



## RENT SETTING POLICY

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Rent Setting Policy	4	March 2021	Campbell Tickell	March 2022	170321

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## 1. Introduction

This policy outlines the approach taken by Islington and Shoreditch Housing Association (ISHA) to rent setting for residential units as follows:

- a) Units covered by the Rent Standard April 2020
- b) Units exempt from the rent standard

Service charge setting for all units is covered in the Service Charge Policy. The recovery of rents and service charges are covered in the Income Recovery Policy.

## 2. Aims and Objectives

### 2.1 Aims

We aim to:

- Meet our legislative and regulatory requirements together with the adoption of nationwide good practice.
- Meet our commitments to the terms and conditions of our tenancy agreements, leases and licences in relation to rent setting.
- Provide transparency and accountability to our residents and other stakeholders.
- Act in line with our social and charitable purpose.
- Deal with errors in rent setting quickly and efficiently and in line with regulation.
- Understand the impact of rent setting in relation to our financial viability and take mitigating actions if necessary.

### 2.2 Objectives

It is our objective to ensure our rents are compliant with law and regulations and are in accordance with our purpose as a Registered Provider of housing for people on low incomes.

## 3. Related Documents

- a) Service Charge Policy
- b) Income Recovery Policy
- c) Rent Standard April 2020
- d) Policy Statement on Rents for Social Housing February 2019
- e) Equality and Diversity Statement
- f) Data Protection Policy

## 4. Performance and Compliance

### 4.1 Compliance

- a) Rents for new build schemes are set by Development who will ensure rents are compliant with the regulation governing them and in accordance with the way the development is funded (i.e., Homes England and Local Authority agreements) and also the Greater London Authority (GLA).
- b) The Management Accountant sets the annual rents, resets the relet rents and administers rent registrations.
- c) Commercial rents for market rented units and commercial leases will be set using recognised commercial practice.
- d) All rents will be validated by the Head of Finance.
- e) The Director of Finance submits the annual statistical data return to the regulator.

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- f) The Leadership Team will sign off annual rents and refer them to the Board for approval.
- g) The Board will approve annual rents.
- h) Rents will be set in accordance with the rent standard or regulation applicable to units exempt from the rent standard and the terms and conditions of our tenancy agreements and leases. Where these are not explicit, industry standards will be adopted in a manner consistent with the aims and objectives of this policy.
- i) Areas of non-compliance will be investigated under our rents non-compliance process.

#### 4.2 Review

The policy will be reviewed annually in line with the release of the rent standard and in accordance with any significant changes in legislation, regulation or best practice.

#### 5. The Rent Standard

ISHA sets its rents in accordance with the Rent Standard April 2020 and the Policy Statement on Rents for Social Housing February 2019. We recognise that the risk of non-compliance is increased if we:

- Fail to take account of changing law, regulation or government policy within our policies and procedures.
- Incorrectly treat a property as exempt or excepted from elements of the rent standard or any other relevant law or regulation
- Incorrectly categorise a property within the categories of tenure recognised by the rent standard
- Incorrectly convert a property from one category of tenure to another
- Incorrectly calculate or apply rent calculations
- Contravene the Landlord and Tenant Act 1985 by incorrectly calculating or applying a service charge
- Introduce new, bespoke rental products with rents that do not comply with the requirements of relevant law or regulation
- Have poor quality underlying data.

ISHA is committed to the mitigation of these risks and will apply a continuous improvement framework to its rent setting to ensure full compliance; ensuring risk appraisals are undertaken when changes are being considered in order to preserve or enhance compliance. Additionally, ISHA will ensure rent setting processes capture the requirement to test the validity and accuracy of rents at prescribed intervals.

The Rent Standard applies to social housing dwellings in England. The following Properties are exempt from the rent standard:

- ❖ Shared ownership low-cost rental accommodation
- ❖ Intermediate rent accommodation
- ❖ Specialised supported housing (for clarity: sheltered housing is NOT considered exempt)
- ❖ Relevant local authority accommodation
- ❖ Student accommodation
- ❖ Private Finance Initiative (PFI) social housing
- ❖ Temporary social housing
- ❖ Care homes.
- ❖ High-income social tenancies (HIST)

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## 6. ISHA Rent Regimes

### 6.1 Social Rents

Social rents are subject to a formula rent (formerly known as a target rent). They are usually let on Assured and Assured Shorthold Tenancies. ISHA submits target rents each year as part of the Statistical Data Return to the Regulator of Social Housing.

