



Regulator of
Social Housing

Consultation on a new Rent Standard

Decision statement



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Consultation on a New Rent Standard – Decision statement

1. Introduction

- 1.1. The Regulator of Social Housing published a consultation on a new Rent Standard on 7 May 2019. The consultation closed on 30 July 2019.
- 1.2. This document provides a summary of the key areas of feedback and sets out the regulator's decision on the final Rent Standard. The new Standard will come into effect on 1 April 2020. This document is not intended to cover all of the responses received (all of which have been taken into account in reaching the conclusions set out in this Decision Statement), but a summary of the key issues and comments made. A list of respondents is provided in Annex 1.
- 1.3. The business engagement assessment with Equality Analysis has also been reviewed in light of the responses received. The final version is provided in Annex 4.

2. Overview

- 2.1. 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, the regulator 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 2015.
- 2.2. In 2016, Parliament passed the Welfare Reform and Work Act which, together with Regulations made under it, created a legislation-based regime of rent reduction across the sector by 1% per year until 2020. Since 2016, providers have been required to reduce rents by 1% per year in all stock unless it was subject to an exception.
- 2.3. In October 2017, Government announced that at the end of the Welfare Reform and Work Act it would return to annual rent increases of up to CPI +1% up to 2025, implemented through the regulator's Rent Standard rather than through legislation.

- 2.4. 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) and the regulator is required to have regard to this when setting its Rent Standard.
- 2.5. The publication of the 'Direction to the Regulator' created an obligation on the regulator to prepare and consult on a new Rent Standard, which will apply from 2020 and fulfil the Secretary of State's Direction. The 2020 Rent Standard is, by Direction, to apply to all registered providers of social housing, including local authority registered providers.
- 2.6. 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).
- 2.7. We issued our draft Rent Standard for consultation on 7 May 2019 and this document presents the results of that consultation and the questions it asked.

3. Summary of responses

- 3.1. A total of 187 responses were received, 173 online (via Survey Monkey) and 14 in writing, predominantly via email.
- 3.2. 60 of the 173 online respondents started a response, but did not complete any of the questions. They have therefore been excluded from the analysis. The remaining 113 were added to the total received in writing and the analysis of responses was carried out on this total of 127 responses.
- 3.3. Of the 127 responses received:
 - 70 (55%) responses were from private registered providers;
 - 33 (26%) responses were from local authorities/ALMOs;
 - 17 (13%) responses were from trade or representative bodies;
 - 4 (3%) responses were anonymous; and
 - 3 (3%) responses were from unknown named organisations.

4. Analysis of individual questions¹

Question 1

4.1. 124 respondents provided a response to this question.

Table 1: Overview of responses to Question 1

Question 1 – overview	Yes	Yes%	No	No%	Other	Other %
Do you consider that the regulator has accurately reflected the requirements of the Direction in its proposed 2020 Rent Standard?	115	92.7%	2	1.6%	7	5.7%

Issues raised by the response to Question 1

- 4.2. The overall response to this question was very positive with only two (1.6%) respondents disagreeing that we had accurately reflected the requirements of the Direction in the proposed Standard. Seven (5.7%) respondents answered ‘other’ to this question.
- 4.3. There were a range of comments given by respondents in relation to this question. The vast majority of the comments echoed the view that the Standard reflected the Direction very well.
- 4.4. In addition to the supportive comments, we also received a range of policy-related comments in response to this question. As we made clear in the consultation, the content of the Rent Standard has to follow the Direction we have been given by the Government. The Government undertook a full statutory consultation on the ‘Direction to the Regulator’ and many of these policy issues were addressed through that consultation. The only other issue we received in relation to this question is set out below:
- Section 2.3 which refers to ‘high income social tenants’ reads as if this is mandatory for registered providers

¹ Please note that percentages may not add up to 100 because of rounding up. The percentages are of the number of respondents who answered the particular question (i.e. they did not leave it blank), rather than on the total number of respondents.

- 4.5. The policy on around High Income Social Tenants is set out in Chapter 4 of the Policy Statement. This makes it clear it is a voluntary option for registered providers. The purpose of paragraph 2.3 of the Rent Standard is to deal with the treatment of any such property should a registered provider choose to use the High Income Social Tenant Exception. In effect, this section makes it clear that the Rent Standard does not apply to property let to a high income social tenant.
- 4.6. Where policy issues have been raised in relation to this question, we will ensure we feed these back to Government.

