

## For General Release

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| <b>REPORT TO:</b>  | <b>CABINET 18 February 2021</b>  |
| <b>SUBJECT:</b>  | <b>Rent-Setting Policy for Council Homes</b>   |
| <b>LEAD OFFICER:</b>   | <b>Guy Van Dichele, Executive Director Health, Wellbeing and Adults</b><br><b>Ozay Ali Interim Director for Homes and Social Investment</b><br><b>Yvonne Murray, Director of Housing Solutions</b> |
| <b>CABINET MEMBER:</b>   | <b>Councillor Jane Avis, Cabinet Member for Homes and Gateway Services</b>   |
| <b>WARDS:</b>  | <b>All</b>   |
| <b>CORPORATE PRIORITY/POLICY CONTEXT</b><br>The policy proposed in this report aligns with the priority commitments in the Croydon Renewal Improvement Plan to <ul style="list-style-type: none"><li>○ live within our means, balance the books and provide value for money for our residents; and</li><li>○ focus on providing the best quality core service we can afford.</li></ul> The policy proposed fits with the intention set out in the Croydon Renewal Improvement Plan to ensure our systems, processes and controls are fit for purpose, and by clarifying the rent-setting process within the Housing Revenue Account we are contributing towards the Council's intention to become more transparent, open and honest. |  |
| <b>FINANCIAL IMPACT</b><br>None.   |  |
| <b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b> This is not a key decision   |  |

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

### 1. RECOMMENDATIONS

The Cabinet is recommended to

- 1.1 Review the Rent-Setting Policy for Council Homes Within the Housing Revenue Account ("The Policy"), appendix 1 hereto and as detailed within the report and recommend to Full Council the adoption of this policy in accordance with Article 4.02 of Part 2 of the Constitution.

## **2. EXECUTIVE SUMMARY**

- 2.1 This report introduces the proposed Rent-Setting Policy for properties within the Council's Housing Revenue Account (HRA). This proposed policy aims to clarify and codify existing practice within the Council's Housing department, and seeks to ensure compliance with recent Government Policy and directives from the Regulator for Social Housing (RSH). Failure to set rents correctly would put the Council at risk of non-compliance with rent and data quality requirements as set out by the RSH, and impact on our ability to maximise income, putting the services we provide to our residents at risk.
- 2.2 The Council's Constitution requires that all 'Plans, Policies and Strategies which together make up the Housing Strategy' are approved by Full Council. Cabinet approved the commencement of research and preparation of a new Housing and Homelessness Strategy for Croydon in October 2019, but work on this Strategy has been put on hold due to the impact of the coronavirus pandemic and deployment of relevant staff to other priority duties. The proposed Rent-Setting Policy will form part of the relevant plans, policies and strategies which together make up the Housing Strategy and will supplement and support the Croydon's Housing and Homelessness Strategy when it is implemented.
- 2.3 Each year, the Council reviews and sets rents for homes within the HRA and must issue a statutory notice to notify tenants of any proposed change in the rent they will pay, in accordance with legislation. The proposed policy outlines how the Council will calculate rent for the social rent homes that it owns within the HRA, and provides a clear framework for setting rents for any new properties that are developed or acquired.
- 2.4 The proposed Rent-Setting Policy does not create any financial impact for the HRA or the Council's General Fund. The Policy reflects financial assumptions that have been and will continue to be included as a baseline in the Council's HRA Business Plan.

## **3. LEGAL AND REGULATORY FRAMEWORK**

- 3.1 The affordability of rents is one of the fundamental benefits of social housing and setting social housing rents in line with legislation and Government policy is an essential requirement for a Registered Provider (RP) such as the Council.
- 3.2 The [Direction on the Rent Standard 2019](#) ("The Direction") was issued by the Secretary of State in February 2019 and required the RSH to comply with the Policy Statement on Rents.
- 3.3 The [Policy Statement on Rents for Social Housing](#) (the Policy Statement), was published by the Ministry of Housing, Communities & Local Government (MHCLG) in February 2019 and sets out the Government's policy on rents for social housing to which the RSH must have regard in setting the Rent Standard and to which the Council must similarly have regard to the Policy Statement as the Rent Standard itself must require registered providers, such as the Council

to comply with the rules about the levels of rent set as required by paragraphs 7 and 8 of the Direction.

