

Research and Futures

Briefing Note

Title: Rent Reduction Procedures

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Rent reduction procedures

This briefing advises members about the technical procedures to be undertaken when reducing the rent under a periodic tenancy. Associations should note that the familiar processes for increasing rents do not necessarily hold good for rent reductions. Although most of the tenancies involved are likely to be assured (which includes assured shorthold), this briefing also notes the position regarding secure tenancies, protected tenancies and contractual tenancies.

Although the briefing has been prompted by the publication of the retail price index for September 2009, which shows an annual rate of inflation of -1.4%, it does not address the legal or policy issues about the interpretation of the rent restructuring regime and the Government's directions to the TSA. These are the subject of a separate letter from the Federation, which associations may wish to consult before deciding what level of rents to impose in 2010/11.

Although the process of setting rents in 2010/11 will involve associations in weighing factors that are unusually complex and difficult, it is likely that some associations will conclude, on an assessment of their legal, political, and operational circumstances, that a rent reduction is the appropriate course of action in 2010/11.

In addition, some associations may choose to freeze their rents. This is noted separately at the end of this briefing.

Rent and service charges

Associations need to be clear about the treatment of service charges. Where the service charge is fixed, it is legally part of the rent, and the term "rent", as used in this briefing, should therefore be understood to include fixed charges. A variable service charge, on the other hand, is not part of the rent, and indeed is usually changed at a different time of year than the net rent. The word "rent", for the purposes of this briefing, does not include a variable charge.

Assured tenancies

For assured periodic tenancies (including periodic shortholds), the normal procedure for a rent increase (except when the increase results from a provision in the tenancy) is the issuing of a formal notice in the statutory form, as required by section 13 of the Housing Act 1988. However, section 13 refers specifically to "an increase in the rent under a tenancy to which this section applies" and the statutory form itself refers only to increases. Consequently, it should not be used for rent reductions.

Instead, all that is necessary is a letter to the tenant, stating clearly the amount of the new rent and the date from which it will apply. Although there is no statutory notice period, it is recommended that at least one month's notice should be given to allow sufficient time for the tenant to make arrangements to pay and so that, where applicable, housing benefit can be adjusted.

As with rent increases, the commencement date for the new rent must be the beginning of a tenancy period.

Associations will be familiar with the “annuality” rule for assured periodic tenancies: that is, the requirement for an interval between rent increases of at least 52 weeks (occasionally 53 weeks). This requirement applies only to increases: landlords may reduce rents at any time. Note too that the requirement relates to intervals **between increases**: it is satisfied if the necessary interval has elapsed between successive increases, and any reductions in the intervening period are disregarded.

Other types of tenancy

Although the large majority of tenancies in housing associations are assured (including assured shorthold), some associations may also have properties let under secure tenancies, protected tenancies under the Rent Act 1977, or contractual tenancies (also called “bare tenancies”) to which statutory protection does not apply.

Although procedures for increasing rents will vary according to the type of tenancy, rent reduction procedures are not subject to the same degree of legal regulation. Accordingly, it will be sufficient in each case to write to the tenant setting out the new rent and its commencement date (which should be the beginning of a tenancy period).

Rent freeze

If an association opts to leave the rent entirely unchanged, there is no need for a formal notification at all. In the absence of any notification, the current rent simply carries forward unaltered. However, it would be prudent to write to tenants confirming this position.