Question 2

- 4.7. 123 respondents responded to this question.

Table 2: Overview of responses to Question 2

Question 2 – overview	Yes	Yes %	No	No %	Other	Other %
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?	100	81.3%	11	8.9%	12	9.8%

Issues raised by the response to Question 2

- 4.8. The response to this question was positive with only 11 (8.9%) of respondents disagreeing with the question. A further 12 (9.8%) respondents answered ‘other’ to this question. There were many positive comments received and generally respondents felt that the Standard worked well in conjunction with the Policy Statement.
- 4.9. As with the previous question there were a significant number of comments that related to issues of policy, which are not possible to address in this consultation due to already being the subject of the Government’s consultation which led to the ‘Direction to the Regulator’. Examples of comments received are given below and following this, those unrelated to policy will be addressed:
- Questions and requests for further guidance on service charges.
 - Questions around High Income Social Tenants and how this should be implemented and if it is mandatory.
 - Whether the 5% or 10% flexibility is available for new developments.

- A number of respondents commented that the regulator can only grant an exemption for private registered providers on the grounds of financial viability and this should also be the case for local authority registered providers.
- 4.10. In relation to the exemptions for local authorities, this is not included in the Rent Standard as it is not within the gift of the regulator. Exemptions for local authorities who are in financial difficulty is dealt with in chapter 5 of the Rent Policy Statement.
- 4.11. Again, a number of respondents felt that High Income Social Tenants, both in the Rent Standard and the Policy Statement, could be read as being mandatory. We can confirm that this approach is voluntary.
- 4.12. Our approach to regulation is co-regulatory. We set outcome-based standards and it is a matter for boards and councillors to consider the most appropriate way to achieve those outcomes for their individual organisations. We do not set specific guidance on how those outcomes must be achieved. Service charges are also subject to separate legislation and housing benefit rules. We therefore have concluded that it is not appropriate for us to produce guidance on service charges.
- 4.13. We confirm that the flexibility levels of 5% for general needs and 10% for supported housing can be applied to new developments.
- 4.14. Where policy issues have been raised in relation to this question, we will feed these back to MHCLG.

Question 3

- 4.15. All 125 respondents responded to this question.

Table 3: Overview of responses to Question 3

Question 3 – overview	Yes	Yes %	No	No %
Do you have any other comments in relation to the proposed 2020 Rent Standard?	68	54.4%	57	43.6%

Issues raised by the response to Question 3

- 4.16. Question 3 differed from other questions, as it did not ask for any agreement and instead asked for any further comments. Sixty eight (54.4%) of the responses to question 3 provided additional comments. As with the previous questions, the vast majority of the comments were policy-related. 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 as a result of these policy-related comments.

- 4.17. A summary of the comments received that did not relate to the rent policy is provided below. Following this, there is an exploration of the relevant ones for this consultation – where the comment has been made previously, these will not be repeated here.
- There were requests for further explanation about how rent caps will apply under the new Standard. The caps appear to have stayed at the 2015/2016 level.
 - A request was made for the regulator to publish an annual supplementary document (such as the one previously published every November) explicitly setting out what providers can expect in the coming year for areas such as rent caps.
 - It was pointed out that in footnote 12 there appears to be an error in the definition of CPI.
 - Historically, the rent flexibility tolerance was + or -, which gives more flexibility on hard to let stock. A suggestion was made that it would be helpful if the Standard set out whether this simply means while there is a maximum that there is no minimum tolerance.
 - There was a suggestion that the exemption for mortgagees in section 2.5 of the draft Standard should repeat the exception clause contained in Sections 24.2 to 24.4 of the Welfare Reform and Work Act 2016. This is to ensure that mortgagees in possession, receivers and their successors in title can benefit from a clear release from the requirements of the Rent Standard and that valuations for loan security can reflect such a release.
 - It was pointed out that in 3.2 C 1 (Line 6) of the proposed Standard "Act" appears twice.
 - A suggestion was made to add in a sentence to cover the application of the Rent Standard to a housing administrator into paragraph 2.5 – would the policy position be that the Rent Standard would apply, but that the housing administrator could apply for a waiver? If there is a policy on granting waivers, this would need to consider this scenario.
 - It was pointed out that the Rent Standard Guidance and further information will need revising to complement the new Standard.
- 4.18. Some responses raised questions around rent caps and what happens to them going forward. Rent caps are covered in the Policy Statement and the caps for 2019-20 are outlined on page 23 of the Policy Statement. Rent caps will, after this, increase yearly at a rate of CPI+1.5%. Annually, the regulator will publish the revised rent caps along with the prevailing CPI increase rate for the coming year in November the previous year.
- 4.19. In relation to the mistake in footnote 4 of the Rent Standard, this will be corrected from 'protection interest' to 'price index'.
- 4.20. In terms of the rent flexibility level previously being + or -, we can confirm that the change means that the 5% for General Needs or 10% for supported housing is the upper maximum flexibility and there is no minimum; this means that providers are free to set the rent at any level below the maximum.
- 4.21. In relation to paragraph 3.2 C 1 (Line 6) of the proposed Rent Standard "Act" appearing twice. This will be addressed in the final Rent Standard.

