

Brentwood Borough Council

Rent Setting Policy

Draft December 2021

Introduction

Brentwood Borough Council is committed to providing affordable housing and looking after its housing stock for the long-term benefit of residents. The primary source of revenue to achieve this is the Council's housing rental income. The Council is also aware that some tenants may be on low incomes and therefore seeks to provide accommodation that is affordable to those people. As a result, this policy seeks to strike a balance between the need to keep rents affordable while also providing sufficient funds to maintain and improve its housing stock.

Scope and Purpose

This policy outlines how Brentwood Borough Council (the Council) will calculate and charge rent for the housing stock that it owns and has the responsibility to manage and maintain.

The Council is required by law to carry out a review of council rents from time to time and to ensure that the Housing Revenue Account (HRA) does not fall into a deficit position. The rent charged determines the income to the HRA, which in turn determines the 30 year HRA Business Plan.

This policy covers tenants of the Council, and in the future the policy will apply to shared owners.

The purpose of this policy is to:

- Ensure that rents will be set in accordance with relevant statutory, regulatory, audit and contractual obligations.
- Ensure rents are set at a level which ensures that the Council meets its obligations to residents, maintains stock at a good standard and supports plans for investment in new and existing homes.
- Provide a clear framework for the setting and review of rent levels for each property, including existing tenancies, new tenancies and when properties are let after being void.
- Ensure that all tenants are made aware of the weekly rent payment due to the Council, both at the beginning of their tenancy and when the charge is reviewed each year.

This policy does not cover temporary accommodation provided by the Council.

Background

Since 2001, rents for properties let at 'social rent' (which constitute a majority of rented social housing properties) have been set based on a formula set by the Government. This creates a 'formula rent' for each property, which is calculated based on the relative value of the property, relative local income levels and the size of the property. An aim of this formula-based approach is to ensure that similar rents are charged for similar social rent properties across public and private registered providers.

In 2011, the government introduced 'affordable rent' which permits rents (inclusive of service charges) to be set at a level up to 80% of market rent. The introduction of properties that charge an 'affordable rent' has made it possible to build more homes for every pound of central government investment, allowing more people in housing need to have access to a good quality home at a 'sub-market' rent.

From 1 April 2020, the Government has permitted annual rent increases on both social rent and affordable rent properties of up to CPI (Consumer Price Index) plus 1 percentage point from 2020. This is for a period of at least five years.

Legislation and Guidance

The application of this policy is overseen by the Regulator of Social Housing. The detail of this is contained within their published Rent Standard.

The Ministry of Housing, Communities and Local Government produced a policy statement on rents for social housing in February 2019 and this policy sets out how the Council will comply with this document's content, as well as the Regulator of Social Housing's Rent Standard.

An annual check will be made on the rents and charges levied for properties as part of the annual rent review process to ensure that the correct amounts are being charged for properties (i.e. rents and service charges), and to ensure that the correct written notification is given on the charges raised.

CPI will be taken as at September of the previous year.

Affordability

When the Council offers one of its properties to a household, a review of the household's financial circumstances will be completed. This is to ensure that they can afford to cover the costs associated with living in the property and that the tenancy is sustainable.

Where tenants cannot afford to pay their rent this may lead to them ending their tenancy, for example:

- Relinquish their tenancy voluntarily without giving us notice of terminating the agreement.
- Abandon the property.
- Have their tenancy terminated following legal action being taken against them.

The assessment prior to the tenancy beginning is intended to prevent a new customer from signing a tenancy where they do not have the necessary income to sustain the tenancy.

Social Rents

The Council will charge Social Housing Rents for all properties, unless the criteria in respect of Affordable Rents (see the section below) is applied.

Rents will be set based on a formula that has consideration of the condition and location of a property in line with Government Policy:

- The condition and location of a property – reflected in its value.
- Local earnings.
- Property size (specifically, the number of bedrooms in a property).

The basis for the calculation of formula rents is:

- 30% of a property's rent should be based on relative property values.
- 70% of a property's rent should be based on relative local earnings.
- A bedroom factor should be applied so that, other things in the formula being equal, smaller properties have lower rents.

The Council has some properties with a rent charge that are below the formula rent. When one of these properties becomes empty the proposed rent for the incoming tenant will be set at the formula rent.

The Council will set rents at 100% of the target rent for the property, unless the Housing Revenue Account (HRA) Business Plan has identified a shortfall in the management and maintenance of the housing stock and the need for new homes. Where this occurs the Council will seek members approval to charge up to 105%, in line with the Housing Regulator's Rent Standard. Appropriate approval will be sought before charging over a 100% of the target rent.

Affordable Rent

Affordable Rent properties are accommodation which Homes England or the Secretary of State have agreed can be let at an Affordable Rent (including service charges). They are exempt from the Social Rent requirements set out in the previous section of this policy. The Council will enter into agreements with Homes England to build new homes at Affordable Rent to help fund investment in new council housing.

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

Affordable Rent allow local authorities to set rents at levels that are typically higher than social rents but lower than rents in the private rented sector. Affordable rent limits the rent you can be charged up to so it is no more than 80 per cent of what you would pay if you were renting the property from a private landlord.

The rent for affordable rent housing (inclusive of service charges) must not exceed 80% of the gross market rent. Gross market rent means the rent (inclusive of any applicable service charges) for which the accommodation might reasonably be expected to be let for in the private rented sector. Property size, location type and service provision are to be taken into account when determining what gross market rent a property might achieve if let in the private rented sector.

