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
- 7.6 Individual responses will not be acknowledged unless specifically requested.
- 7.7 Thank you for taking the time to read this document and respond. Your opinions are valuable to us.

Annex 1: Proposed Rent Standard 2020



Regulator of
Social Housing

Rent Standard

April 2020



1. Required outcome

- 1.1 Registered providers⁹ must set rents from 1 April 2020 in accordance with the Government's *Policy Statement on Rents for Social Housing 2018 (hereafter Rent Policy Statement)* which can be found at:
<https://www.gov.uk/government/publications/direction-on-the-rent-standard-from-1-april-2020>¹⁰

2. Exclusions from this Rent Standard

- 2.1 This Rent Standard applies, subject to the exceptions in 2.2-2.5 below, to 'low cost rental' accommodation, as defined by section 69 of the Housing and Regeneration Act 2008. All other terms used in this Rent Standard are defined within the 'Policy Statement on rents for social housing'
- 2.2 This Rent Standard does not apply to the following categories of property, as defined in chapter 5 of the Rent Policy Statement:
- 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
- 2.3 This Rent Standard does not apply to property let to a high income social tenant, for the period of time where that property is let to that tenant. Where a tenancy of a high income social tenant ends, or where the tenant no longer fits the definition of "high income social tenant" as set out in the Rent Policy Statement, this Rent Standard then applies to that tenancy, and/or to future lettings of that property.
- 2.4 Where the application of this Rent Standard would jeopardise the financial viability of a private registered provider, the Regulator may agree, on request from that provider, an exemption to specific requirements of the Rent Standard for a period of time¹¹.

⁹ This Rent Standard applies to both private registered providers and local authority registered providers

¹⁰ And any future amendments/additions to that Policy Statement

¹¹ Further guidance on providers requesting an exemption can be found in the policy statement and arrangement for local authorities will be published by MHCLG in due course

- 2.5 In a situation (such as an insolvency) where there is a mortgagee in possession, or receiver, in place, or where the registered provider's stock is sold to a non-registered landlord following intervention by the Regulator, neither the mortgagee in possession, nor the receiver, nor the landlord to whom the stock is sold will be bound by this Rent Standard.

3. Specific expectations

- 3.1 Registered providers must comply in full with all the requirements and expectations set out in this Rent Standard. They must additionally comply with all the requirements and expectations of the Rent Policy Statement on the setting, increase and decrease of rents and service charges.

2020 limit

- 3.2 In the year following the end of the social rent reduction period the maximum weekly rent for an existing tenant is the 2020 limit. "2020 limit" means the amount that is found by:
- a. determining the average weekly rent for the tenant's accommodation in the fourth relevant year specified in section 23(6) of the Welfare Reform and Work Act 2016, and
 - b. increasing that amount by $CPI + 1\%$ ¹²
 - c. in this paragraph "average weekly rent" means:
 - i. in a case where the weekly rent changes because the accommodation is re-let after the start of the fourth year, the weekly rent payable by that tenant for that accommodation in respect of the most recent period for which rent was payable at that changed rate provided that that change complies with the requirements of the of the social housing provisions¹³ of the Welfare Reform and Work Act 2016 Act and any Regulations made under those provisions; or
 - ii. in any other case, the average weekly rent payable by the tenant of that accommodation in respect of the fourth year.
- 3.3 This formula for calculating the 2020 limit applies to both Social Rent and affordable rent housing.

¹² CPI, where mentioned, is the Consumer Protection Interest rate published by the Office for National Statistics for September of the preceding financial year

¹³ "social housing rent provisions" has the meaning in section 33 of the 2016 Act.