- 4.22. In terms of the Rent Standard Guidance, we have taken the decision that the level of detail in the Rents Policy Statement is such that the Rent Standard Guidance is no longer required. The results of this consultation confirm that the vast majority of respondents agree that there is sufficient detail in the Rents Policy Statement to supplement the Standard.
- 4.23. In relation to the comment about paragraph 2.5 of the Rent Standard and how this should repeat the content of S24(2)-24(4) in the Welfare Reform and Work Act 2016, we have considered this but have concluded that in order to achieve simplicity in the language used, we will not make this change .
- 4.24. Related to the above point one comment was that we should clarify in paragraph 2.5 what happens in a situation where a housing administrator is in control of the housing as part of an insolvency. We agree that clarification on this point would be sensible and have included a sentence that explains that the Rent Standard applies to a registered provider subject to a housing administration order unless that provider has applied for and been granted an exemption by the regulator.

Question 4

- 4.25. 121 respondents responded to this question.

Table 4: Overview of responses to Question 4

Question 4 – overview	Yes	Yes %	No	No %	Other	Other %
Do you agree with the conclusion of the business engagement assessment including equality analysis, at Annex 3 of the consultation document?	91	75.2%	4	3.3%	26	21.5%

Issues raised by the response to Question 4

- 4.26. The responses received for question 4 were mainly very positive with only 3.3% of respondents disagreeing with the business engagement assessment (BEA) or equality analysis which it contained.
- 4.27. There was a significant number of respondents (21.5%) who recorded an answer of 'other' in relation to the BEA and equality analysis.

- 4.28. When we examine the reasons given for the number of respondents who either recorded that they did not agree or recorded other, it can be seen that the vast majority of these disagreed to the BEA not covering local authority providers.
- 4.29. The requirement to undertake a BEA comes from the [Accountability for Regulator Impact²](#). The guidance that underpins the BEA specifically asks regulators not to include the impact on public sector bodies, and so we have not included local authorities.
- 4.30. However, to mitigate the impact of rent regulation on local authorities, we have worked closely with the Ministry of Housing, Communities and Local Government and the Local Government Association to ensure that in setting up the Local Authority Data Return (LADR) and other aspects of the regulatory approach in regard to the regulation of local authorities registered providers, we do not create any unnecessary impact or burden on those organisations. The LADR has been subject to assessment, which concluded that it did not represent a new burden. We will continue this liaison until the new regulatory regime comes into force.
- 4.31. Three organisations felt that there were some equalities implications that we had overlooked and that we should have reflected in our analysis. A number of points were made:
- Income-related issues and the ability of people to access different rental products.
 - The difference between housing association and local authority rents i.e. inequality across the housing sector as opposed to inequality for individual tenants.
 - No exemption for temporary housing will impact the more vulnerable members of society.
 - Local authorities have their own equalities duties and need to factor those into how they respond to the new rent regulation within the sector.
- 4.32. Overall, these points are not in relation to groups with protected characteristics and as such, would not factor into the equalities analysis (although it is accepted that people in social housing are disproportionately more likely to fall within a group with a protected characteristic) as this has been framed around the protected characteristics in the Equality Act 2010.
- 4.33. The approach for dealing with temporary housing rents has not been changed from the system in effect under the Welfare Reform and Work Act 2016 in the previous four years. As such, this is not a change or impact brought in by the proposed Rent Standard and so it has not been considered in the equalities analysis.
- 4.34. It is also the case that these issues are outside of the gift of the regulator to address via the Rent Standard as these are policy issues which were the subject of the consultation undertaken by Government on the 'Direction to the Regulator' which the Standard must

² <https://www.gov.uk/government/publications/regulator-impact-accountability-guidance>

now follow. The regulator cannot deviate from the Direction in setting the Rent Standard.

