



**Cobalt**  
■■■ Housing

**RENT & SERVICE  
CHARGE POLICY**

<b>Lead Director</b>	<b>Director of Resources</b>
<b>Reference</b>	Pol 10

## 1. Introduction & Aim

1.1 The affordability of rents is one of the fundamental benefits of social housing and setting social housing rents in line with requirements is an essential part of being a registered provider. Non-compliance with government policy is a serious issue. Failure to comply with government policy on rents undermines the value of social housing to individual tenants and taxpayers. It also risks damaging the reputation of individual providers and the sector as a whole. Further, since rent and service charge income accounts for the bulk of sector revenue, it is essential that charges are set appropriately to maintain the trust of stakeholders. Finally, complying with regulatory and legal requirements is fundamental to good governance.

1.2 Boards should make sure they are satisfied that robust rent setting controls are in place and should seek appropriate assurance that they are operating effectively.

Rent rules can be complex but adhering to them is a fundamental part of being a registered provider of social housing. It is incumbent on boards to make sure that they have the required skills, or access to suitably qualified independent advice, so that they can take assurance that organisational internal controls around rent setting are effective.

*Source: Setting rents for social housing Addendum to the Sector Risk Profile 2019 – Regulator of Social Housing.*

1.3 Cobalt Housing (Cobalt) operates several rent regimes under which rents are set according to differing principles and criteria. Rent setting is generally constrained by statute, regulation, funding agreements, tenancy agreement and overall affordability.

1.4 This policy aims to:

- a) Establish how rents and service charges are set and varied periodically thereafter
- b) Ensure we meet all legal and regulatory obligations in respect of rents and service charges
- c) Deliver quality service which meet customer expectations and needs
- d) Outline our approach to setting and managing service charges that are affordable and value for money for our residents

1.5 Cobalt is committed to calculating service charges accurately and fairly, ensuring value for money and recovering all reasonably incurred costs. A service charge is a payment by a resident to fund communal services and facilities which are not covered by rent or ground rent.

## 2. Policy Statement

### Rents

2.1 This policy applies to general needs, shared ownership, market rent, leasehold accommodation. This policy also includes non-residential properties such as garages and commercial premises.

2.2 Although there has been a diversification of rent types in recent years, the clear majority of tenants will pay a rent below the equivalent market level. We strive to ensure that our rents

are affordable to our residents, meeting our charitable objects while raising sufficient funds to maintain our properties to a high standard, build new homes, deliver relevant services, and meet the commitments of our Business Plan.

- 2.3 The various rent types currently in operation across Cobalt reflect successive changes to legislation and government initiatives concerning rented and social housing across England over the last two decades. In many cases the rent associated with a tenancy is linked to the prevailing regime when the tenancy was first granted.
- 2.4 Rents fluctuate between different tenancy terms, properties and areas, and it is our expectation that while some higher rents may not be affordable for all residents, other lower rents available within our stock will be. Each rent charged will reflect the size and relative value of the property so that a smaller comparable property costs less than a larger one with the same tenancy type.

### **Service Charges**

- 2.5 This policy applies to all tenancies with fixed and variable service charges in General Needs schemes and leases with a variable service charge in Leasehold and Shared Ownership Schemes.
- 2.6 Cobalt is committed to keeping the cost of services as low as possible whilst providing a high quality of services and collecting service charges in a timely and cost – effective manner.

## **3. Policy Principles**

### **Initial Rent Setting**

- 3.1 Rents are set at the start of each tenancy and depend on the type of tenancy, scheme type (e.g. general needs or market rent) and the rent type advertised (e.g. affordable rent). Rents may be increased annually thereafter, but will not be restructured within the course of the tenancy unless the property has been converted (e.g. from a 3-bedroom house to a 2-bedroom house) in agreement with the tenant.
- 3.2 Rents may be rebased or restricted when the property is re-let to another tenant or licensee, or the agreement renewed for the property with the same tenant or licensee.

### **Rents for Newly Acquired or Newly Built homes**

- 3.3 Rents for newbuild housing will be determined and agreed in accordance with the relevant development and funding arrangements. These may be Social Rent, Affordable Rent, Intermediate Market Rent, Market Rent, Part Rent/Part Ownership or any combination of these.
- 3.4 The rent type designated to a newbuild property will persist upon re-let unless the property is formally re-designated from time to time.