Social rent

- 3.4 Where accommodation is not affordable rent housing (see 3.8-3.9 below), the maximum weekly rent for a tenant who is granted a tenancy of the accommodation for the first time is formula rent. Formula rents are exclusive of any service charges.
- 3.5 The formula rent of accommodation is found in accordance with the method set out in paragraphs 2.4 to 2.6 of the Rent Policy Statement. The rent set may include an upwards tolerance – “Rent Flexibility” – of
- if the accommodation is supported housing, 10% of formula rent; or
 - if the accommodation is not supported housing, 5% of formula rent.
- 3.6 As set out in paragraph 2.8 and 2.9 of the Rent Policy Statement, formula rent is subject to the rent cap. The rent cap is determined in accordance with paragraphs 11 and 12 of Appendix A to the Rent Policy Statement.
- 3.7 Subject to the 2020 limit (see above), 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.

Fair rent

- 3.8 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 both the rent caps and the rent flexibility level).
- 3.9 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 maximum fair rent is increased by more than that amount).

Affordable rent housing

- 3.10 Affordable rent may only be charged where the property in question is provided by a:
- a. registered provider pursuant to a housing supply delivery agreement between that provider and the Homes and Communities Agency (now known as Homes England) or the Greater London Authority and the accommodation is permitted by that agreement to be let at an affordable rent; or
 - b. registered provider pursuant to an agreement between a local authority and the Secretary of State and the accommodation is permitted by that agreement to be let at an affordable rent; or
 - c. local authority, and the Secretary of State, Homes England or the Greater London Authority has agreed that it is appropriate for the accommodation to be let at an affordable rent.
- 3.11 In addition to the above, Affordable Rent may be charged where the property has been acquired by a registered provider and was affordable rent housing when it was acquired.
- 3.12 Where Affordable Rent is being charged, the maximum rent inclusive of service charge for a new tenant under a new tenancy is 80% of the market rent¹⁴ for the tenant's accommodation, subject to 3.13 and 3.14 below.
- 3.13 If the formula rent is higher than 80% of the weekly market rent (inclusive of service charges) for the tenant's accommodation, the maximum weekly rent is formula rent which is to be set as in paragraphs 3.3-3.6 above, and would be exclusive of service charges.
- 3.14 The rent of an existing affordable rent tenant (including where they have a new tenancy) may not be increased by more than CPI +1% in any year, subject to 3.2 above. 'Existing tenant' in this context means an existing tenant of the specific property concerned. For the avoidance of doubt, the revised rent on re-letting to an existing tenant may only be re-based to 80% of current market value where the resulting rent would be no more than the rent arrived at by a CPI+1% increase.

¹⁴ market rent" means, in relation to accommodation, an estimate of its market rent inclusive of all service charges at the time the tenancy is granted that is based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors.

Moving between types of rent

- 3.15 Where a tenancy subject to fair rent protection ends and the property is re-let, that new letting should be at social rent (or Affordable Rent where applicable and permitted. See 3.17a below).
- 3.16 On re-letting of a property previously occupied by a high income social tenant, the new letting should be at social rent (or Affordable Rent where applicable and permitted. See 3.18a below).
- 3.17 Social rent properties may not be converted to:
 - a. Affordable Rent (other than in the circumstances set out in chapter 2 of the Rent Policy Statement);
 - b. market rent (other than in the circumstances set out in chapter 4 of the Rent Policy Statement); or
 - c. intermediate rent.
- 3.18 Affordable Rent housing must not be converted (including on re-let) to:
 - a. market rent (other than in the circumstances set out in chapter 4 of the Rent Policy Statement); or
 - b. intermediate rent.

Local authority information requirements

- 3.19 Local authority registered providers shall communicate with the Regulator in an accurate and timely manner. This includes all data and information required by the Regulator in respect of compliance with this Standard. Where material issues that relate to non-compliance or potential non-compliance with the Rent Standard are identified by local authorities, they are expected to communicate these to the Regulator promptly.

Annex 2: Direction on a Rent Standard by the Secretary of State

The final Direction to the RSH can be found here:
<https://www.gov.uk/government/publications/direction-on-the-rent-standard-from-1-april-2020>

The text is reproduced below:

The Direction on the Rent Standard 2019

The Secretary of State makes the following Direction in exercise of the powers conferred by section 197 of the Housing and Regeneration Act 2008(a).