- 4.35. A large number of comments received in relation to the equalities analysis agreed with the regulator that it is the responsibility of registered providers under the Equality Act 2010 to understand and address any equality implications arising out of the implementation of the Government's rent policy within their locality or housing schemes.

5. The Regulator's response to the consultation feedback – Final position on the Rent Standard 2020

- 5.1. The following section seeks to address the major areas of feedback that we received as a result of the consultation. It also outlines any areas of change to the Rent Standard following the consultation.
- 5.2. As we have already outlined, 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.
- 5.3. Our ability to change the Rent Standard is further constrained by the nature of the vast majority of the comments received through this consultation being in relation to Government policy issues pertaining to the Rent Policy Statement or the Rent Direction itself.
- 5.4. We will ensure that all the policy-related issues are shared with Government.
- 5.5. There have been only a limited number of comments that have resulted in changes to the draft Rent Standard that was presented for consultation; these have mainly been in relation to the drafting issues identified. Due to this, drafting changes are not presented as tracked changes in the final Rent Standard at Annex 2.
- 5.6. We received a very positive response to the BEA and there were no additional relevant issues identified with the equalities analysis. As a result of this, no changes are being proposed to the BEA other than being updated in light of the feedback received. The final BEA can be found in Annex 3.

Final position – changes to the Rent Standard

With effect from 1 April 2020, the Rent Standard will be as set out in Annex 2.

Annex 1: List of respondents to the statutory consultation on the Rent Standard

The table below shows the respondents to the consultation.

Where the response was on behalf of an organisation and the respondent used a corporate email address, the organisation's name is given rather than the individual officer who completed the response. Where an organisation's name appears more than once, this is because more than one officer completed a response on behalf of the organisation.

Abbeyfield South Downs	London Tenants Federation
Arches Housing	MuirCroft Housing Association
Association of Retained Council Housing	National Federation of ALMOs
Aster	National Housing Federation
Beyond Housing	Network Homes
Bpha	Newcastle City Council
Bristol City Council	North Kesteven District Council
Broadland Housing Group	Nottingham City Council
Bromford	Nottingham City Homes Registered Provider Limited
CESSA HA Ltd	NSAH (Alliance Homes) Limited
Charnwood Borough Council	Onward Homes
CIPFA	Orbit Group
City of Stoke-on-Trent	Origin Housing Ltd
Clarion	Papworth Trust
Claverdon Benefice Housing Association Ltd1	Peaks & Plains Hosuing Trust
Chartered Institute of Housing	Peter Bedford Housing Association
Colchester Borough Council and Colchester Borough Homes	Places for People
Connexus	Platform Housing Group
Co-operative Housing in Partnership	Plexus UK (First Project) Limited
Cornwall Housing Ltd	Progress Housing Group

Cornwall Partnership	Radcliffe Housing Society
Corton house ltd	Radian Group Limited
Cross Keys Homes	Reside Housing
Curo	Salford city Council
Dartford Borough Council	Sanctuary Group
Derby City Council	Savills
Derby Homes Ltd	SBHA
Dolphin Living	Selby District Council
East Midlands Tenant Participation Forum	Shepton Mallet United Charities
EMH group	Society of St James
Epping Forest District Council	South Liverpool Homes
Forbes Solicitors	Sovereign Housing Association Ltd
Franklands Village Housing Association	Sovini Group
G15	St Annes Community Services
Gateshead Council	St Mungos Community Housing Association
Gloucester City Homes	Stockport Homes Group
Golden Lane Housing Ltd	Stoll
Great Yarmouth Borough Council	Tameside MBC
Greatwell Homes	The Almshouse Association
GreenSquare	The Guinness Partnership
Halton Housing	The North Eastern YWCA Trustees Ltd
Harrogate Involved Tenants' All Panel's Group	The Pioneer Group
Harrow Council	The Riverside Group
Havebury Housing Partnership	Thirteen
Home Group	Thrive Homes Ltd
Housing 21	Tonbridge United Charity
Housing law services LLP	Tower Hamlets Council
Housing Plus Group Limited	Town & Country Housing