### **Subsequent Rent Variations**

- 3.5 Rents will be reviewed periodically in accordance with the provisions set out in the tenancy agreement and typically increased to account for inflation, operating costs and to meet our Business Plan. Any variation in rent will be decided by our Board and will be predicated on

the tenancy type. Any proposed variation in rent will comply with all legislative and regulatory requirements and limits imposed by the government.

- 3.6 We will give written notice of any rent increase in accordance with the terms of the tenancy agreement and will notify the Housing Benefit Office /Department of Work and Pensions as appropriate. For weekly tenancies, the notice period is usually four weeks and for monthly tenancies, one month, all taking effect on the first day of a period of the tenancy.
- 3.7 Rents charged to existing tenants will not normally be varied more than once in any financial year. The exceptions may include: property conversions or remodelling or where a tenancy comes to an end and is replaced by a new tenancy.
- 3.8 New tenants taking a tenancy 2 months before the annual rent variation date will be informed of the current Rent and service charges plus the details of the new rent and service charge from the rent variation date, at the point of sign up.

### **Regulator for Social Housing Future requirements statement**

- 3.9 From 1 April 2020, a new Rent Standard will be in effect. The new rules applied by the Rents Standard enable a maximum annual rental increase of Consumer Price Index (CPI) plus 1%. Service charges will continue to be governed by tenancy agreements and leases, as well as relevant common law and statute, including the Landlord and Tenant Act 1985.
- 3.10 We charge Social Rent (based on Formula Rent, previously called Target Rent) for most general needs tenants. Social Rents are used for 'lifetime' assured tenancies, starter tenancies and for those probationary and fixed-term tenancies not let at Affordable Rent.
- 3.11 Rents of social housing are regulated by the Rent Standard, and set exclusive of service charge at the start of each tenancy according to a government-prescribed formula (Formula Rent). The formula considers property value, number of bedrooms, and average earnings in the locality. The formula is increased or reduced annually by the government to reflect inflation or the rent reduction. Formula rents are recorded and tracked annually to give assurance that rents are set correctly.

### **Property Conversions**

- 3.12 Where existing properties are remodelled and the number of bedrooms is changed, the formula rent will be recalculated on completion of the conversion work and any subsequent re-let will be at the new formula rent.

### **Affordable Rent**

- 3.13 Affordable Rents are regulated by the Rent Standard, and set at up to 80% of the Market Rate inclusive of service charges. Affordable Rents are only charged for homes acquired or developed in conjunction with a housing supply delivery agreement with the Homes and Communities Agency. Affordable Rents are used to secure a greater revenue stream to invest in new housing.
- 3.14 The market factor may vary from property to property, scheme to scheme, but cannot exceed 80% of the equivalent market rate for the property. In determining the market factor we will consider affordability in the local area and viability of any newbuild housing schemes.

- 3.15 If 80% of Market Rate after deduction of service charges, is less than the equivalent Formula Rent for the property, then the Formula Rent will be applied.
- 3.16 Affordable Rents will rise during the tenancy as per the annual rent increase set out in the tenancy agreement; and subject to the limits set out in the Rent Standard; rents cannot be rebased during the tenancy.
- 3.17 The gross rent will be increased in accordance with the Board-agreed increase. Any service charges will be included the gross rent.
- 3.18 On the creation of each new tenancy, the rent will be rebased to reflect current market value. Cobalt may use an existing market valuation that is less than 6 months old for a comparable archetype in a comparable area if available. Where such a valuation is not available, then specific market value advice will be obtained.

### **Market Rent**

- 3.19 Market Rents are assessed according to the individual characteristics of the property, reflecting the size, quality and the location. Market Rents reflect the rent charged in the private rented sector for a similar property and are inclusive of service charges. Market Rents are unregulated and cannot, by definition, constitute social housing. Market rents are not subject to rent reductions under the Welfare Reform and Work Act 2016.
- 3.20 Valuations will appraise the property without consideration to any increased security of tenure over the market norm. We may appraise the tenure offered (market rent lettings are normally on fixed term assured shorthold tenancies), in addition to the property, when letting a property at % market rent.
- 3.21 Valuations will be assessed using a RICS (Royal Institute of Chartered Surveyors) recognised method. We may commission a professional valuation from an independent valuer, or use a desktop valuation where sufficient data is held to appraise the market value by reference to recent lets in the private sector. We will use desktop valuations wherever possible due to cost, speed and efficiency.
- 3.22 Market Rents will rise during the tenancy in accordance with the provisions set out in the tenancy agreement. Increases will be based upon independent advice on open market rent levels. When the fixed term of a market rent Assured Shorthold Tenancy (AST) expires, Cobalt will either let it run on as a periodic AST or re-let (to the same tenant) for a further fixed term. If the latter, the rent can be re-based.