(a) 2008 c. 17

(b) 2016 c. 7

In accordance with section 197(4) and (5) of that Act, before making this Direction the Secretary of State consulted the RSH, the Greater London Authority, the Charity Commission and bodies appearing to the Secretary of State to represent the interests of local housing authorities, tenants of social housing and registered providers.

Citation, commencement and application

1.—(1) This Direction may be cited as the Direction on the Rent Standard 2019.

(2) This Direction comes into force on the day after the day on which it is made.

(3) This Direction applies to the Regulator in relation to the rents of registered providers of social housing.

Interpretation

2.—(1) In this Direction—

- “the 2016 Act” means the Welfare Reform and Work Act 2016(b);
- “the 2020 limit” means the amount calculated in accordance with paragraph 3;
- “affordable rent housing” has the same meaning as in paragraph 3.3 of the Rent Policy Statement;
- “CPI” means the general index of consumer prices (for all items) published by the Office for National Statistics or, if that index is not published for any month, any substituted index or index figures published by that Office; and where this Direction refers to CPI, this shall be the figure for CPI for September of the preceding financial year;
- “existing tenant” means any tenant other than a tenant who is granted a tenancy of the accommodation for the first time;
- “financial year” means a year beginning on 1 April;
- “registered provider” means a registered provider of social housing;

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- “Regulator” means the Regulator of Social Housing;
- “Rent Policy Statement” means the Policy Statement on Rents for Social Housing issued by the Secretary of State on 26 February 2019;
- “rent restriction period” has the same meaning as in section 31(10) of the 2016 Act;
- “Rent Standard” means a standard for registered providers requiring them to comply with specified rules about their levels of rent set under section 194(2A) of the Housing and Regeneration Act 2008;
- “supported housing” has the meaning in paragraphs 2.38 and 2.39 of the Rent Policy Statement.

Any expression which is used, but not defined, in this Direction has the same meaning as in the Housing and Regeneration Act 2008.

Calculation of the 2020 limit

3. — The 2020 limit is calculated by—

(a) determining the average weekly rent for the tenant’s accommodation in the fourth of the relevant years specified in section 23(6) the 2016 Act, and

(b) increasing that amount by CPI + 1%,

(c) in this paragraph, “average weekly rent” means—

(i) in a case where the weekly rent changes because the accommodation is re-let after the start of the fourth year, the weekly rent payable by that tenant for that accommodation in respect of the most recent period for which rent was payable at that changed rate provided that that change complies with the requirements of the social housing provisions of the 2016 Act and any Regulations made under those provisions; or

(ii) in any other case, the average weekly rent payable by the tenant of that accommodation in respect of the fourth year,

(d) for the purposes of sub-paragraph (c), “social housing rent provisions” has the meaning in section 33 of the 2016 Act.

Formula rent

4.—(1) The formula rent of accommodation is to be calculated in accordance with the method set out in paragraphs 2.4 to 2.6 of the Rent Policy Statement with upwards tolerance of—

(a) if the accommodation is supported housing, 10% of formula rent; or

(b) if the accommodation is not supported housing, 5% of formula rent.

(2) But as set out in paragraphs 2.8 and 2.9 of the Rent Policy Statement formula rent is subject to the rent cap.

(3) The rent cap is determined in accordance with paragraphs 11 and 12 of Appendix A to the Rent Policy Statement.

Direction to set a Rent Standard

5.—(1) The Regulator must set a Rent Standard that applies from 1 April 2020 in relation to low cost rental accommodation that is not—

(a) let to a high income social tenant; or

(b) accommodation to which the Rent Policy Statement does not apply(a). (a) See Chapter 5 of the Rent Policy Statement.

(2) The Rent Standard must require registered providers to comply with the rules about their levels of rent set out in paragraphs 7 and 8 of this Direction.

(3) The Regulator must have regard to the Rent Policy Statement when setting the Rent Standard.