The formula rent calculation is: 70% of the HA average rent x relative area earnings x bedroom weighting plus 30% of the HA average rent x relative property value. These are exclusive of service charges. Social rented units are subject to rent caps which take into account the number of bedrooms. The 2019-20 rent caps are published in the Policy Statement on Rents for Social Housing February 2019. From 2020-21 these increase by CPI + 1.5%.

The Rent Standard recognises the need for landlords to have some discretion in setting rents where conditions have been met to make test affordability, make market comparisons, consult with residents and gain approval by the Board. A rent flexibility may be charged in addition to the formula rent as follows:

- ❖ 5% for general needs
- ❖ 10% for supported housing

ISHA has charged these tolerances in the past and is committed to continuing to do so.

ISHA has a number of supported housing units as defined in the policy statement on rents for social housing 2019 where section 2.38 states, 'supported housing' means low cost rental accommodation provided by a registered provider that:

- a) is made available only in conjunction with the supply of support;
- b) is made available exclusively to households including a person who has been identified as needing that support; and
- c) falls into one or both of the following categories:
  - ❖ accommodation that has been designed, structurally altered or refurbished in order to enable residents with support needs to live independently; and
  - ❖ accommodation that has been designated as being available only to individuals within an identified group with specific support needs. Support is defined as including:
    - i. sheltered accommodation
    - ii. extra care housing
    - iii. domestic violence refuges
    - iv. hostels for the homeless
    - v. support for people with drug or alcohol problems
    - vi. support for people with mental health problems
    - vii. support for people with learning disabilities
    - viii. support for people with disabilities
    - ix. support for offenders and people at risk of offending
    - x. support for young people leaving care
    - xi. support for teenage parents
    - xii. support for refugees

ISHA will undertake valuations in accordance with Royal Institution of Chartered Surveyors (RICS) approved methods. For general needs stock this will be Existing Use Valuations (EUV), assuming vacant possession and continual residential use and the method used is comparative which is also equal to market value. For supported stock this will be a Depreciated

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Replacement Cost (DRC). Both will be made at January 1999 prices. ISHA will not revalue where pre-existing valuations exist. It may consider revaluation where a major structural alteration has taken place such as the addition of a room or extension.

ISHA will not convert social rents to affordable, market or intermediate rents unless done so under the terms outlined in the rent standard. The rent standard is clear. It can be used as follows:

- Social rents may be let to high income social tenants, referred to as HIST. The rent is set using the correct average weekly earnings for high income of £60,000 or over in the formula rent calculation. An alternative would be set these on 100% market rent value. The rent standard does not expect the formula rent rule to apply.
  - Social rents may be used as temporary social housing for homeless applicants nominated under Part 7 of the Homeless Act. They should be on an Assured Shorthold or licence.
- ✓ Initial Rent: Rent will be set at formula rent plus rent flexibilities or the rent cap whichever is the lower.
  - ✓ Annual Rent Review: Rents for 2020 may be increased using the 2020 limit outlined in the rent standard. The government has committed to CPI + 1.0% from 2020 for a period of 5 years. This must not be exceeded. Rents are exclusive of service charges. However, consideration should be given to the overall increase to tenants each year to ensure affordability.
  - ✓ Relet Rent: All incoming tenants will be charged the formula rent (including any rent flexibility) or the capped rent whichever is the lower. The capped rent will not be exceeded.

## 6.2 Fair Rents

Fair rent protection is afforded to tenants with Secure Tenancies issued prior to 1989. Each unit will be registered with the rent officer every 2 years. This rent will be compared to the formula rent (including any rent flexibilities) and the lower of the two will be charged. Once the Secure tenant moves out, the unit will revert to social or affordable in accordance with its build status.

