



Regulator of  
Social Housing

# Making a formal application for an exemption to the Rent Standard

Explanatory note

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## 1. Background

- 1.1 This guidance covers the mechanism for private registered providers to apply for exemption under the Rent Standard 2020 (the Rent Standard). Separate guidance is being prepared for local authorities by the Ministry of Housing, Communities and Local Government, which will be available on their website<sup>1</sup>.
- 1.2 Pursuant to paragraph 6 of The Direction on the Rent Standard 2019 made by the Secretary of State for Housing, Communities and Local Government on 25 February 2019 (the 2019 Direction), the regulator may grant an exemption from or vary a requirement of the Rent Standard in relation to a private registered provider, if the regulator considers that complying with the requirement would jeopardise the financial viability of the provider.
- 1.3 If the regulator decides that an exemption should be given, this will take the form of a direction to the private registered provider as to the extent to which the Rent Standard will apply to them. The direction may dis-apply or vary one or more requirements in the Rent Standard.

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<sup>1</sup> <https://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government>

## 2. Process for obtaining an exemption

- 2.1 The formal process for obtaining an exemption involves the regulator assessing whether the provider's financial viability would be jeopardised by compliance with a requirement in the Rent Standard, and if it considers that it would, what direction it is minded to make.
- 2.2 Providers are reminded that the regulator has a range of options available for responding to providers whose financial viability is threatened, of which providing an exemption to the Rent Standard is just one.
- 2.3 In considering whether to grant an exemption, the regulator will consider the following question:
- In a scenario where the Rent Standard applies to the provider, will the rent collected for the stock be sufficient to cover the costs associated with carrying out basic functions and generating a minimal margin (i.e. the minimum needed to allow the organisation to cope with downside risk) such as to allow it to continue to be let as social housing?
- 2.4 In considering the above, the regulator will ask the following questions. The regulator may consider other questions where it is relevant to do so:
- Would any further reductions in expenditure jeopardise the ability of the private registered provider to maintain the stock at a level sufficient to allow it to continue to be used as social housing?
  - Has the private registered provider considered all options for reducing expenditure, including looking at all contractual commitments and providing assurance and evidence of advice around the feasibility of getting out of any commitments where to do so would improve the financial viability of the organisation?
  - Has the private registered providers considered all possible options to ensure continued financial viability?
- 2.5 What the regulator will consider under each will differ according to the specific circumstances of the registered provider and the evidence the regulator is being asked to consider.

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- 2.6 Considering the answers to these questions, the regulator will determine whether it considers that compliance with the relevant requirement(s) of the Rent Standard would jeopardise the provider's financial viability, and if it considers that it would, what direction it is minded to make.
- 2.7 If the regulator does not consider that the providers financial viability would be jeopardised, or if the regulator considers that an exemption would not be the most appropriate response to a viability issue the regulator will notify the provider that its application has been unsuccessful.

### 3. Applying for an exemption

- 3.1 There is no prescribed format for applications. It is the responsibility of the applicant to demonstrate the need for an exemption based on the provisions of the 2019 Direction, and to present a robust and detailed business case in support. The regulator would expect that this will set out in detail (with supporting evidence) how the provider has answered the questions set out above, including (without limitation):
- the financial and non-financial effects on the business of implementing the Rent Standard
  - the conclusions of a detailed and comprehensive review of its cost base and all activity undertaken or proposed to mitigate the need for an exemption from the Rent Standard and maintain financial viability
  - full details of the Board's financial viability concerns after all possible mitigating action has been undertaken and/or fully reflected in financial forecasts
  - full details of the key underlying assumptions, including inflation and interest rates, impact on covenant performance, sales, re-lets etc. that the business case is based on.
- 3.2 The application should also be supported by financial forecasts and accompanying narrative based on each of the following scenarios:
- A base line forecast for implementing Rent Standard requirements in full demonstrating the income shortfall as a result
  - A revised scenario incorporating the applicant's proposals to mitigate the income shortfall identified as a result of the Rent Standard requirements. This assessment should demonstrate how the provider has attempted to meet the income shortfall themselves and will establish the residual income shortfall. This scenario should be supported by narrative outlining the alternative strategies considered to mitigate the income shortfall.
  - A proposed resolution scenario incorporating both the applicant's proposals to mitigate the income shortfall and the exemption request necessary for financial viability. This will demonstrate the provider's financial viability under the proposed resolution arrangements, should the exemption be granted.

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- 3.3 The results of all scenarios should be shown with reference to the minimum performance requirement under loan covenants.
- 3.4 The overarching requirement is that the provider must demonstrate and evidence that full compliance with the Rent Standard would jeopardise the provider's financial viability. If the regulator considers that the provider has not evidenced this, the applicant will be notified that it has not been successful.



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**RSH regulates private registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver homes that meet a range of needs.**