

# Rents and Service Charge Policy

**February 2023**

7 February Cabinet: Council Budget 2023/24 and Medium-Term Financial Plan 2023/24 - **Annex K1**

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## **1. Introduction and Purpose**

This Policy sets out the how Milton Keynes City Council (MKCC) will set its rent and service charges and other charges to ensure compliance with current requirements laid down by Government and the Regulator of Social Housing (RSH) various regulatory standards.

As MKCC is also responsible for the provision of a Homeless Service to our communities under Part VII of the Housing Act 1996, this policy also covers charges for temporary accommodation which are outside the provisions of the RSH standards.

This Policy highlights both the historic / current operational procedures and interim arrangements for the setting of rents, service charges and other charges for all housing needs operations within MKCC; from temporary social housing to private leaseholder service charges.

We will ensure that all rents and charges are fully compliant with regulatory standards and are fair and transparent. Placing tenants, leaseholders and other service users are at the heart of decision making, offering a range of choice and quality services whilst demonstrating value for money and best practices.

## **2. Scope**

The policy relates to any rent, service charge or other charge or fee which can be associated with the supply and delivery of housing. The list below provides details of the business areas covered in this document: -

- Rent fees for the occupation of temporary accommodation: bed and breakfast, hostel accommodation and private sector leased units
- Rents and service charges for social housing stock within the Housing Revenue Account (HRA).
- Service charges, ground rent and other fees & charges levied on MKCC leaseholders
- Garage and Carport charges
- Pitch fees for Gypsy and Travellers sites

The following are out of scope of this policy: -

- Charges for “community alarm and warden support” services, but see Section 6 Rents & Service Charge Review
- Residential accommodation owned by MKCC but not managed within the HRA
- Commercial premises owned by MKCC

## **3. Roles, Responsibilities and Delegated Authority**

The policy is approved by Cabinet and ratified at the full council meeting.

Implementation, compliance, and monitoring of this policy is delegated by the Cabinet Member to the Director of Finance and Resources and relevant Finance Heads of Service, together with subsequent delegated authority to officers accordingly.

Rents, service, and other charges are reviewed annually as part of the budget setting process. Cabinet needs to approve new year values before full Council meet to approve the annual budget as there is insufficient time available for tenants to be given 28 days' notice of a rent change, which is a statutory requirement and embedded with the tenancy agreements and leases for shared owners.

Due to the time constraints around end of year the cabinet member for Adults, Housing and Healthy Communities in conjunction with the Director of Finance and Resources have delegated authority to approve rent changes.

#### **4. Rent Setting**

There are a variety of different property rent categories within current government legislation and the RSH regulatory standards, details of which are shown below:-

Which rent category is charged for a specific property is generally determined by either the Section 106 Planning agreement or how a property is funded. For example, a development partly funded by a Homes England grant may have a condition which requires the properties to be charges a social formula rent and not a social affordable rent.

#### **Social housing - Formula rents**

Introduced in 2000 as part of the governments ten-year rent restructuring proposals, the intention was to level-up social rents across the county by introducing a set formula which all registered providers (local authorities and housing associations) adhered to under direction from central government.

The formula uses the following components :-

- |    |                                |  |
|----|--------------------------------|--|
| A. | National average rent          | This is £54.62 per week                  |
| B. | Relative county earnings       | Buckinghamshire is set at £328.30        |
| C. | Bedroom weighting              | Based on number of bedrooms per property |
| D. | England average property value | Set at £49,750                           |
| E. | Relative property value        | Valuation of property in January 1999    |

Items A to D are laid down by legislation.

The relevant property value (E) must be completed on an Existing Use Value basis assuming vacant possession and continued residential use. We completed this task using Beacon valuations which gives a valuation to an archetype of properties.

Where we develop or acquire properties that must be let on a formula rent basis, we will complete the Formula rent calculation and apply the **maximum** allowed annual inflationary increases to bring the formula rent value to the current rent year.

## Rent Flexibility

Landlords are permitted under the regulations to set rents at levels above the social formula rents where it has taken local factors, market conditions and affordability into account.

- For general needs accommodation a 5% flexibility is allowable
- For supported housing, such as sheltered schemes a 10% flexibility is allowable.

Not all our rents are at a level equal to the formula rent for the property.