- ✓ Initial Rent: The unit will be registered with the rent officer for the first time. The registered rent will be charged, or the formula rent (including any rent flexibilities) whichever is the lower. Registration will then take place every 2 years for the duration of the Secure tenancy.
- ✓ Annual Rent Review: Year of registration, the registered rent or the formula rent plus flexibility whichever is the lower will be charged. Increases will not exceed Consumer Price Index (CPI) + 1% or the rent cap. Year in between registrations, an uplift of CPI + 1.0% will be applied. The registered rent or the rent cap will not be exceeded.
- ✓ Relet Rent: If the incoming tenant is a secure tenant; the unit remains registered. If the registration is older than 2 years, it will be re-registered. The lower of the registered rent, formula rent plus flexibility or rent cap will be charged. If the incoming tenant is not a secure tenant, the unit will be de-registered and converted back to social or affordable in accordance with its build status. If a secure tenant transfers to another ISHA property, they will retain their secure tenancy and fair rent protection.

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### 6.3 Affordable Rents

Affordable rents were introduced in 2010. Rents are inclusive of service charges and must not exceed 80% of the market rent level. Where the formula rent is higher than the 80% value, the formula rent may be charged. ISHA has discounted percentages with 3 local authorities as follows:

Local Authority	Bedsizes	Percentage Market Rent
Waltham Forest	1 bed	80% Market Rent
Waltham Forest	2 bed	70% Market Rent
Waltham Forest	3 bed	60% Market Rent
Waltham Forest	4 bed	50% Market Rent
Waltham Forest	5 bed	50% Market Rent
Waltham Forest	6 bed	50% Market Rent
Waltham Forest	7 bed	50% Market Rent
Islington	1 bed	65% Market Rent
Islington	2 bed	55% Market Rent
Islington	3 bed	50% Market Rent
Islington	4 bed	50% Market Rent
Islington	5 bed	50% Market Rent
Islington	6 bed	50% Market Rent
Islington	7 bed	50% Market Rent
Hackney	1 bed	70% Market Rent
Hackney	2 bed	60% Market Rent
Hackney	3 bed	50% Market Rent
Hackney	4 bed	50% Market Rent
Hackney	5 bed	50% Market Rent
Hackney	6 bed	50% Market Rent
Hackney	7 bed	50% Market Rent

Supply agreements may allow a Registered Provider to deliver new units on Affordable Rents programme and convert to social rented after a fixed period. ISHA does not have these supply agreements. However, it does have a number of schemes built under the Affordable Rent Programme with a s106 or similar binding agreement with the local authority or other statutory body, and for the most part, these require the scheme to be set on social rents.

Affordable units were traditionally built with a fixed term tenancy intention which would enable the landlord to rebase the rent at the end of the fixed term usually 3-5 years. ISHA does not issue fixed term tenancies in its stock; the rent can only be rebased when the unit is relet.

- ✓ **Initial Rent:** These will be set at upto 80% market rent value. ISHA has local authority agreements in place which allow a lower percentage to be charged and it maintains a record of these.
- ✓ **Annual Rent Review:** We will increase by CPI +1.0% inclusive of the service charge.

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- ✓ **Relet Rent:** All incoming tenants will be charged the rebased 80% market level or lower if a local authority agreement is in place. If the formula rent is higher than the percentage market rent value, ISHA charge the formula rent.

#### 6.4 London Affordable Rents

London Affordable Rents (LAR) were introduced by the GLA for the 2016-21 funding period. This is a benchmark rent set by the GLA and based on the 2015/16 formula rent caps inflated by CPI +1%. There is a different LAR set for each bedroom size. The GLA will publish revised LAR each April. Whilst still an affordable rent product, the GLA recognises that LAR rents are exclusive of service charges.

ISHA has a number of London Affordable schemes built under the Affordable Rent Programme with a s106 or similar binding agreement with the local authority or other statutory body, and for the most part, these require the scheme to be set on social rents.

- ✓ **Initial Rent:** GLA published LAR rate by bedroom size or the formula rent whichever is lower.
- ✓ **Annual Rent Review:** We will increase by CPI +1.0%.
- ✓ **Relet Rent:** All incoming tenants will be charged the published GLA LAR rate by bedroom size or the formula rent whichever is lower.