Incommunities	Trowers & Hamlins LLP
Innisfree Housing Association	Two Saints Limited
Ipswich Borough Council	UK Finance
Karbon Homes	Wakefield Council
L&Q	Watford Community Housing
Lambeth Council	Welwyn Hatfield Borough Council
Learning Disability Housing Network	West Kent Housing Association
Legal & General Affordable Homes	West Lancashire Borough Council
Leicester City Council	Westminster City Council
Lincolnshire Rural Housing Association	WM Housing Group
Local Government Association	Wythenshawe Community Housing Group Limited
London Borough of Havering	Yorkshire Housing

Annex 2: Rent Standard 2020 (to take effect 1 April 2020)



Regulator of
Social Housing

Rent Standard

April 2020



1. Required outcome

- 1.1 Registered providers¹ must set rents from 1 April 2020 in accordance with the Government's *Policy Statement on Rents for Social Housing 2018 (hereafter Rent Policy Statement²)*.

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 time³.

¹ This Rent Standard applies to both private registered providers and local authority registered providers

² <https://www.gov.uk/government/publications/direction-on-the-rent-standard-from-1-april-2020>

³ 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. Where a Housing Administration Order applies to a registered provider, the Rent Standard will continue to apply to that provider unless an exemption has been granted by the regulator to that provider.

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%⁴
 - 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 provisions⁵ of the Welfare Reform and Work Act 2016 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.

⁴ CPI, where mentioned, is the Consumer Price Index rate published by the Office for National Statistics for September of the preceding financial year

⁵ "social housing rent provisions" has the meaning in section 33 of the 2016 Act.

3.3 This formula for calculating the 2020 limit applies to both social rent and affordable rent housing.

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. a 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. a 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 rent⁶ 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.

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 3.17 a below).

⁶ 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.

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

Brief outline of proposed change

The Regulator of Social Housing (RSH) is introducing a new 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 have consulted on the new Rent Standard, and have reviewed the draft Standard in light of the responses received to the consultation. The new Standard, incorporating the changes that have been 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

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 which the regulator must have regard to 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 private registered providers (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*⁷.

⁷ <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. It 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.

While providers must comply with the requirements on rent setting in the Rent Standard 2020, they 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.

We asked a specific question on the equality analysis summarised above during the consultation. Only four (3.3%) of the respondents did not agree with our summary of the equality implications of the new Rent Standard. The respondents that did not agree sighted reasons which covered the following four areas:

1. Income related issues and the ability of people to access different rental products

This is a matter of policy and is not a matter that is covered within the new Rent Standard. The regulator is directed by Government on the content Rent Standard and as such, the regulator is unable to change the policy which is formulated by the Government. The Government undertook a statutory consultation on the 'Direction to the Regulator' and has set out the rent policy for the sector for the next five years in the 'Policy Statement on rents for social housing' document they published.

2. The differences between housing association and local authority rents are unfair

This issue was explained in terms of it being unfair that housing associations have higher rents historically than local authorities and this is unfair on local authorities who should be able to even up the playing field. As this is a structural issue regarding the sector as a whole and has not been reported as having any adverse impact on individuals with protected characteristics, it is essentially an issue for organisations and we are unable to address this.

3. The effect the Rent Standard will have on local authority 'temporary housing' will impact the more vulnerable members of society

It has been asserted that the Rent Standard will create financial difficulties for some local authorities where their temporary housing does not qualify for an exemption from rent requirement. They state that this will make temporary housing unviable and lead to a reduction in the provision of temporary housing by local authorities, which in turn, will disproportionately affect people with protected characteristics.

We do not agree with this assessment as there is no change to the situation than exists currently under the Welfare Reform and Work Act 2016, which has been in force since 1 April 2016. As such, we do not agree that if this is a problem it is due to the introduction of the Rent Standard. In addition to this, we believe there are mitigating actions that local authorities can take to ensure that their fears do not come to fruition and still meet the requirements of the Rent Standard.

4. Local authorities have their own equalities duties and need to factor those into how they respond to the new rent regulation within the sector

The responses to the consultation were very supportive of the stance that it is the responsibility of the sector, under its own equality duties, to ensure that these duties are met while organisations implement the requirements of the new Standard.

We will continue to consider issues of equality during the implementation of the final Rent Standard 2020.



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