### **Secure Tenancies**

- 3.23 Secure customers retain their 'fair rent' protection under rent restructuring. Fair rents can be re-registered every two years by the Valuation Office Agency. The registered rent is the maximum that can be charged. If a rent officer sets a fair rent below the formula rent, this lower rent will prevail. If the rent officer sets a fair rent above the formula rent, we increase the rent to the formula rent level, providing the customer with one months' written notice of any increase. Rent reductions under the Work and Welfare Reform Act 2016 only apply if the registered rent is less than formula rent.

### **Shared Ownership**

- 3.24 The initial annual rent for shared ownership homes will be calculated at 2.75% of the value of the unsold share at the time of purchase. The purchase price for a property will be determined using a RICS recognized methodology as required by the Housing Regulator's Tenancy Standard.
- 3.25 The rent will be reviewed in accordance with the rent increase mechanism stated in the individual lease. The current default lease provision is an increase annually in April using September RPI +0.5%.
- 3.26 Shared ownership rent increases for properties acquired from any other future acquisitions will be subject to the terms of the lease agreements Cobalt inherits. Shared ownership rents are not subject to reductions under the Welfare Reform and Work Act 2016.

### **Commercial Rents**

- 3.27 Commercial and office space rent levels will be set according to a red book valuation determined by a RICS valuation report from an appointed independent surveyor. Cobalt will always embark in commercial negotiations using the red book valuation as the industry benchmark to determine current market value.
- 3.28 Commercial leases containing agreed regular rent reviews will be assessed according to a red book valuation determined by a RICS valuation report from an appointed independent surveyor. The rent will be reviewed as per the agreed rent review frequency dates in the agreed occupational agreements.
- 3.29 Individual leases will confirm the basis of the new rent and its review requisites (RPI increase, open market review or agreed increases). Unless stated in the lease, Cobalt will reserve the right to demand rent and interest payable on late reviews as per the agreed rent review memorandum between landlord and tenant.

### **Garages**

- 3.30 Garage rents will be reviewed annually. Cobalt will endeavour to ensure the rent remains affordable.

### **Adjusting individual rent levels**

- 3.31 Where we identify an error in rent calculation we will adjust the rent and calculate the difference using the date that we became aware of the error. An adjustment could result in either credit or debit on a customer's account. Errors in rent calculation include occasions where we identify that the incorrect number of rooms has been used to calculate the rent.

### **High Income Social Tenants and Pay to Stay Scheme**

- 3.32 The Regulator of Social Housing (RSH) Rent Standard allows providers to apply a different rent setting policy for these high income social tenant households. We will currently not apply a different rent setting policy to high income social tenant households. Cobalt has not implemented the Pay to Stay scheme.

## **Service Charges**

- 3.33 Service Charges are governed by individual tenancy agreements and leases, and the common law and legislation in this area. This includes the definition of 'service charge' in the Landlord and Tenant Act 1985, which links service charges to actual costs. In practice this means that service charges can only cover actual costs and must be accounted for to ensure that they are fair and transparent both to tenants and to other stakeholders. Adhering to all relevant law is fundamental to good governance and boards must certify compliance in their annual accounts.

### **General needs Service Charges**

- 3.34 Cobalt operates a variable service charge for general needs tenants. The charges for these services are varied each year according to our estimated costs and are collected in the rent. Any over or under recovery of service charges in any year will be adjusted for in the following year's charges or refunded.
- 3.35 The service charge management fee contributes to overhead costs incurred by Cobalt when providing service chargeable services, calculating and administering service charges. The management fee is calculated at no more than 15% of the total service charge for general needs tenancies. Leasehold tenancy management fees will be calculated on a scheme by scheme basis.