#### 6.5 Shared Ownership Rents

Shared ownership units are exempt from the rent standard. ISHA has a number of shared ownership properties. Rent is paid on the unsold equity, where the leaseholder owns less than 100% of the equity. The annual uplifts will be set out in the lease. ISHA maintains a table of lease review dates, relevant Retail Price Index (RPI), equity purchased and in which year they staircased.

Prior to marketing the properties, the affordability of the homes will be tested. ISHA will usually set an initial annual rent equivalent to 2.5% of the market value of the unsold equity. However, if the affordability assessment is detrimental towards the majority of applicants on the waiting list, a lower percentage may be set subject to considerations of viability for the scheme and the overall programme. The maximum of 2.75% will not be exceeded.

There are times when these units remain unsold. Supply agreements may allow them to convert to social rent, intermediate rent or a London Living Rent. ISHA may permit a prospective buyer more time to complete. During this time, they may rent the property on a fixed term tenancy or licence to occupy. In these cases, as the equity remains unsold, the rent should be set at 2.75% of the market value of 100% of the equity.

- ✓ **Initial Rent:** This is set at 2.75% of the market value on the unsold equity or as stipulated by the lease.
- ✓ **Annual Rent Review:** RPI + 0.5% or as stipulated in the lease. The correct RPI must be used.
- ✓ **Changes to the Lease:** where the leaseholder staircases up or down, the rent applied is based on 2.75% of the market value of the unsold equity.

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## 6.6 London Living Rents

The London Living Rent (LLR) was introduced in the 2016-21 funding period. It is an intermediate, Rent to Buy, housing tenure with sub-market rent. Homes are to be let on a time limited tenancy and the product is intended to help average income Londoners to save for a deposit and buy their own homes. LLR levels are published by the GLA annually and are ward specific. Rents can be set lower than the published rate. LLR is inclusive of service charge.

- ✓ Initial Rent: GLA published LLR rate by bedroom size for the specific ward.
- ✓ Annual Rent Review: We will increase by CPI. Tenancies are on average for 3 years after which the tenant is expected to purchase.
- ✓ Relet Rent: All incoming tenants will be charged the published GLA LLR rate by bedroom size for the specific ward.

## 6.7 Market Rents

Market rented units are exempt from the rent standard. They are usually privately financed or built under a social rent programme with a supply agreement permitting their use as market rented units. The agreement will also outline the rent setting process. ISHA has a small number of market rented units.

- ✓ Initial Rent: 100% open market rent value.
- ✓ Annual Rent Review: The rent remains the same for the duration of the letting period stipulated in the fixed term tenancy.
- ✓ Relet Rent: 100% open market rent value. Where a renewal of the same tenancy is undertaken, ISHA may consider the circumstances of the household and set a marginally lower percentage.

## 6.8 Intermediate Rents

Intermediate rents are exempt from the rent standard. The Rent Standard April 2020 defines an intermediate rented accommodation as low-cost rental accommodation which satisfies either a), b) or c) of the following:

- a) The accommodation:
  - i. was built or acquired by the private registered provider without public assistance;
  - ii. is provided on an assured shorthold tenancy (other than an assured shorthold tenancy that is expressed to be a probationary or starter tenancy) or licence, either— to a tenant who is not a person nominated by a local housing authority under section 159(2)(c) of the Housing Act 1996, or to a tenant nominated by a local housing authority under section 159(2)(c) where any conditions set by the local housing authority regarding the circumstances in which the registered provider may grant a tenancy of intermediate rent accommodation are satisfied in respect of that accommodation
  - iii. has not previously been let on a social rent basis, and
  - iv. is not affordable rent housing.
- b) The accommodation is low-cost rental accommodation which was funded wholly or in part by public assistance under a programme identified by the Regulator as an intermediate rent accommodation enabling programme and any conditions under that programme regarding the circumstances in which the accommodation may be let as intermediate rent accommodation are satisfied.
- c) The accommodation is key worker housing.