In setting the Affordable Rent for a property, the Council will review the local market rent (LMR) and the number of bedrooms the property has. The Affordable Rent will be set on a combination of these two factors:

- One bedroom properties will be let at an affordable rent being 75% of local market rent ('LMR').
- Two bedroom properties will be let at an affordable rent being 70% of LMR.
- Three bedroom properties will be let at an affordable rent being 65% of LMR.
- Four bedroom properties will be let at an affordable rent being 50% of LMR.
- Affordable rents for properties above four bedroom need will be set on an individually assessed basis.

To ensure that Affordable Rent tenancies are sustainable, the Council will ensure that they are within the financial means of the households offered the property.

The Rent Standard Guidance issued by the Regulator of Social Housing provides details of how initial affordable rents should be set. The document also contains the RICS's guidance on the valuation method for Affordable Rent.

A Registered Provider is required to set a new initial affordable rent any time it grants or renews an affordable tenancy of a property, except when the same property is re-let to the same tenant at the end of a probationary period. The affordable rent charged is also inclusive of service charges.

The Council will ensure that it does not to set the level of rent and service charge above the Local Housing Allowance level. This is the limit for which a tenant may receive housing benefit or universal credit towards the cost of the property.

In addition, an Affordable Rent will be no lower than the potential social rent for the property.

The Government has implemented a process to allow properties let on affordable rent terms by local authorities to be treated outside of the Rent Rebate Subsidy Limitation scheme, subject to meeting a set of criteria set out in the guidance including a signed letter by the Council's Section 151 Officer.

Tenants with higher incomes

From April 2015 local authorities can charge market rents to tenants with an annual household income of £60,000 or more.

Where a household has a taxable earned income of £60,000 or over, the Council will charge a fairer rent. The "household" means the tenants named on the tenancy agreement and any tenant's spouse, civil partner or partner residing in the rented accommodation. Where there are more than two incomes that include the tenant, or tenant's civil partner or spouse, only the two highest taxable income earnings will count towards the £60,000 threshold.

The income from the previous tax year should be used to calculate the rent for the following year. The council will request that tenants declare information if their incomes exceed this limit in accordance with the terms of their tenancy agreement.

A fairer rent will be charged at 80% of the market rental price.

The council will use its discretion to revert the rental charge to social housing rent, if a household is charged a fairer rent and is suffering from financial hardship.

In its guidance the Government advises that:

- In calculating household income only the income of the tenant, and her/his spouse, civil partner or co-habitee are to be taken into account.
- The rent should be reviewed if the household is subject to a 'sudden and ongoing' loss of income.

Where a high-income social tenant's tenancy comes to an end, and they vacate the property, we will re-let the property in line with the previous social housing rent.

Shared Ownership

The rent charged for shared ownership properties is specified in their lease and will reflect any changes to the equity shares held by the resident. The lease also sets how the rent charged will be reviewed.

Service Charges for Tenants

In addition to their rent, tenants may also pay service charges and service charges will increase or decrease separately from rents each year based on the services provided and the costs incurred.

Rents are generally taken to include all charges associated with the occupation of a property, such as maintenance and general housing management services.

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 a dwelling. Service charges are subject to separate legal requirements and are limited to covering the cost of providing the services.

Service Charges are not covered by the same Government guidelines as rent setting, however the guidelines are that service charges should be set on a reasonable and transparent basis and should reflect the service provided. Increases should be limited to CPI +1% as rents are, unless new or extended services are introduced. Where new or extended services are introduced, and an additional charge may need to be made, the Council aims to consult with tenants.

For Affordable Rent tenants, the service charge is included alongside the rent.

Properties Leased by the Council to third parties

Where the Council leases properties to local organisations that use the properties to house people, the organisation will be responsible for setting the rents and charges.

Garages

The Council will set the rental charge of garages annually and this vary per site based on an assessment of demand for the location.

Council tenants will be charged the cost of a garage minus VAT. The cost for all other garage licence holders who are not tenants of the Council will include VAT, in accordance with the relevant VAT legislation.

The Council may charge different garage rent levels in different areas due to the level of demand or condition of the garages.

Rent Collection

Rents will be calculated over 52 weeks and collected over 52 weeks. Where there are 53 weeks in the financial year, the rent will then be charged for 53 weeks and collected over 53 weeks.

The rents will be increased or decreased on the first Monday of April, including in the April following the grant of a new tenancy.

The rent payable is due on the Monday of each week and should be paid within the week that the rent is due, other than where the payment method is by Direct Debit and the payment date has been agreed by the Council.

The service charges that form part of the tenancy or occupation agreement will be highlighted in the agreement. There is no option to opt out of any specified charge.

To assist our customers in paying their rent, all customers will have access to information and advice on their rights to claim housing benefit and any other welfare benefits. A range of rental payment methods will also be made available to customers to enable timely rental payments to be made. Rent statements will be available on-line to residents.

Annual Review of the Rent and Charges levied to Tenants

The annual review of charges is an integral part of the budget setting process across the Council and subject to approval.

Once agreed the new rent and charges are implemented on the first Monday of April.

Notification to Tenants of the Annual Rent Review

The Council will give tenants 4 weeks written notice of any change in the level of rent which normally will be the first Monday in April, and rent increases will be applied in line with Section 13(2) of the Housing Act 1988 where appropriate.

Change to the size of an existing property

Where the Council or the tenant increases the size of the property (e.g. an extension providing an additional bedroom) the rent for the property will be reviewed in line with the social rent or affordable rent calculation used.

Equality and Diversity

The Council recognises the needs of a diverse population and always acts within the scope of its own policies, the Human Rights Act 1998 and the Equalities Act 2010.

The Council works closely with its partners to ensure it has a clear understanding of its customers with clear regularly updated service user profiles and will record, analyse and monitor information on ethnicity, vulnerability and disability. The Council seeks to ensure that this Policy does not discriminate on any grounds.

Review

This policy will be reviewed every three years, unless legislative or regulatory changes require an earlier review.