



Bespoke Supportive Tenancies Ltd

# Rent & Service Charge Policy

**Version: 04**

## Review

Date of this review	Date of last review	Policy author(s)	Compliance Manager	Next review date
10/12/2021	10/12/2021	Peter Whitehead	Shelley Hobbs	01/11/22

## Details of amendments

Version	Date	Update/ amendment detail	Resulting from
V2		Revised Policy Document	
V3	19/11/2021	Revised Policy Document	DTP feedback
V4	10/12/2021	Revised Policy Document	DTP Feedback

## Approved by

Executive Team	16/12/21
Board	16/12/21

## **1. INTRODUCTION**

- 1.1** Bespoke Supportive Tenancies Ltd (BeST), recognises that the appropriate setting and collection of rents and service charges is essential to the viability of the Association. Rental income is our primary source of revenue funding.
- 1.2** BeST will set rents which are fully compliant with all relevant legislation and the Regulatory requirements as set out by the RSH Rent Standard.
- 1.3** BeST are committed to ensuring that the standards, both economic and consumer standards are properly managed and implemented.
- 1.4** This policy supports related internal and external policies which should be read in conjunction with this document.

### **Related Documents**

#### **Internal**

- Rent and Service Charge Setting Procedure
- Value for Money Policy
- Tenancy Management Policy and Procedure
- Tenancy Agreement
- Income Management Policy

#### **Key Legislation**

- The Welfare Reform and Work Act 2016
- The Housing and Regeneration Act 2008 (s. 69)
- National Health Service Act 2006
- The Housing Act 1985 (part 6)
- The Housing Act 1988 (s.13)
- Housing Act 1996 Section 159 (2) (c)
- Landlord & Tenants Act 1985 (service charges)

- The Landlord and Tenant Act 1987 (section 42 Trust/Reserve Fund))
- Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016
- Housing Finance Act 1972
- The Assured Tenancies and Agricultural Occupancies (Forms) {Amendment} (England) Regulations 2003
- The Equality Act 2010
- The Data Protection Act 1998 (amended 2018 GDPR regulations)

## **2. PURPOSE**

- 2.1** The overall objective of the policy is to ensure that rents and service charges are applied and recovered in accordance with relevant legislation and the RSH Rent Standard applicable at the time, and provide a fair system of charging to our service users that represents good value, that help achieve our organisational commitment to both our service users, support providers and lenders, and that ensure financial viability and achieve value for money.
- 2.2** This Policy sets out the obligations and responsibilities with regards to rent and service charge setting, the mechanisms in place for the calculation, review and recovers of such charges, and the framework of communication with our tenants in respect of these charges.
- 2.3** BeST will:
- Ensure that rent setting processes are efficient and effective, and which adequately meet the operating and other costs of the Association
  - Ensure that our rent setting processes enable BeST to set rents at a level that will allow us to meet our obligations to our service users, and maintain our stock to at least Decent Homes Standard 1, whilst noting future proposed changes may be introduced as part of the ongoing white paper review (Decent Homes Standard 2) due to be completed in Summer 2022

- Ensure our rents and service charges are charged in accordance with the conditions of any lease and / or other legal documentation
- Ensure are rents are compliant with the requirements of the landlord & tenants act 1985 (and subsequent amendments) and other relevant legislative requirements
- Ensure that our service users are properly informed on changes to rents
- Ensure that we approach rent and service charge setting in a transparent and open fashion
- Expect that Service Users will make a personal contribution to housing charges for ineligible service charges and any “other charges” that may apply, i.e., council tax and utilities, as may be set out in the Rent Schedule (see Appendix A), or as set out in the tenancy agreement
- Ensure that we maximise rental income receivable

### **3. BEST’S HOUSING PORTFOLIO**

#### **3.1 Supported Housing Generally:**

The definition of supported housing that is provided by the Regulator of Social Housing states that this applies to:

*“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:*

*i. Accommodation that has been designed, structurally altered or refurbished in order to enable residents with support needs to live independently; and*

- ii. *Accommodation that has been designated as being available only to individuals within an identified group with specific support needs”*

### **3.2 Specialist Supported Housing**

Defined as per section 5.5 of the ‘Policy statement on rents for social housing’ issued 2019 being that:

- (a) *which is designed, structurally altered, refurbished or designated for occupation by, and made available to, residents who require specialised services or support in order to enable them to live, or to adjust to living, independently within the community;*
- (b) *Which offers a high level of support, which approximates to the services or support which would be provided in a care home, for residents for whom the only acceptable alternative would be a care home;*
- (c) *Which is provided by a private registered provider under an agreement or arrangement with a local authority or a health service (within the meaning of the **National Health Service Act 2006**);*
- (d) *For which the rent charged, or to be charged, complies with the agreement or arrangement mentioned in paragraph (c); and*
- (e) In respect of which at least one of the following conditions is satisfied:
  - iii. *There was no, or negligible, public assistance, or*
  - iv. *If there was public assistance by means of a loan (secured by means of a charge or a mortgage against a property).”*

- 3.3** BeST currently holds two types of housing stock within its property portfolio:
- Specialist Supported Housing (SSH), and;
  - Supported Housing (where the exemption from the Rent Standard 2020 for Specialised Supported Housing cannot be assured)
- 3.4** The method of rent setting used to calculate the lease cost element of the core rent will be subject to whether or not the accommodation is classed as meeting the SSH criteria, and where it does not, the Supported Housing/Formula Rent method will be used.
- 3.5** The mechanisms for calculating the rents, and the criteria on which the property classifications are based, are shown below.

## **4. STRATEGIC APPROACH**

### **4.1 NEW SCHEMES UNDER DEVELOPMENT**

- 4.1.1 All new properties under consideration by BeST will be passed for a survey by a suitably qualified Royal Institute of Chartered Surveyors (RICS) surveyor to independently value the market rent level for the property/area to ensure that any lease in question is below the 'market rent' as described in section 69 of the Housing and Regeneration Act 2008. Any new scheme where the rent is valued as above the 'market rent' and therefore not 'low cost rental' to meet the definition of social housing by the RICS valuer will not be continued through the development stage.
- 4.1.2 BeST aims are to acquire and further develop its specialist supported housing portfolio (SSH), which rents are exempt from "The Rent Standard" formula rent mechanisms.

### **4.2 SSH RENT SETTING METHOD EXISTING "HISTORIC SCHEMES"**

- 4.2.1 All accommodation currently provided by BeST, where the SSH exemption criteria has been met and can evidenced, has been assessed as 'low cost rental accommodation' in accordance with section 69 of the Housing and Regeneration Act

2008 via one of the two methods outlined below;

- A full RICS survey
- The extrapolation of the method used by a RICS surveyor using publicly data, this being the ONS data release on Private Market Rental Statistics.

4.2.2 All BeST accommodation will be passed for a full RICS survey in a timely manner, this being on a 7 year cycle that will repeat ad infinitum.

4.2.3 A sample copy of a RICS valuation report carried out on some of BeST's accommodation is included with this Policy (see appendix B). The RICS surveyor is independent from BeST and the report goes into detail around the rationale used in arriving at a Market Rent Valuation as such we will not provide further commentary in this Policy. For BeST purposes the Market Rent Valuation provided by the RICS valuer is used as the 'market rate' detailed in section 69b of the Housing and Regeneration Act 2008.

4.2.4 BeST will monitor and update its assessment of its stock with particular care taken over the 'extrapolation' mentioned in section 4.2.1 for any changes in the rationale used in the RICS valuations.

### **4.3 SPECIALIST SUPPORTED HOUSING (SSH)**

4.3.1 The qualifying criteria for SSH and the associated exemption from the Rent Standard 2020 is detailed in section 3.2 of his policy. BeST acknowledges that only where we can evidence and provide assurances that all of this criterion is met can an SSH rent be set. Any instances where one of the criteria cannot be met will well be highlighted to Board.

4.3.2 All BeST accommodation has been reviewed against the criteria identified in section 4.3.1 and, where sufficient assurances cannot be provided of exemption from the Rent Standard under the SSH criteria, Board will be alerted as to which exemption criteria we cannot meet and a plan of action to resolve the issue (see section 4.4.3).

#### **4.4 SUPPORTED HOUSING (SH) RENT SETTING EXISTING “HISTORIC SCHEMES”**

4.4.1 It is BeST’s policy to continue our efforts to gather the paperwork to provide assurances that all of BeST’s accommodation, should be classed, and is correctly classified as SSH. Efforts around this are ongoing and centered around liaising with Local Authority Commissioning Teams to ask them to sign off the status and rent at our properties in compliance with sections 5.5c and 5.5d of the ‘Policy statement on rents for social housing’ issued 2019.