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- ✓ Initial Rent: 90% market rent value or as stipulated in the supply agreement.
- ✓ Annual Rent Review: The rent remains the same for the duration of the letting period stipulated in the tenancy.
- ✓ Relet Rent: On relet or renewal the rent is set at 90% market rent value or as stipulated in the supply agreement.

## 6.9 Ground Rent

Ground rents are exempt from the rent standard. Ground rent is a rent payable by some leaseholders to ISHA as a condition of the lease; it is a charge that relates to the land, rather than the buildings on it. Section 166 Common hold and Leasehold Reform Act 2002 with effect from 28th February 2005 states that Ground Rent must be formally demanded in a prescribed form notice (S.I 2004 3096).

The Notice must be sent out in its complete form to include the 'Notes for Leaseholders', which informs Leaseholders of their rights and responsibilities and must include the following:

- The amount due and the period it relates to and reference to any additional sum that remains unpaid.
- The leaseholders name and the name and address of the landlord or agent to who payment must be made
- The landlord's name and address.
- Date the payment is demanded and when it is due (between 30 days and 59 days after service of the notice and not before the date it should have been paid as per the lease)

The landlord cannot begin any legal steps for recovery of the rent, including action for forfeiture, unless it has previously served the demand in the correct format and the leaseholder has failed to pay the amount properly claimed. There can be no application for forfeiture for non-payment if the amount outstanding is less than £350 unless some of the amount due has been outstanding for more than 3 years.

Changes in the percentage of equity held by a shared ownership leaseholder can have an impact on the requirement to pay ground rent, especially when they reach 100% with this on occasion triggering payment. An assessment of impact on ground rent liability will form part of any staircasing application.

## 7. Managed Units

Units owned by another landlord and managed by ISHA will have their rents set by the landlord. ISHA will charge the rent as notified by the landlord. Rents will be collected by ISHA. A deduction will be made in accordance with the fee stipulated in the management agreement. The balance is paid to the landlord. ISHA manages some properties on behalf of London and Quadrant.

Units owned by ISHA and managed by another landlord will have their rents set by ISHA unless the management agreement states otherwise. The rents will be set in accordance with their supply agreement.

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## 8. Application of the Rent Setting Policy

This policy is implemented through the following processes:

- (a) Initial Rent Setting Process on new schemes
- (b) Annual Rent Setting Process on existing schemes
- (c) Relet Rent Setting Process for units that are being let after a void period.
- (d) Fair Rent Registration Process for units with secure tenancy agreements.
- (e) Rent Non-Compliance Process for any alleged non-compliance.

## 9. Equality and Diversity

This policy will be implemented in accordance with equality legislation and our Equality and Diversity Statement, ensuring that ISHA will not discriminate against any resident on grounds of their protected characteristics. ISHA will address any special communication requirements in order to ensure all our customers have equal access to the information they need to meet their obligations. The policy itself, has been tested under an Equality Impact Assessment (EIA) to ensure it is compliant with legislation.

## 10. Data Protection

This policy will be operated in accordance with the principles of the Data Protection Act 2018, General Data Protection Regulations UK and ISHA Data Protection Policy.

Documents relating to rent setting will be retained and disposed of in line with our Data Retention Guidelines. The policy itself, has been tested under a Data Protection Impact Assessment (DPIA) to ensure it is compliant with legislation.

## 11. Training

ISHA will ensure that the staff involved in setting or recovering rents have the specialist skills and knowledge. Staff and where necessary our agents, will receive induction, vocational training and refreshers during their employment with ISHA.

## 12. Statutory and Regulatory Framework.

This policy will be delivered in accordance with all relevant legislation and regulation which include:

- a) Data Protection Act 2018 and [UK GDPR]
- b) Equality Act 2010
- c) Housing Act 1985, 1988 and 2004
- d) Rent Act 1977
- e) Latest Mayor's Housing Covenant (Relevant Authority).
- f) Regulator of Social Housing Rent Standard 2020
- g) Policy Statement on Rents for Social Housing February 2019 MHCLG
- h) The Capital Funding Guide
- i) Landlord and Tenant Act 1985 and 1987
- j) Housing and Regeneration Act 2008

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