- 3.4 The RSH's published regulatory standards set out the outcomes that RPs are expected to achieve - they are set out in a regulatory framework and are classified as either 'economic' or 'consumer' standards. The revised [Rent Standard](#), (an economic standard) was introduced by the RSH in April 2020, and applies to all RP and Local Authority low-cost rental accommodation. Registered providers and the Council must comply in full with all the requirements and expectations set out in the 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. It allows rents to be increased annually up to the Consumer Price Index (CPI) measure of inflation, plus 1%, in accordance with the Policy Statement and the Governments directive to the RSH. CPI is based on the September of the previous year.
- 3.5 As a Landlord, the Council is obliged to comply with the contractual arrangements detailed in its tenancy agreements which specify initial rental charges and the mechanism for staging rental changes in accordance with Sections 13 and 14 of the Housing Acts 1988 (Assured Tenancies) and Housing Act 1985 (Secure Tenancies).
- 3.6 The Welfare Reform and Work Act 2016 required RPs to reduce social housing rents by 1% per year for four years from 2016/17 (the 'social rent reduction'). This legislative requirement has now been replaced as directed by Government, as reflected in the Rent Standard.
- 3.7 [Setting rents for social housing – addendum to the Sector Risk Profile 2019](#) was issued by the RSH in March 2020 to supplement the [2019 Sector Risk Profile](#) report and sets out what the sector can expect with regard to the regulation of rent requirements in future.

#### **4. PURPOSE AND SCOPE**

- 4.1 The Council is committed to providing rented housing at genuinely affordable rents. The policy aims to assist in setting rent for homes which are owned and managed by the Council within the Housing Revenue Account and is proposed to be reviewed every five years or prior to that to ensure compliance with the latest legal and regulatory requirements.
- 4.2 The Policy aims to ensure current and future rents are set at levels which maintain the financial viability of the HRA, allow continual service improvement, are fair and affordable for all residents, and are compliant with statutory and regulatory requirements. For homes where rents can increase, this will take place every April.
- 4.3 The Policy, if approved and adopted, will apply to 13,422 homes which are currently within the Council's HRA, and any new homes purchased by or developed within the HRA.

- 4.4 The Policy does not provide information or guidance regarding rents for other uses such as garages, parking spaces or caravan plots. The Policy does not provide information or guidance regarding service charges.
- 4.5 Any changes to rent levels will be communicated to residents clearly and in a timely fashion. Any rent increases will be explained to tenants in full and support will be provided to address any concerns or questions that they may have.

## **5. RENT POLICY BACKGROUND**

- 5.1 Since 2001, the majority of rented social housing properties have been let at Social Rents, calculated using a formula set by Government that included assessment of the relative property value, relative local earnings and a weighting for the number of bedrooms. This formula-based approach was intended to ensure that similar social rents were charged for similar properties within a local area. The property valuation used to initially set the rent must be appraised in accordance with the Royal Institute of Chartered Surveyors (RICS) 'Red Book' methodology.
- 5.2 In 2011, the government introduced the new 'Affordable Rent' tenure which allows rents (inclusive of service charges) to be set at up to 80% of market rent levels. The introduction of Affordable Rent was intended to improve the viability of social housing organisations and encourage the development of new homes. The Council has previously developed/purchased 95 new homes for Affordable Rent, but hasn't converted any existing Social Rented properties to Affordable Rent. No further conversions from existing Social Rent homes to Affordable Rent tenure are allowed under the current regulatory regime. The existing 95 Affordable Rent homes have rents set at 65% of Local Housing Allowance (LHA). LHA is the maximum amount of housing benefit available for a property of that size (in terms of bedroom numbers) in Croydon.
- 5.3 The Welfare Reform and Work Act 2016 introduced a new rent regime for social landlords from 1 April 2016. The Act introduced a 1% rent reduction for existing tenants in social and affordable housing for four years from 2016. This was intended to help reduce national welfare spending, and reduce costs for tenants paying all or part of their rent.
- 5.4 In October 2017, the government announced a new rent policy for a period of least five years, replacing the previous legislative requirements. The new Rent Standard allows yearly increases of up to CPI plus 1% for Social and Affordable Rent properties from April 2020. This took effect for Croydon Council HRA homes from April 2020.
- 5.5 The current GLA Affordable Housing Programme (2016-21) allows for the development of new homes funded by the GLA for letting at or below London Affordable Rent (LAR) levels (the benchmark values as set out at 6.4 below). The next GLA Affordable Housing Programme (2021-2026) removes this tenure, and the GLA are proposing to only fund the development of new homes for Social Rent (along with the intermediate products London Living Rent and Shared Ownership).