From March 2022 where a property became vacant and was going to be let to a new tenant, we have set the formula rent for the property at 105% of formula for general needs accommodation and 110% of formula for all its supported housing units.

As at 12 December 2022 there are 10,138 properties that can still move to the higher formula rent including the additional rent flexibility when they next become available to let to a new tenant.

## Social housing – Affordable rents

Affordable rents were introduced in 2011 under a change in government rent policy to allow landlords who entered into any of the following agreements to develop new social housing units:-

- Framework Delivery Agreement with Homes & Community Agency [ Homes England]
- Affordable Homes Programme
- Agreement with the Greater London Authority

The intention was to allow landlords to charge a higher than social formula rent and use the additional income to fund the development and acquisition of more social housing.

Affordable rents are inclusive of any service charges and can be set at a level up to a maximum of 80% of market rent.

When setting Affordable rents for any property we will adopt the following processes.

- For newly developed properties or those acquired we will obtain an external valuation completed by a valuer who is a member of the Royal Institute of Chartered Surveyors (RICS)
- For existing Affordable rented properties we will either obtain an external valuation as above, or may use our existing affordable rent data and data freely available from external sources, such as Rightmove to obtain comparable open market rents.

The Affordable rent for the property will be set at 80% of the Open Market rent as determined by the valuer or the comparable information

Where the property concerned is a newly developed unit, subject to any development agreement covenants or Section 106 Planning requirements, the affordable rent will be set at the maximum value allowable by the agreement. This may be a capped value or a specified percentage of the open market valuation, which could be less than 80%.

Any property valuation / open market valuation used to set an affordable rent will have been completed by the RICS valuer within four months of the calculation, so that it reflects current market conditions. This period allows for the latest market conditions within our geographical area of operations to be taken into consideration.

Where a property attracts any service charges these must be inclusive of the final Affordable Rent set. We will account for service charges within the rent and reduce the rental component within the gross rent accordingly.

#### **Example**

New Affordable rent set at	£175.00 per week
Property has service charges * at	£ 10.00 per week
Affordable rent component	£165.00 per week (£175 - £10)

- Only eligible HB service charges are included in this figure. Those ineligible charges are collected in addition to the social affordable rent.

Affordable rents do have a minimum limitation which is equivalent to the social housing formula rent, plus any rent flexibility (5% general needs / 10% supported housing) PLUS any service charges.

MKCC will complete this calculation before setting any social affordable rent and ensure that the above minimum limitation is used should the 80% of open market rent be of a lesser value.

## **Rent Capping**

Social housing formula rents are restricted by a “rent cap” which limits the amount of formula rent that can be charged in any year based on the particular size of the property. Rent caps were initially set as part of the governments rent restructuring policy and have been uplifted annually by inflation.

Where any formula rent would exceed the rent cap limitation the rent cap is the maximum amount that can be charged. Currently none of our properties are restricted by the rent cap limitations.

As rent caps are reviewed annually under the current rents regulations and receive an annual uplift of September CPI (consumer Price Index) plus 1.5%. Cap limits are set to continue to increase at a level greater than social formula and social affordable rents for the remaining duration of the current government policy direction.

Affordable rents are not limited by the requirements of the rent cap as they are based on a valuation of current market conditions.

## **The Regulator of Social Housing (RSH)– Rent Standard**

MKCC as a Local Authority Registered Provider of social housing must adhere to the governments rent setting policies and the regulations laid down by government and directed by the regulator, which includes a number of regulatory standards.

Periodically the RSH publishes instructions to registered providers. These are called regulatory standards and the one affecting rents is called the Rents Standard. The current publication is the Rent Standard 2020, however we are expecting a new Rent Standard 2023 to be published shortly to reflect the government’s policy direction around the capping of rents for 2023/2024.

Within the Rents Standard a number of different property rent categories are excluded, these are shown below and covered in their own sections of this policy for completeness.

- Shared ownership low cost rental accommodation
- Intermediate rent accommodation
- Specialised supported housing
- Relevant local authority accommodation
- Student accommodation
- Private Finance Initiative (PFI) social housing
- Temporary social housing
- Care Homes

## **Shared ownership low cost rental accommodation (LCHO)**

Tenants that live in our shared ownership accommodation are in fact leaseholders as there is a binding legal agreement between MKCC as the landlord, and the occupants as the leaseholders.