4.4.2 BeST is aware that Board/RSH may need to end the process outlined in section 4.4.1 at short notice. In this event the following options are available;

- Reclassify the affected stock as Supported Housing and set formula rents as prescribed in the Rent Standard 2020.
- Handback the stock by mutual agreement with the superior landlord
- In some circumstances, where the funder will not renegotiate the lease and we are left with an ongoing loss making property, due to a formula rent not covering cost, we may need to evict the current tenants under the section 21 no fault eviction process. BeST will consult openly with tenants, social services and Board in these circumstances.

4.4.3 Where BeST is not able to provide assurances to Board that we meet the SSH criteria a report will be prepared for Board on a property by property basis. The report will detail the sections outlined below as a minimum;

- Full details of the reasons why an SSH exemption is not appropriate including a summary of all correspondence to date.
- A summary of all tenants that have been resident at the property from inception to date.
- A summary of payments received by BeST from inception to date split by Housing Benefit receipt and self paying invoice receipts.
- The current contact details of all former tenants if available.

- A summary of all rent charged by BeST from inception to date.
- A RICS survey confirming the property valuation as at 1999.
- A formula rent calculation using the RICS valuation for each period in question.
- A management decision about the appropriateness of setting a formula rent when compared to other options or lack thereof (Intermediate Rents or other sections of the Rent Standard etc)
- A total figure for the possible Housing Benefit or tenant overpayments from inception to date.
- Legal advice detailing BeST's liability concerning this issue.
- Details of all contact with the funder and their response to date.

After consideration of the above report Board will decide on the three options outlined in 4.4.2 on a case by case basis taking all stakeholders into account.

- 4.4.4 As a re-classification of rents from SSH to SH would require a significant rent decrease to most affected tenants the maximum 10% rent flexibility level would be built into the rent setting process. The rationale here is that existing SSH rent level is already accepted as affordable by tenants and stakeholders so any decrease would not adversely affect affordability. Board will decide on the rent level at re-classified properties on a case by case basis.

## **5. REFUND OF OVERPAID RENTS**

- 5.1 Where BeST has incorrectly classified its properties as SSH and as a result found itself in breach of the Rent Standard, BeST will undertake to refund those service users (self-payers) or the local authority (where tenants were in receipt of housing related benefits).

- 5.2** In the event of BeST being required to refund tenants and/or Housing Benefit Units BeST would seek legal advice to make sure all reasonable claims are paid in line with our legal duties.
- 5.3** Where stock is re-classified from SSH to SH a full and costed report will be provided to Board including the affected tenants and HB units (see 4.4.3), the amount overcharged, the legal advice provided as per 5.2 and the approach to repaying the funds. Decisions about any repayment of overcharged rent or Housing Benefit will be taken after legal advice and with Board approval.

## **6. TIMING OF RENT INCREASES/REVIEWS (SSH and SH RENTS)**

- 6.1** All BeST properties, assessed to be exempt from the Rent Standard under the SSH exemption, will be placed on a 7 year recurring RICS schedule meaning that the property valuation (required for a formula rent calculation) or a 'market rate' (required for a low cost rental assessment) will be checked within 7 years. Annual RICS reports will be checked against previous reports in an attempt to identify trends where overall inflation is not in line with house and rental price inflation. The 7 year schedule for RICS reports may be amended if there is a noted housing market downturn that affects market rents.
- 6.2** For SH stock the rent will be prescribed by the formula rent calculation and only the initial RICS to ascertain the 1999 valuation will be necessary.
- 6.3** For SSH and SH stock, each year, generally in November / December, a report is presented to the Board to request Board approval of recommendations in relation to the following year's rent review. No changes are implemented without approval from the Board. Annual rent increases / decreases will normally be applied with effect from the first Monday in April each year. Service Users will be given four weeks' notice of the change to the rent prior to the change taking effect.
- 6.4** For SSH stock rents and service charges will be reviewed annually prior to the end of February each year, except where a different approach may be required for those service users in accordance with the terms of our old tenancy agreement, during the transition period, whilst the terms and conditions of BeST's new tenancy agreement

are applied.

**6.5** Local Authorities are notified of the increases and provided with copies of the increased rent schedules by end of February each year, to allow time for consideration and implementation at local authority level.

#### **6.6 First Rent Review**

- i. The first review of rent (including service charge) will be on the first Monday in April following tenancy sign-up.
- ii. On and from that date, rents can be increased in line with the relevant legislation (the Rent Cap) which is issued by the RSH on a periodic basis and may be subject to change.
- iii. This review during the first year of the tenancy, is excluded from the requirements of **sections 13 and 14 of the housing act 1988**.