## 6. SETTING RENTS

- 6.1 In accordance with the Rent Standard, it is proposed that existing Social Housing rents will increase by CPI plus 1% every April. For 2020/21, this increase will be 1.5%. All tenants are entitled to four weeks notice of a change to their rent.
- 6.2 At present, the Council charges rents for 50 weeks of every year, so it is proposed that the Policy provide that all annual rent figures are calculated to pro-rata in this way.
- 6.3 General needs Social Rent levels are restricted by a Rent Cap set out in the Policy Statement to ensure affordability. Where a formula rent would be higher than the rent cap for a particular size of property, then the capped rent level must be used instead. In accordance with the Rent Standard the rent caps are increased each April by CPI (at September of the previous year) plus 1.5%. When a property that has been subject to the rent cap is re-let and the formula rent remains above the rent cap, the rent can be reset at the rent cap level, which will have increased each year by CPI +1.5%, rather than CPI +1%.
- 6.4 It is proposed that homes currently being developed by Brick by Brick and intended to be acquired for the HRA (which have GLA funding in place from the 2016-21 Affordable Homes Programme) be let at LAR benchmark levels in order to ensure these schemes are viable for the Council (further details of the Brick by Brick programme are included in a separate Cabinet paper also being considered in February 2021). The LAR benchmark rents are set out in the [GLA Affordable Homes Programme Capital Funding Guide \(2016-21\)](#). The table below sets out the current LAR benchmark levels.

| <b>Bedrooms</b>         | <b>LAR<br/>2020-21<br/>per week</b> |
|-------------------------|-------------------------------------|
| Bedsits, Studios<br>& 1 | £157.46                             |
| 2                       | £166.70                             |
| 3                       | £175.97                             |
| 4                       | £185.23                             |
| 5                       | £194.48                             |
| 6                       | £203.74                             |

- 6.5 In future where possible new general needs homes acquired by or developed for the HRA will be for Social Rent, and have rents set in line with the national formula as set out in the Policy Statement. It is proposed that the current property value will be assessed by an independent valuer following the RICS 'red book' guidance and the Council's rent-setting team will use the Nationwide House Price Index Calculator to index back to an equivalent property value in 1999, for use in the Social Rent setting formula. The year 1999 local earnings data for use in the Social Rent formula is provided by the Office for National Statistics 1997-99 New Earnings Survey, updated to 1999 prices.

## 7. RENT COMPARISON – EXAMPLE

- 7.1 As an example to illustrate the differences in rent levels the table below demonstrates the difference in monthly rent levels between Social Rent and London Affordable Rent for new build one, two and three bedroom properties in New Addington (at 2020/21 rent levels). The table also shows the monthly Local Housing Allowance (LHA) rate, and the percentage of LHA taken by LAR for the three different sizes of home. LHA is the maximum amount of housing benefit available for a property of that size (in terms of bedroom numbers) in Croydon. Finally the table illustrates a comparison between the proposed LAR levels and average local market rents (as provided by home.co.uk).

| Number of Bedrooms | Property Value | Social Rent (per month) | London Affordable Rent (per month) | Local Housing Allowance (per month) | LAR as % of LHA | LAR as % of average local market rent |
|--------------------|----------------|-------------------------|------------------------------------|-------------------------------------|-----------------|---------------------------------------|
| 1                  | £295,000       | £459.51                 | £682.33                            | £872.60                             | 78%             | 73%                                   |
| 2                  | £340,000       | £518.14                 | £722.37                            | £1096.98                            | 66%             | 54%                                   |
| 3                  | £410,000       | £590.85                 | £762.54                            | £1371.24                            | 56%             | 43%                                   |

- 7.2 The table below demonstrates the impact of the 1.5% inflationary increase that is due in 2021/22 to both Social Rents and London Affordable Rents for these same example homes.

| Number of Bedrooms | Social Rent (per month) 2020/21 | Social Rent (per month) 2021/22 | London Affordable Rent (per month) 2020/21 | London Affordable Rent (per month) 2021/22 |
|--------------------|---------------------------------|---------------------------------|--|--|
| 1                  | £459.51                         | £466.40                         | £682.33                                    | £692.56                                    |
| 2                  | £518.14                         | £525.91                         | £722.37                                    | £733.21                                    |
| 3                  | £590.85                         | £599.71                         | £762.54                                    | £773.98                                    |

## 8. MONITORING AND IMPLEMENTATION

- 8.1 Rent levels and service charges will be monitored and compared across the areas where the Council holds housing stock. A summary of these charges will be reported in the annual HRA budget report submitted to Croydon's Tenant and Leaseholder Panel for review.
- 8.2 Assessment of the Council's overall HRA rental portfolio and its viability is undertaken by the Council's external consultants managing the HRA Business Plan (currently Savills). This is reported to full council annually.
- 8.3 The Housing Business Systems team will oversee the operational delivery of the proposed Policy, with rent-setting for individual properties undertaken by the Housing Income Control Manager.

8.4 Rents will be reported through the annual regulatory Statistical Data Return submission to the RSH.

## 9. CONSULTATION

9.1 No consultation is required on this policy as it is simply codifying existing practice and ensuring compliance with rent-setting procedures as set out by the RSH and national policy. There will be no changes to the terms and conditions of existing council tenancies, and no impact for council tenants.