Rents for LCHO accommodation are called “Specified rents” and are laid down within the term of the lease agreement. Typically, new specified rents are based on the market sales value of the property on first sale / disposal by the landlord and the percentage of equity that the landlord retains.

MKCC Initial “specified rents” historically appear to be set at levels that would have been equal to the social rent at the time, assuming that no equity was acquired by the tenant. An undetermined allowance for the tenant’s repairs and maintenance liability was then deducted from this rent, to arrive at the rent payable at the time of initial shared ownership purchase.

New shared ownership accommodation is likely to be developed / acquired with the assistance of Homes England funding and as such MKCC are likely to be expected to use the Homes England standard LCHO lease, subject to any specific property variations.

The Homes England lease has a fixed calculation for the setting of rents, which forms the basis of one of the covenants of the lease agreement. The lease also contains details of how specified rents must be uplifted each year.

## Intermediate rents

Intermediate rents were first introduced as a specialist housing product to allow households to rent a property at a rent that is higher than the social formula and social affordable rent levels but lower than market rents.

The concept was to enable tenants to save towards a deposit for their own house and as such intermediate tenancies are generally for a fixed period of between 3 to 5 years.

There are a number of housing schemes where intermediate rents are charged, such as the Keyworker Living Programme 2004-2010 and National Affordable Homes Programme 2008 – 2011.

MKCC does not currently have any properties that would fall within this category.

## Specialised Supported Accommodation

This accommodation can best be described as **between** “supported – sheltered” accommodation which used to be called “housing for older people” or category II accommodation and that of a residential or care home.

The accommodation must be designed, altered, refurbished or designated for occupation by residents that require specialised support services to enable them to live in the property and maintain their tenancy. The level of support provided should be similar or equal to support that they might receive if they were in residential care.

Generally, stakeholders commissioning services and providing support are local authorities, charities and specialist providers.

MKCC has two schemes which fall into the specialised supported accommodation category, these are: -

- Extra care schemes at Kilkenny House and Courteney Lodge
- Shared accommodation for residents with special needs

Note – For reporting of properties to the RSH as a Local Authority Registered Provider we are unable to have Specialised Supported Accommodation.

One requirement under Para 5.5C of the government’s policy statement states “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 NSH Act 2006)

We currently sets Rents and service charges for these schemes on the same basis as social formula rented properties for a sheltered housing scheme. On relet these units will attract the 10% rent flexibility.

## Relevant Local Authority Accommodation

Accommodation is “relevant local authority accommodation” if it is accommodation provided by a local authority and the Secretary of State has agreed that it would be inappropriate to apply this rent policy to the accommodation because it would cause the authority unavoidable and serious financial difficulties.

Effectively a local authority would apply for the provisions of the Rent Standard to be disapplied to properties within its Housing Revenue Account stock, based on financial pressures on the authority to work within its budgets.

MKCC has no such applications or properties that fall into this category.

## Student accommodation

This is low cost rental accommodation provided by a registered provider (local authority or housing association) pursuant to an agreement which grants the right of occupation in a building or dwelling this is used wholly or mainly for the accommodation of persons who are in full-time education at a university, college, school or other educational establishment.

MKCC does not currently have any accommodation in this category.

## Private Finance Initiative (PFI) social housing

Accommodation that is built, provided or refurbished under any private finance initiative where one party is a local authority, or one party is working on behalf of a public sector party, such as a local authority.

MKCC does not currently have any accommodation in this category.

## Temporary social housing (TSA)

TSA means “low cost rental accommodation” which is made available to persons who are homeless, within the meaning of the Housing Act 1996. Generally, let on an assured shorthold tenancy or licence with less security of tenure than a standard assured / secure tenancy, as occupation of the accommodation is intended to be for a limited duration.

MKCC administers four streams for provisioning TSA to give flexibility to the authority around supply and demand volumes. These are :-

- Homeless Hostels
- Bed & Breakfast and Hotel accommodation
- Private Sector Landlord (PSL) accommodation
- Modular accommodation [March 2023]

Rents and charges for all TSA are based upon a delegated decision Item 2 : 10 January 2017 at which time charges levied to homeless persons and households were aligned to the maximum charge that could be applied which would attract the full amount of housing benefit subsidy.