### **Leaseholder variable charges**

- 3.36 Cobalt operates a variable service charge for leaseholders and shared owners. Variable service charges are based on actual costs. Any surpluses will be credited or deficit invoiced to the leaseholder following the end of the financial year.
- 3.37 The Landlord and Tenant Act 1985 defines a service charge as 'an amount payable by a relevant tenant of a dwelling as part of or in addition to rent. This is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlords cost of management; and the whole or part of which varies or may vary according to the relevant costs.'
- 3.38 Service charges are not limited to day to day services and can include costs for major works to the building or the communal areas of a block or estate. Leases set out our obligations in respect of the provision of services, and generally outline how the costs of the services are apportioned between residents. Where there is no specific apportionment required by the lease, this will normally be applied on a pro-rata basis, based on the number of homes receiving the service or size of property.
- 3.39 We will within six months of the end of the financial year provide a statement showing the estimated costs compared with the actual costs to leaseholders. At this stage, we will collect any deficit owed or refund any credits due.
- 3.40 Any major work which will exceed £250.00 for any leaseholder or qualifying long term agreement where the service costs exceeds £100 in a given financial year requires us to consult with residents prior to commencement of works in accordance with the statutory 'S20' process.



## **Services**

3.41 The services that we provide vary between different schemes and estates. Services include but are not limited to:

- Cleaning of communal areas
- Window cleaning
- Communal gardening
- Communal lighting (utility contract)
- Communal heating (utility contract)
- Lift maintenance
- Sinking funds for future building structure and upkeep for leaseholders
- Fire safety equipment maintenance for leaseholders
- Door entry system maintenance for leaseholders
- Building insurance for leaseholders

## **Sinking Funds**

3.42 Where permitted by leases and tenancy agreements, Cobalt will operate sinking and/or reserve funds to collect money in advance in certain instances for the planned maintenance and renewal or replacement of mechanical and electrical services and communal facilities over their anticipated lifespan. We will usually do this for, but not limited to, lifts, door entry systems, fire safety systems and roofs.

3.43 We may issue supplementary invoices for services or works which are not covered by the sinking or reserve fund or where the monies held in the fund are insufficient for the works. When a leaseholder receives a surcharge, the debt is applied to their account and payment in instalments may be offered by Cobalt. Funds will be held in separate accounts and will be used for that particular scheme.

3.44 We operate a sinking fund for our planned works to maintain a property/scheme when required.

## **Management Fees**

3.45 The service charge management fee contributes to overhead costs incurred by Cobalt when providing service chargeable services and calculating and administrating service charges. The management fee is calculated at no more than 15% of the total service charge.

## **Service charge Value for Money and resident consultation**

3.46 Cobalt endeavours to ensure that all service contracts, whether provided internally or externally, are cost effective and represent good value for money. New contracts are routinely subjected to competitive tendering under procurement guidelines. All contracts are reviewed regularly to ensure that standards of service and cost effectiveness is being maintained. When possible, contracts will be placed across the organisation to obtain discounts through economies of scale.

3.47 Cobalt is committed to consulting with our residents as a matter of good practice and openness. We will provide an opportunity for our residents to provide feedback and input into the services provided, the standard and value for money.

- 3.48 Where practicable, we will consult with our residents on:
- New services,
  - Renewal of non-utility service contracts,
  - Removal of a service and making significant changes to the existing services which affect the residents.
- 3.49 Consultation may be held through individual meetings, group meetings, house meetings and through correspondence.

#### **Ineligible Charges**

- 3.50 Some service charge elements are eligible for Housing Benefit or Universal Credit housing component and are known as 'eligible charges'. Eligible charges usually include communal services which the residents are unable to opt out of as these are applied to all residents on the scheme. Ineligible services charges are usually non-communal personal services or a service that the resident is able to opt out of which we are not obliged to provide.
- 3.51 Most charges will be eligible charges. We will ensure that any ineligible charges are necessary, appropriate and proportionate.

#### **Damages for Trespass**

- 3.52 In the event a person is left in the occupation of a property after the termination of a tenancy, damage for trespass will be applied for each week of occupation. This will be set at the formula rent for that property.
- 3.53 Damages for trespass will be adjusted in line with changes in the rent for the default tenure for that property.

#### **Overcharged rent**

- 3.54 In the event of an overcharging of rent a review will be carried out by an appropriately qualified manager to ascertain the correct rent for all periods of the tenancy whilst under Cobalt's management. A new rent will be set for future periods and the overall overcharged rent will be calculated. The tenant, Housing Benefit Office and DWP will be informed as necessary. If the tenant's element of the refund is greater than the current arrears (after any Housing benefit/DWP amounts due) a refund will be made

## **4. Risk Management**

- 4.1 The Regulator for Social Housing highlighted a range of specific issues in preparing the new Rent Standard that increase the risk of non-compliance. These include:
- failure to take account of changing government policy and corresponding requirements in the provider's rent setting policy and procedures, especially in relation to formula rent
  - incorrectly treating properties as exempt or excepted from elements of rent rules
  - incorrectly calculating or applying Affordable Rent
  - incorrectly calculating or applying service charges e.g. in contravention of the Landlord and Tenant Act 1985
  - new, bespoke rental products with rents that do not comply with requirements
  - poor quality data.