## 10. PRE-DECISION SCRUTINY

10.1 Pre-decision scrutiny is not required as this is a non-executive decision. The proposed Policy is being presented to an informal session of the Streets, Homes and Environment Scrutiny Sub-Committee on 1<sup>st</sup> February, and any notes from that meeting will be included in the final version of this paper prepared for Cabinet.

## 11 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

### 11.1 Revenue and Capital consequences of report recommendations

|                                       | Current year   | Medium Term Financial Strategy – 3 year forecast |                |                |
|---------------------------------------|----------------|--|----------------|----------------|
|                                       | 2020/21        | 2021/22  | 2022/23        | 2023/24        |
|                                       | £'000          | £'000  | £'000          | £'000          |
| <b>Revenue Budget available</b>       |                |  |                |                |
| Expenditure                           |                |  |                |                |
| Income                                | -74,139        | -75,250  | -76,380        | -78,688        |
| <b>Effect of decision from report</b> |                |  |                |                |
| Expenditure                           |                |  |                |                |
| Income                                |                |  |                |                |
| <b>Remaining budget</b>               | <u>-74,139</u> | <u>-75,250</u>                                   | <u>-76,380</u> | <u>-78,688</u> |

### 11.2 The effect of the decision

This paper sets out the practices as regards rent setting currently operating and no financial impact is expected from the decision that they be recommended as Council policy

### 11.3 Risks

The primary risk in setting rents within the Housing Revenue Account is ensuring that relevant legislation, policy and guidance is followed. Setting rent at too low a level would not allow the Council to manage and maintain its own assets effectively and rents that are too high would challenge affordability for social tenants.

#### **11.4 Options**

The options available to Croydon are to maximize rents (as this policy sets out) or to charge less. Charging less would challenge the ability of the HRA to meet inflationary pressures, particularly at a time when building inflation is significantly higher than CPI+1% and additional fire safety requirements are on the horizon.

#### **11.5 Future savings/efficiencies**

The policy should be kept up-to-date in line with relevant legislation, policy and guidance.

Approved by Matthew Davis, Deputy S151 Officer, Finance Investment and Risk

### **12. LEGAL CONSIDERATIONS**

- 12.1 The Head of Litigation and Corporate Law comments on behalf of the Interim Director of Law and Governance that there are no additional direct legal implications beyond those set out in the body of the report. The purpose of the policy is to ensure compliance with legal and regulatory requirements on the Council.

Approved by Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Interim Director of Law and Governance & Deputy Monitoring Officer

### **13. HUMAN RESOURCES IMPACT**

- 13.1 There are no direct Human Resources considerations arising from this report.

Approved by: Sue Moorman, Director of Human Resources

### **14. EQUALITIES IMPACT**

- 14.1 An Equalities Analysis has not been undertaken for this proposed Policy as it is not making any change to the Council's existing processes and practice, and is intended to ensure compliance with Government policy and the standards of the Regulator for Social Housing.

Approved by: Yvonne Okiyo, Equalities Manager

### **15. ENVIRONMENTAL IMPACT**

- 15.1 There is no environmental impact from the Policy proposed.

## **16. CRIME AND DISORDER REDUCTION IMPACT**

- 16.1 There are no implications of the Policy proposed in relation to reduction/prevention of crime and disorder.

## **17. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 17.1 The formalising of rent-setting practice for the Council's social rent homes within the Housing Revenue Account is wise to ensure compliance with Government Policy and the requirements of the Regulator for Social Housing. Failure to set rents correctly would put the Council at risk of non-compliance with rent and data quality requirements as set out by the RSH, and impact on our ability to maximise income, putting the services we provide to our residents at risk. We would otherwise be at risk of breaching contract for non-compliance with the requirements of existing tenancy agreements, and impair the ability of the council to recover rents, were they not set correctly.

## **18. OPTIONS CONSIDERED AND REJECTED**

- 18.1 The Council could continue to operate without the rent-setting policy formalised for social rent homes within the HRA, and processes as they currently stand are satisfactory. However, this approach would not ensure full transparency and clarity of processes and procedures in order to adhere to the requirements of the Regulator and the national legislative and policy framework, and was rejected for this reason.

## **19. DATA PROTECTION IMPLICATIONS**

- 19.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

**NO**

- 19.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

**NO**

A DPIA has not been completed, because the Policy proposed does not involve or relate to the processing of any personal data.

Approved by Ozay Ali, Interim Director of Homes and Social Investment

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### **CONTACT OFFICER:**

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**APPENDICES:**

Appendix 1 – Policy for Rent-Setting for Council  
Homes within the Housing Revenue Account

**BACKGROUND DOCUMENTS:** None