Rents and service charges for existing TSA are set on letting to a homeless household and do not receive any annual uplift on the same basis as social housing properties. Rents are only revisited when the accommodation is offered to a new household.

Where we look to increase the volume of temporary accommodation through the acquisition of new modular accommodation and the recovery of premises let to external organisations, we will consider a number of different rent setting calculations and look to maximise rental income whilst ensuring gross rents remain affordable and have negative housing benefit subsidy implications.

## High Income Social Tenants

In April 2015 the government introduced the concept of “high income social tenants”. Where the household income of the principle 2 occupants combined was in excess of £60,000 the landlord could choose to charge a market rent to the tenants and not a social formula rent.

The administrative burden on any landlord to administer such rents is considerable and as a consequence only a minority of landlords look to charge high income market rents. We will not look to collect data around household income for the purpose of setting high income rents. Tenants will continue to be liable for social formula or social affordable rents regardless of their household income.

## Gypsy and Traveller Site fees

We operates two travellers sites at the following locations:-

- Calverton Lane, Calverton (12 pitches)
- Willen Road, Newport Pagnell (6 pitches)

There is no guidance nationally around the setting of gypsy and traveller pitch fees. MKCC has therefore utilised data around the letting of housing assets in the MKCC geographical area and will use the November 2021 LHA [our starting point similar to the January 1999 property valuation] figure for a one bedroom property, which is £149.59 per week as its principle starting position.

Both Calverton Lane and Willen Road pitches are accompanied with small permanent structures which contain a kitchen/cooking area and full bathroom facilities, and Calverton Lane units have a small seating area. As such some of the facilities found in a residential dwelling are found on our travellers sites.

In 2022/2023 we have set pitch fees as follows:-

- Calverton Lane - 60% of the LHA One bedroom rate
- Willen Road - 50% of the LHA One bedroom rate

In addition to the pitch fee, licensees will be charged an Intensive Housing Management charge to cover the cost of additional management completed by the Gypsy & traveller neighbourhood officer. This fee will be calculated on the basis of 25% of the officer's salary, MKC employer national insurance and pension contributions.

A scheme of variable service charges is also covered by the licence agreement, details of which are covered in the "service charge" section of this policy.

## Annual Rent Reviews

Social formula rented accommodation and social affordable rented accommodation fall within the Rent Standard of the RSH and as such the amount of any annual rent increase is currently limited by regulation to a **maximum** of the CPI + 1%, where the level of CPI is that of the September of the previous year.

This is the maximum increase that can be levied to any current tenant; however, landlords have discretion to set rents at a lower level should they wish to do so. There is no provision within the current legislation and regulations to allow the landlord to "claw back" potential lost income in future years.

In considering the setting of rents each year landlords are required to have a broad understanding of the market conditions and context in their area of operations. Cabinet will be provided with a report as part of the rents and budget setting documentation which will set out relevant information to members on the following: -

- Current housing stock by rent category
- Average social formula rents in the MKCC area
- Average affordable and market rents in the MKCC area
- The Local Housing Allowance levels
- Social housing Rent Caps levels
- Details around affordability of rents
- Housing supply and demand information

## Social formula rents

Where existing tenancies are let at social formula rents, we will increase rent on these properties within the maximum permitted by the Rent Standard or direction from the Regulator of Social Housing. From April 2020 for a period of five years the maximum increase has been set as Consumer Prices Index (CPI) at the previous month of September plus 1% per year.

Where a current formula rent considers the rent flexibility of 5% for general needs accommodation and 10% for supported accommodation is above the prescribed threshold the RSH Rent Standard limits the maximum rent increase to only CPI per year until such time as the current rent is at a level equal to the formula rent plus flexibility.

## Social affordable rents

Where tenancies are let at affordable rents, MKCC will increase rent on these properties in line with the maximum permitted by the Rent Standard, currently CPI + 1%.

Social affordable rents are also not capped by the rent caps provisions in the Rent Standard.

### Direction on rent setting for 2023 - 2024

The Office of National Statistics published the September 2022 CPI figure as 10.1%. Based on the current rent policy this would mean a rent increase of up to 11.1% for social housing tenants.

However, the Secretary of State for Levelling Up, Housing and Communities has on the 12 December 2022 issued the Direction to the Rent Standard 2023 instructing the RSH to give registered housing providers directions on rent setting for the year 2023/2023.