Source: Setting rents for social housing Addendum to the Sector Risk Profile 2019 – Regulator of Social Housing.

- 4.2 Within the table below, set out the key risk(s) associated with delivery or non-delivery of the Policy. Include specifics explaining how the key risks are controlled, managed, mitigated and monitored. This will be used to develop the internal controls framework mapped to each risk and will form the basis for our strategic risk register and future risk reporting. The key risk associated with non-delivery of this Policy is:

Risk Register Ref:	Risk:
GOV 19	There is a risk that there will be a loss in rental income due to rental levels set not compliant with legislative and/or contractual standards
Risk Consequences:	Management and Mitigation:
<ul style="list-style-type: none"> <li>Refunding tenants with the full value of the annual rent increase.</li> <li>New lets and relets are let at an incorrect level resulting in potential lost rental income in the short term and inability to charge the full formula rent for the life of the tenancy.</li> <li>Service charges do not cover the cost of services carried out by Cobalt and a significant loss is made.</li> </ul>	<ul style="list-style-type: none"> <li>Annual rent adjustment procedure.</li> <li>Calculation review process.</li> <li>Housing Management upload review process.</li> <li>The Property Rent charge is checked and reset on each tenancy termination.</li> <li>The Assistant Accountant (Systems) checks the rent and service charge on every tenancy agreement against the Property Charge.</li> <li>Service contracts are fixed where possible with CPI annual increases.</li> <li>Contracts are for 3-5 years so that future costs can be reasonably calculated.</li> </ul>

## 5. Regulatory & Legislative Compliance

5.1 This policy is **informed** by the following legislation and regulation:

- Rent Standard
- Rent Standard Guidance
- Rent Act 1977
- Rent Acts (Maximum Fair Rent) Order 1999
- Housing Act 1985
- Housing Act 1988
- Housing and Planning Act 2016
- Welfare Reform and Work Act 2016
- Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016
- General Social Housing Rents Permitted Review Day Consent 2016

## 6. Links to Other Key Documents

6.1 This policy is supported by the following documents:

- Sub-Regional Allocations Policy
- Tenancy Policy
- Rent Arrears Pursuance Policy

## 7. Governance of this Policy

Equality and Diversity	Cobalt will ensure that this policy is applied fairly and consistently. We will not directly or indirectly discriminate against any person or group of people in line with our Equality and Diversity Policy. We will act sensitively towards the diverse needs of individuals and communities and will take positive action where appropriate.
Financial and Links to VfM	Non-delivery of this Policy carries the risk of financial losses to Cobalt through correcting or refunding invalid rent increases.
Privacy and Data Protection	Not applicable to the Policy.
Health and Safety	Not applicable to the Policy.
Development and Consultation	Not applicable to the Policy.
Customer Profiles and Accessing Services Data	Not applicable to the Policy.
Monitoring and Review	<p>Cobalt will monitor compliance with rent setting obligations. We will report on our performance to our Executive Management Team on an annual basis.</p> <p>Cobalt will monitor that service charges are providing value for money and recovering the costs incurred in providing the services. We will report on our performance to our Executive Management Team on an annual basis.</p>
Roles & Responsibility	<p>Head of Finance and Procurement: Overall implementation of the policy.</p> <p>Accountant (Systems): Operational delivery of the policy/associated procedures.</p> <p>Asset Manager: Resident Consultation on Service charges</p>

## 8 Definitions

- Social rent – a term that’s used to describe rents that are lower than similar privately rented properties
- Affordable rent – a social rent product charging up to 80% of market rent
- Target rent – Introduced in 2002, registered providers were required to attribute a target rent to each of their social housing properties
- Formula rent – Introduced in 2013, this is the government policy for rent controls previously referred to as target rent
- LHA – Local Housing Allowance
- DWP – Department of Work and Pensions
- CPI – Consumer Price Index
- RPI – Retail Price Index
- RICS – Royal Institute of Chartered Surveyors
- IAP – Investment Appraisal Panel, an internal Genesis committee that approves investments

## 9 Appendix

Policy statement on rents for social housing February 2019:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/781746/Policy\\_Statement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/781746/Policy_Statement.pdf)