#### **6.7 Subsequent Rent Reviews**

- iv. After the first review the association shall comply with the requirements of **s.13 of the housing act 1988**. the association may increase the weekly rent (including service charge) by giving the tenant not less than one month's notice of the increase of the weekly rent, in the form required by law, specifying the rent proposed.

**6.8** No increase shall take effect less than 52 weeks after the last increase.

**6.9** The association may decrease the rent at any time and on less than one months' notice.

### **7. COMMUNICATION WITH TENANTS AND SERVICE USERS**

**7.1** Tenants and service users, and their legal representatives, will receive the following annual communications in respect of rent and service charge increases.

**7.2 Rent & Service Charges Letter:** sent out four weeks prior to the implementation of

the new rent and service charge costs, (typically late February / early March each year). The letter will detail the charges payable for the forthcoming year, the date they will come into effect, supporting information on how charges are calculated, and advice/contact information for those who are experiencing financial difficulties.

- 7.3 Revised Rent Schedule:** A copy of the new rent schedule, showing how the costs have been broken down, will be sent with the Rent & Service Charges Letter.
- 7.4 Prescribed Legal Form enabling the Rent to be Increased:** The Prescribed Form will be sent out with the Rent & Service Charges Letter, and the Revised Rent Schedule, providing at least 4 weeks written notice prior to any rent increase taking effect. The prescribed legal form (in line with the **Housing Act 1988**) is required to increase the rents for those of BeST's tenants or service users, who are subject to the old tenancy agreement.
- 7.5** in accordance with current legislation, the rent on an individual tenancy cannot be increased within a period less than 12 months from the date of the previous increase, unless otherwise agreed with the service user.

## **8. APPORTIONING SHARED SERVICE COSTS**

- 8.1** In apportioning costs between residents, BeST will seek to achieve a fair and reasonable apportionment of the costs.
- 8.2** Apportionment will be calculated for all tenants and service users on the same basis, regardless of tenure, and costs applied equally across the scheme, unless there are specific grounds to use an alternative method of apportionment.
- 8.3 Notification and Recovery of Service Charges**
- 8.4** All tenants and service users will be notified in writing of the service charges applicable to the forthcoming year, at least four weeks in advance of the new charges coming into effect (*The Rent and Service Charges Letter and the Rent Schedule*). The Rent Schedule (*Appendix A*) details whether charges are eligible to be covered by Housing Benefit or not.
- 8.5** Where there is a change in circumstance in-year that results in the introduction of a

new service charge, i.e., completion of and servicing of a disabled adaptation, the relevant tenant or service user will be notified in writing at least 28 days in advance of the new charge being introduced.

- 8.6** Tenants and service users are required to pay service charges under the conditions of their tenancy agreement or licence. Non-Payment will result in the relevant arrears recovery policy being applied.

## **9. DOCUMENT RETENTION**

- 9.1** Documentation pertaining to the legal agreement between the Association and the Tenant or Service User, such as the tenancy agreement or licence, will be retained in perpetuity of the agreement.
- 9.2** Documentation pertaining to charges applied, including copies of relevant invoices will be retained in line with HMRC guidance for tax purposes, namely six years plus the current year.
- 9.3** Records may be retained electronically or in paper format, and with reference to the relevant requirements of the **Data Protection Act as amended 2018**.

## **10. SCOPE**

- 10.1** This Policy applies to all BeST's Tenants and Service Users.

## **11. RESPONSIBILITIES**

- 11.1** Key areas of responsibility relevant to the approval and implementation of this policy are set out below:

### **11.1.1 Board**

The Board are responsible for establishing the overall framework for the setting of rents and service charges, and ensuring the policy approved annually complies with

regulatory and legislative requirements, and meets the Association's Financial Plan and Budget Objectives.

#### **11.1.2 Managing Director**

The Managing Director has responsibility for ensuring this policy is applied to ensure compliance with regulatory and legislative requirements and to meet the Associations Financial Plan and Budget objectives.

#### **11.1.3 Executive**

The Financial Director has responsibility for ensuring that rents and service charges are calculated in accordance with this policy, and that appropriate financial and other support and advice is provided to the Board, Executive Team, and Management as required.