This direction confirms the governments Autumn statement on 17 November 2022 which set out that registered providers would have a cap of 7% limiting rent rises for **current** social housing tenants for 2023-2024.

This is one part of the governments measures to stem inflation and the current cost of living crisis, post the Covid pandemic. This was confirmed in a Direction to the Rent Standard 2023 made on 12 December 2022

The Direction to the Rent Standard 2023 only protects **existing current** social housing tenants and therefore allows registered providers to uplift rents for its social formula rented properties up to the maximum of CPI + 1% which for 2023 – 2024 would be 11.1%.

For the 2023-2024 rents year we will increase all social formula rents across all our social formula rented properties, so that the base rent for the property reflects an 11.1% uplift. To comply with the directions of the rent cap above, we will reduce rents to the maximum allowable increase of 7% for all **current tenants** paying a social formula rent.

Where a tenant pays a social affordable rent, the Direction to the Rent Standard 2023 caps the total weekly gross rent, which is inclusive of all service charges to a maximum of 7%. For these tenants we will increase rents and service charges up to a position where the weekly gross rent has increased to the 7% cap.

Any new tenant will pay the social formula rent for the property as set on first letting. Rents for 2023-2024 will reflect the 11.1% rent increase from Monday 3 April 2023.

## Shared Ownership

Shared ownership properties are not subject to the provisions of the Rent Standard.

The mechanism of the annual rent increases is determined in the lease for the property, normally this is set at the same rent increase applied to council tenancies for the previous year.

MKCC shared ownership properties have an upwards only rent review covenant in their lease which means that rents cannot be reduced.

## Temporary Accommodation

Where rents and charges for TA are set under delegated decision made under Item 2 : 10 January 2017 we do not look to undertake an annual rent review of charges as these have been set based on the maximum charge that will attract housing benefit without MKCC being impacted with non subsidised awards.

Should the allowance for this type of accommodation be uplifted by the government in the future, we will review TA charges at the following annual rent review.

Where an MKCC asset belongs to the Housing Revenue Account (HRA) the housing benefit subsidy limitations do not apply and all HB eligible rents and service charges are fully included as being eligible in any housing benefit calculation.

Where HRA rents and charges have been set using the social formula rent plus rent flexibility together with a schedule of service charges, we will review both rents and service charges in the same way as our standard HRA general needs properties.

## Unauthorised Occupancy

For properties that are occupied by someone who is not a legitimate tenant, for example a household member who remains in the property after the tenant has left, they are called an “unauthorised occupier” (formerly a tolerated trespasser).

Unauthorised occupiers pay “Use and Occupation” charges which are at a level equal to the gross rent for the property. As such the rent for their tenancy will be reviewed on the same basis as a social formula rent and social affordable rent.

We will however not send the unauthorised occupier a standard rent review letter as this could be seen to imply a tenancy, which we must look to avoid. A separate letter will be sent to all unauthorised occupiers, which clearly states that the content does not imply any tenancy.

## Garage and Carports

It is MKCC's objective to maximise the income generated from garage and carport rents in order to be able to invest in the properties and keep these to a high standard. It is also recognised that garage rents should be set at a level that is fair for tenants.

We will look to regularly review our garage portfolio with a view to understanding its current performance. Rent levels for garages and carports are set at a standard level through the MKCC geographical area.

Where a garage is rented by a non MKCC tenant or shared ownership leaseholder, the rent will attract Value Added Tax (VAT) at the standard rate.

Equally where a MKCC tenant rents more than one garage or carport, VAT will be chargeable on the second licence fee at the standard rate.

Garage and carport rents will be increased annually at the same uplift as social formula and social affordable rents.

In 2023/2024 we will remove the setting of garage and carport rents from our standard fees and charges schedule and these will subsequently be set and reported within the HRA annual budget report.

## Gypsy & travellers pitch fees

The Mobile Homes Act 1983, Sections 16 to 20 set out how pitch fees can be reviewed and varied. The regulations presume that any increase/decrease will be no more than the Retail Prices Index (RPI) for the preceding 12 months period.

In recent years most legislation has looked towards the Consumer Price Index as a more accurate reflection of inflation and this is now the measure used for social rent increases, set out in the RSH Rent Standards.