(4) In this paragraph—

- “high income social tenant” means the tenant of a household that had a total household income of £60,000 or more in the relevant tax year, where—

(a) “total household income” means, in relation to accommodation—

(i) if there is one resident, the income of that resident;

(ii) if there are two residents, the sum of the residents’ incomes; and

(iii) if there are more than two residents, the sum of the two highest incomes of the residents;

(b) “resident” means—

(i) any person who is the tenant or a joint tenant; and

(ii) any person who resides at the accommodation and is the spouse, civil partner or partner of the tenant or of a joint tenant;

(c) “income” has the same meaning as “total income” as described in section 23 of the Income Tax Act 2007(a);

(d) “partner” means a person who is not married to, or a civil partner of, the tenant or joint tenant who lives with the tenant or joint tenant in the accommodation as if they were married or in a civil partnership; and

(e) “relevant tax year” means the tax year ending on the 5th April which falls in the financial year prior to the financial year in which the rent is reviewed.

Exemptions from the Rent Standard

6. The Regulator may in relation to a private registered provider grant an exemption from or vary a requirement of the Rent Standard if the Regulator considers that complying with the requirement would jeopardise the financial viability of the provider.

Social rent housing

7.—(1) This paragraph applies in relation to the rent of accommodation that is not affordable rent housing.

(2) The maximum weekly rent for a tenant who is granted a tenancy of the accommodation for the first time is formula rent.

(3) Subject to sub-paragraph (4), the weekly rent of an existing tenant may not be increased by more than—

- (a) CPI + 1% in any year; or
- (b) if the tenant's rent exceeds the rent flexibility level, CPI in any year.

(4) In the year following the end of the rent restriction period the maximum weekly rent for an existing tenant is the 2020 limit.

(5) In this paragraph—

“rent flexibility level” means—

- (a) 105% of formula rent; or
- (b) if the accommodation is supported housing, 110% of formula rent.

Affordable rent housing

8.—(1) This paragraph applies in relation to the rent of affordable rent housing.

(2) The maximum gross rent for a tenant under a new tenancy is 80% of the market rent for the tenant's accommodation, subject to sub-paragraphs (3) and (4).

(3) If the formula rent is higher than 80% of the weekly market rent for the tenant's accommodation, the maximum weekly rent (exclusive of service charges) is formula rent.

(4) The rent of an existing tenant may not be increased by more than CPI + 1% in any year, subject to sub-paragraph (5).

(5) In the year following the end of the rent restriction period the maximum weekly rent for an existing tenant is the 2020 limit.

(6) In this paragraph—

- “gross rent” means the rent inclusive of all service charges;
- “market rent” means, in relation to accommodation, an estimate of its market rent inclusive of all service charges at the time the tenancy is granted that is based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors;
- “tenant under a new tenancy” means a tenant who is—
 - (a) granted a tenancy of the accommodation for the first time; or
 - (b) granted a new tenancy of the accommodation, unless the tenancy follows on from a probationary tenancy.

Revocation and transitional provision

9. The Direction on the Rent Standard 2014—

- (a) is to have no effect in relation to rents from 1 April 2020; and
- (b) is revoked on 1 April 2020.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Kit Malthouse MP

Date: 25.02.2019

Annex 3: Business engagement assessment

Business engagement assessment	
Title of proposal	Consultation on a new Rent Standard from 2020
Lead regulator	<i>The Regulator of Social Housing</i>
Contact for enquiries	<i>Referrals and Regulatory Enquiries team</i> 0300 124 5225 enquiries@rsh.gov.uk

Date of assessment	March 2019	Stage of assessment	Draft
Net cost to business (EANCB)	None	Commencement date	April 2020
Which area of the UK will be affected by the change(s)?	England	Price and present value base years	From April 2020
Does this include implementation of Red Tape Challenge commitments?	No	Is this directly applicable EU or other international legislation?	No

Brief outline of proposed change

The RSH is proposing to replace the existing Rent Standard. The proposed changes have come about as a result of the Secretary of State issuing a Direction to the Regulator to produce a new Rent Standard which has regard to the Rent Policy Statement published in February 2019.

We are consulting on a proposed new Rent Standard, and will review the draft Standard in light of the responses received to this consultation. The new Standard, incorporating any changes that may be made following responses to this consultation, will be published in advance of coming into force on 1 April 2020.