#### **11.1.4 Managers**

The day-to-day responsibility for the implementation of rent and service charges and the timely communications with tenants and service users' rests with line managers who are responsible for:

- Ensuring prompt implementation of rent and service charges increases / decreases following Board decisions
- Ensuring SASSHA housing management and other systems are updated in a timely manner
- Ensuring there is timely and appropriate communication with tenants and service users, their legal representatives, support providers, and local authority housing benefit departments, superior landlords / funders, and that enquiries are dealt with promptly and effectively
- Ensuring prompt implementation of any internal audit or other recommendations

**11.2** The framework for the collection of rents and service charges due is covered separately under the Income Management Policy.

### **11.3 Training**

11.3.1 Ongoing training needs will be identified by the Head of Revenues and Credit Control and facilitated by the Head of People Development.

### **11.4 Recruitment**

11.4.1 All applicants for job vacancies within the Revenues and Benefits Team will be expected to have relevant qualifications and experience, as deemed essential for the performance of the job role.

11.4.2 It is a necessary requirement for all Job roles that applicants must provide copy of a Disclosure Barring Scheme Certificate where asked to do so.

## **12. REPORTING AND MONITORING**

**12.1** This Policy will be monitored by BeST's Executive Team, comprised of the Managing Director, The Operations Director and the Finance Director, who are responsible for reporting into the Board on a monthly basis.

**12.2** The Finance Director has ultimate responsibility for the setting of Rents and Service Charges, this is delegated to the Head of Revenues and Benefits who has responsibility for the annual increase / decrease of rent, and all associated procedures including income collection. The Head of Revenues and Benefits will report into the Finance Director on a weekly basis, and is responsible for the provision of monthly Board Reports which will reflect the position as regards income collection and arrears.

**12.3** PRP's must adhere to all legal and regulatory requirements when setting rents and service charges. There are no performance measures, however we have a commitment to the Board to complete an annual self-assessment to ensure compliance.

### 13. DEFINITIONS

<b>AST</b>	Assured Shorthold Tenancy Agreement
<b>BeST</b>	Bespoke Supportive Tenancies Ltd
<b>CPI</b>	Consumer Price Index
<b>CSS</b>	Care, Support and Supervision
<b>NHS</b>	National Health Service
<b>ONS</b>	Office for National Statistics
<b>PRP</b>	Private Registered Provider
<b>Red Book</b>	RICS Professional Standards – Valuations
<b>RICS</b>	Royal Institution of Chartered Surveyors
<b>RPI</b>	Retail Price Index
<b>Service User</b>	Tenant or License Holder
<b>SSH</b>	Specialist Supported Housing

### 14. EQUALITY AND DIVERSITY

- 14.1** BeST is committed to mainstreaming equality and diversity throughout all its activities as well as meeting the general and specific duties imposed on it through the legislation. Please refer to BeST’s Equality and Diversity Policy for further details.

## APPENDIX A

Bespoke Supportive Tenancies Ltd	
Rents and Service Charges 2020	
(Property address)	
Service	Cost (£) PA
<b>Tenants (number of units)</b>	<b>0</b>
<b>Base Rent (per annum)</b>	<b>£0.00</b>
Buildings Depreciation 6%	£0.00
Sinking Fund 2%	£0.00
Council Tax (shared houses)	£0.00
Statutory Compliance Testing/ Contracts & Servicing	£0.00
Central Office Costs (Overheads)	£0.00
Central Office Staff Costs	£0.00
Housing Officer Costs	£0.00
Professional Fees (legal/ surveyor costs)	£0.00
Buildings Insurance	£0.00
Void Costs 8% (empty units)	£0.00
<b>Core Rent Total</b>	<b>£0.00</b>
<b>Communal Housekeeping/ Eligible Service Charges</b>	
Communal Area/ Deep Cleaning	£0.00
External Window Cleaning	£0.00
Gardening and Grounds Maintenance	£0.00
Waste Disposal	£0.00
Pest Control	£0.00
Internal Decoration	£0.00
Electricity/ Gas/ Fuel (communal areas only)	£0.00
<b>Maintenance Servicing and Repairs</b>	
White Goods Depreciation - Provision/ Repair/ Replace (3 years)	£0.00
Emergency Repairs & Callouts	£0.00
Furniture - Provision/ Replacement/ Repair (communal areas only)	£0.00
Health & Safety/ Fire Fighting Equipment	£0.00
<b>Service Total</b>	<b>£0.00</b>
Void Service Charges 8%	£0.00
Service Total + Void Service Charges	£0.00
<b>Ineligible Service Charges</b>	
Water	£0.00
Personal Fuel Costs	£0.00
<b>Total Core Rent and Service Charge (per annum)</b>	<b>£0.00</b>