In order to be fair to those tenants living on pitches we will review the current levels of the RPI and look to uplift pitch fees in line with the annual rent review process completed for social formula rent and social affordable rents, which is currently CPI + 1% where the CPI is based on the September RPI of the previous year.

See formula social rent and affordable rent section covering 7% rent cap for 2023-2024.

## 5. Service Charges

Section 18 of the Landlord & Tenant Act 1985 defines a service charge as being :-

*"an amount payable by a tenant of a dwelling as part of or in addition to the rent –*

- (a) *Which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and*
- (b) *The whole or part of which varies or may vary according to the relevant costs"*

There are two types of service charge that can be administered by a landlord.

**FIXED** service charges are where a charge is set at the commencement of any year based on previous expenditure and any known contractual changes. Regardless of the actual level of expenditure at the end of the year, no adjustment is made either by way of a refund if an underspend has arisen, or an increase in charges for the next year where an undercharge has arisen.

Our tenants have historically paid Fixed service charges. The tenant consultation completed in 2021 under Section 103, Housing Act 1985 has established a position where a variable service charge regime has been introduced across all of our standard secure tenancies.

However, under Section 26 of the Act as a local authority we are exempt from some of the requirements around consultation and communications, in relation to variable service charges.

**VARIABLE** service charges are where a charge is set at the commencement of any year based on previous expenditure and any known contractual changes. This is called the "Estimate of Charge".

At the end of the financial year the landlord must determine exactly how much has been spent on each service charge element, for example cleaning. This is called the "Actual Charge"

Where the actual charge is **greater than** the estimate a **deficit** is created.

Where the actual charge is **less than** the estimate a **surplus** is created.

How deficits and surpluses are administered is dependent on the terms of the lease or tenancy agreement.

Tenants will have any deficits/surpluses added to the following years estimated charges. Leaseholders, including shared ownership lessees will have an adjustment applied to their account. This is usually around September annually.

The RSH has published its regulatory standards which from April 2020 all "registered providers"(RP) are required to comply with fully.

MKCC will ensure that its operations work towards full compliance, taking account of the following key areas within the below standards:-

**Homes Standard** – involving residents in decisions around a cost effective repairs and maintenance service and providing residents with "offers and choices"

**Neighbourhood & Community Standard** – Promoting social, environmental and economic wellbeing in areas where the RP own properties.

**Tenant Involvement & Empowerment Standard** – The formulation of housing related policies, decision in respect of service standards and the delivery of services, management of repairs and maintenance services and providing customer choice, including providing details around the additional costs of these choices.

As at December 2022, the following tenures have a service charge in operation:-

- General needs tenants
- General needs – Over 55 tenants
- Supported housing tenants
- Shared ownership leaseholders
- Outright leaseholders where they own 100% of the property equity

MKCC will adhere to the below guiding principles in respect of its current administration of service charges:-

- We will not introduce any new service charges for any new service or existing services without prior consultation with tenants and leaseholders.
- Charges will be structured to be simple and transparent, so customers can understand what they are paying for.
- We will endeavour to make accurate estimated charges predictions based on as the most current and comprehensive data that we have available at the time.
- Service charges will be fair, equitable and represent good value for money
- Fixed charges levied on tenants, though not identical to the variable service charges levied on leaseholders, are reasonable and fair by comparison.

## Current Service Charge Position

We have historically only collected service charges from tenants for a small number of services, mainly:-

- Cleaning
- Caretaking
- Electricity
- Gas
- Water

Tenants of general needs – over 55's accommodation (sheltered housing schemes) are also charged for community alarm and housing support services that enable residents to live safely and independently in their own home.

This policy does not cover the setting of these charges, but the charges are collected with the rent and other charges for the property.

As part of the annual budget setting processes we will publish a schedule of service charges that are levied to tenants and leaseholders. These will be agreed annually by Cabinet and where time allows

full council to ensure annual rent review letters to be issued to tenants and subsequently be part of the council's overall approved annual budget.

In order to promote transparency of charges, we will look to include a schedule of service charges in all new tenancy agreements at the time the tenancy is signed.

-Charges will change no more than once a year, at the same time that rents are reviewed. Tenants will receive notification of changes to service charges along with the rent increase/decrease, no less than 28 days before the change is applied.

In accordance with the government's policy statement, we will endeavour to keep increases for service charges within the limit on rent changes, of CPI + 1 percentage point, to help keep charges affordable.