Why is the change proposed? Evidence of the current problem

The RSH has been directed to introduce a new Rent Standard to apply from April 2020, by the Secretary of State under s197 of the Housing and Regeneration Act 2008. The Secretary of State's Direction contains detailed instructions on the content of the proposed Rent Standard. A Government Policy Statement on Rents has also been published to which the Regulator must have regard in setting its Rent Standard.

Which types of businesses will be affected? How many are affected?

All registered providers of social housing will be affected by the 2020 Rent Standard, including local authority registered providers. For the purposes of this business engagement assessment, only PRPs have been considered (due to requirements around business impact not being applicable to public sector organisations). As at 29 April 2019, there were 1,669 PRPs registered with RSH. Of those, 1,426 were non-profit PRPs, 47 were profit-making PRPs and 196 were local authorities.

How will the change impact these businesses?

PRPs should experience no change in regulatory burden under the 2020 Rent Standard. The practical means and approach to regulation of rents will not change significantly, and will therefore also not add anything to the regulatory burden on PRPs. For clarity, the impact on local authorities has not been considered under this assessment due to the public sector not being classified as businesses.

Impact on small businesses

The majority of the sector consists of small providers/businesses. The Secretary of State's Direction requires that the parameters for rent setting apply equally to these small providers alongside larger PRPs and local authority registered providers. However, the Regulator's practical requirements on smaller providers in the area of rent regulation (for example in data submission) are fewer than those on larger providers. This reflects the Regulator's general approach to its regulatory engagement, which is proportionate and risk based, seeking to reduce regulatory burden on small providers. Our full approach to regulating small providers is set out in our publication *Regulating the Standards*¹⁵.

¹⁵ <https://www.gov.uk/government/publications/regulating-the-standards>

Equality and diversity

The Regulator is mindful of its statutory equality duties under section 149 of the Equality Act 2010.

The Regulator will take a proportionate approach to its equality obligations and has at this stage identified no equalities implications arising from the proposed Rent Standard 2020.

Providers, whilst they must comply with the requirements on rent setting in the Rent Standard 2020, remain under their own equality duties to ensure that their decisions on rent setting support the requirements of the Equality Act 2010 and meet all aspects of the General Duty. In rent setting, as in all areas, the Regulator's co-regulatory approach means that detailed decisions on the level of rents to charge within limits set by the Rent Standard are for the provider to take. A full equality analysis has not been completed on the proposed changes because the Regulator considers that this 2020 Rent Standard does not in itself affect providers' compliance with their equality duties. Equality will, however, continue to be considered in developing the final Rent Standard post consultation and we particularly welcome any views from respondents in this area.

The Regulator will review its consideration of the impacts on equality and diversity following the consultation and the analysis of stakeholder feedback.

Annex 4: Statutory consultees

S196 Housing and Regeneration Act 2008

(1) Before setting standards, or issuing, revising or withdrawing a Code of Practice, the Regulator shall consult the following or ensure that they have been consulted:

- a. one or more bodies appearing to it to represent the interests of registered providers
- b. one or more bodies appearing to it to represent the interests of secured creditors of registered providers

[(ba) anybody for the time being nominated under section 278A,]

- c. one or more [other] bodies appearing to it to represent the interests of tenants of social housing,
- d. .
- e. one or more bodies appearing to it to represent the interests of local housing authorities,

[(ea) the Greater London Authority,]

- f. .. and
- g. the Secretary of State.

[(1A) Before setting standards, or issuing, revising or withdrawing a Code of Practice, the Regulator must also consult the HCA.]

(2) Before setting a standard which would apply to charities, or issuing, revising or withdrawing a Code of Practice which applies or would apply to charities, the Regulator must consult the Charity Commission.

In accordance with the above legal requirement, the Regulator is consulting the bodies set out above.

In addition, responses from individual registered providers or those considering registration will be welcomed. As will any responses from tenants, tenants' groups, other representative bodies or individual funders to the sector.



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RSH regulates private registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver homes that meet a range of needs.