However, charges may be set at levels higher than CPI + 1% where the procurement of any service has been completed and/or costs have risen at a higher rate than inflation, or there has been a change in the service standards or delivery of service which has affected the costs paid by MKCC.

## Leaseholder service charges

Service charges estimated for leaseholders are calculated in the same way as any other tenants, as service delivery is generally the same, however we do not issue details of the New Year charges prior to the commencement of any new financial accounting period (1 April), instead leaseholders are asked to pay new year estimated charges around September when details of their Actual service charges for the previous are sent to them, by way of an annual certificate.

In addition to services such as cleaning and grounds maintenance and property repair, leaseholders pay ground rents, management fee and buildings insurance premiums. Not all leaseholders pay all of these charges.

In October 2022 we have started to consult with leaseholders around changing the service charge administration year from 1 September to 30 August, to the standard 1 April to 31 March. This will bring accounting arrangements and the publication of service charge documentation aligned to those completed for tenants.

There is a small number of leaseholders who may require a lease variation to be completed as their leases have a year starting in June.

## 6. Rent & Service Charge Review

MKCC currently only levies service charges for a small number of services as mentioned earlier in this document. The cost of services provided to tenants and leaseholders that is not recovered by way of a service charge is therefore met from the income generated through rents.

Government policy and guidance since 2000 has recommended that RP's "unpool" the costs associated with the provision of services and those maintenance costs over and above what is

covered by the standard rent for any dwelling, Eg the maintenance of fire alarm systems, door entry systems and water management.

In February 2022 Council approved the commencement of a comprehensive Rents and Service Charge Review in 2022-2023, of which the desired outcomes are:-

- Comprehensive consultation with tenants, leaseholders and shared owners around service delivery and standards, placing residents at the heart of decision making.
- Introduce a full set of service charges representing the services residents receive enabling the fuller recovery of costs from 2024 - 2025.
- Provide residents with transparent details of the cost of services
- Throughout the review we will ensure that we adopt best practice and that new policies and procedures are fully compliant with the governments rent setting policies and directions from the Regulator of Social Housing and also that our policies comply with the various lease terms that we currently have in place.

Tenants were notified of the review as part of the annual rent review 2022-2023. We have also written to tenants [October 2022] setting out the 3 areas for consultation and requesting stakeholders to join the tenant and leaseholder working group.

The three areas being consulted upon are:-

- Removal of rent free weeks from 2023-2024
- Rents & Service Charge Review – seeking stakeholder group members
- Changes to leaseholder accounting arrangements

Currently charges for “alarm and warden services” paid by tenants of “sheltered housing” formerly housing for older people are reviewed and amended within our Fees and Charges schedule.

From 2023-2024 we will remove these charges from the corporate fees and charges schedule and look to review them as part of the Housing Revenue Account’s social rents and service charges review, as they form part of the weekly gross rent that tenants pay. This will allow more time to undertake charge setting as we report rents and service charges to Cabinet and Council in January / February annually as part of the overall budget setting approval process.

## **7. Income Collection**

Rents and service charges are calculated over the standard MKCC financial year which is the 1 April to 31 March annually. In practice this time period is used for the accounting period for leaseholders and shared ownership leaseholders, but for social housing tenants the financial / rents year commences on the first Monday in April. The accounting period is therefore either 52 or 53 rent weeks, or 12 calendar months.

MKCC currently charges rent over a 50 or 51 week rent accounting period every year. Two rent free weeks are the weeks in which Christmas Day and New Year’s Day fall.

We have in October 2022 consulted tenants under a common law requirement to discontinue with rent free weeks. The outcome of the consultation is that we will stop rent free weeks from the 2023-2024 rents year. We will advise tenants of the outcome both on the Housing Consultation web pages and within their rent review letter for 2023-2024.

## **8. Compliance and Performance**

An annual HRA budget report is made to Cabinet. This will set out the projected income for the HRA and demonstrate that the proposed rent levels comply with this policy.

- We will periodically review actual expenditure on service chargeable items with that prepared as part of our estimate calculations and take action where appropriate throughout the year.
- Rents and Service Charges will be benchmarked using external solutions. We will also compare our charges with other RP's in the MKCC area and report these to Cabinet as part of the annual approval process.
- The setting of rents and service charges is also subject to both annual external audit, and internal audit from time to time, which may identify areas of risk and makes recommendations for change.
- MKCC makes an annual report to tenants, which includes information about service performance, including performance on income collection
- We will always issue service charge documentation that is certified by a qualified accountant as being expenditure incurred by the council for the accounting period in question.

## **9. Complaints**

Complaints about the **application of this policy** can be made under the MKCC complaints procedure. Full information on how to do this can be found at <https://www.milton-keynes.gov.uk/your-council-and-elections/comments-compliments-and-complaints>

A tenant or leaseholder cannot use the complaints procedure to complain about the level of rent and or service charge levied on their home. There are separate statutory avenues that should be followed, such as an application to the First Tier Property Chamber.

## **10. Equality and Diversity**

Only one adverse effect for a protected characteristic has been identified – that older people are more likely to be paying a service charge with their rent than the general population. However, there are mitigations, in that for the majority who receive Housing Benefit, their benefit will increase to meet the eligible service charges.

We have a separate equalities policy which requires us to consider the impact of any decision we make on those members of our communities with protected characteristics.

## **11. How will the Policy be Implemented?**

This policy crosses all departments working on the provision of housing, whether this be temporary accommodation, core social housing or leasehold accommodation.

Changes to the way in which social housing formula rents are set, by way of the use of the rent flexibility will be introduced at every opportunity where a new tenancy is created.

Those changes to the setting of social affordable rents will also take place on the change of a tenancy. We continue to look to secure the services of an external RICS valuer to assist with social rent valuations, but in 2022 we have not been successful in establishing any new contractual arrangement with external RICS valuers.

## **12. Review**

The Cabinet member responsible for the Housing Service receives regular briefings and updates concerning the rents and service charge review. Approval is obtained from the member before each stage is commenced, especially around the consultation and messaging with stakeholders.

The outcome of the review will drive future changes to MKCC policy and procedures, placing of tenants and leaseholders at the heart of decision making.

This policy will next be reviewed upon completion of the Rents & Service Charge Review to encompass details of any new structures and charges which will come into operation from April 2024.

Earlier reviews may arise subject to any changes in legislation and regulatory guidance.

## **13. Legislation, Related Policies and Other References**

Key documents relevant to the content of this policy are:

- Landlord and Tenant Act 1985
- Housing Act 1985
- Housing Act 1996
- Commonhold and Leasehold Reform Act 2002
- Mobile Homes Act 1983
- Regulator of Social Housing Regulatory Standards and Directions
- Service Charges (Consultation Requirements) (England) Regulations 2003
- Policy Statement on Rents for Social Housing, MHCLG February 2019
- Homelessness Reduction Act 2017
- MKCC Garage Strategy – under development
- MKCC Complaints Policy and Procedure
- Rechargeable Repairs Policy [Pending approval]

## Appendix 1 – Rent and Service Charge Consultation Response

### Rent “Free” Weeks

Between October and December 2022, we consulted with all social housing tenants on a proposal to remove the current “rent free weeks”, which are currently applied over the Christmas holiday period with effect from April 2023. This would not impact the overall amount of rent paid in any year, but **bill** the charges over 52 weeks, instead of the current calculation, over 50 weeks.

The reason we suggested this was:

- to allow tenants’ rent to be spread over 52/53 rent weeks instead of 50 rent weeks, reducing the weekly payment amount
- to reduce the amount of administration required when submitting returns and statistics to the government and Social Housing Regulator (who all work on a 52/53 rent week basis).
- to reflect that even despite the current billing, tenants choose to pay their rents over different periods

A total of **12,287** letters were issued to tenants and we received the following responses:

Total Number of Responses (% response rate)	25 (0.2%)
Those in Favour of Proposal	4 (16%)
Those Against Proposal	21 (84%)

The response rate overall was very low and those that responded against the proposal, responded that they did not want any change to their payment arrangements, i.e., they wanted to maintain paying rent over 50 weeks, not 52 weeks. As reported in the consultation, tenants can still request alternative payment arrangements and continue to pay over 50 weeks if they chose to do so.

Therefore, it is proposed to proceed with the change to 52-week billing of rents (given the wider benefits of the change) but with clear communication for those who wish to maintain their current 50-week payment arrangements. This will commence from the 2023/ 2024 rent year commencing Monday 3 April 2023.