

## Rent setting in Sweden

Rents for residential apartments in Sweden are normally determined through negotiations between landlords and tenant representatives. There is no role in these proceedings for public stakeholders, such as the central government and the municipalities. The negotiation system is supplemented by national consumer protection for private tenants.

There is a tradition in Sweden of resolving differences and conflicts of interest through negotiation and compromise between the various stakeholders, preferably without state intervention. This is an established approach in many areas of Swedish society, not least within the labour market.

### Negotiation system

Housing rents are also determined by market parties without state intervention. This is done through collective negotiations according to a system initiated in the 1950s for apartments in buildings owned by municipal housing companies and which has also been extended to the apartments owned by private landlords since the 1970s.

The collective rental negotiations are conducted between two parties. One party is the landlord, who is sometimes represented by a property-owners organisation. The other party is a tenant organisation, which has been assigned to protect the interests of the tenants.

This tenant organisation is almost always affiliated to the Swedish Union of Tenants, which is a national organisation comprising 525,000 member households, which has accumulated competence within this area over many years. The Swedish Union of Tenants has two roles – first as a member organisation representing its own members in various contexts, but also a negotiation organisation representing all of the tenants in the collective negotiations. These operations are separate. This kind of strong and competent tenant organisation represents a precondition for effective negotiation activities and consequently for a collective negotiation system to function in an appropriate manner.

The collective negotiation system is governed by a special act, entitled the ‘Rent Negotiation Act’, which stipulates certain fundamental requirements for the negotiating parties, though in general the negotiation system is based on contracts between the landlord, tenant organisation and the tenant, which functions as follows:

The landlord and the tenant organisation will enter into a formal agreement setting out negotiation rules governing what the negotiations are to cover and how they are to be conducted. An ordinary tenancy agreement is concluded between the landlord and the tenant. This tenancy agreement includes a negotiation clause which binds the tenant to pay the rent determined at future negotiations. When a negotiation is concluded, rent levels can easily be adjusted for those apartments covered by the negotiations.

This collective negotiation system has advantages for both parties. Individual tenants on their own would be in a weak negotiating position in relation to their landlords; a reasonable balance between the parties is achieved through them being represented by a strong and competent organisation. For the landlord, collective negotiations represent an effective way of establishing rent increases for several hundred or sometimes several thousand tenants through just one set of negotiations. Negotiations with individual tenants would be very time-consuming and expensive. The Swedish Union of Tenants' negotiation operations are not financed by membership charges but by a 'rent setting charge' of SEK 12 per month, which the landlords charge tenants as part of the rent and then pass on to the Swedish

### **Union of Tenants**

Individual tenants are entitled to withdraw from the collective negotiation system, but very few tenants have chosen to do so. Clauses that result in automatic rent adjustments on the basis of official indexes (e.g. the consumer price index) are not permitted in housing tenancy agreements. This means that rents are largely set for all residential apartments through collective negotiations.

Collective negotiations are normally conducted once a year on the initiative of the landlord. Negotiations often take place in the autumn, with rents usually being increased on 1 January of the following year.

Negotiations generally have two points of departure: the utility value of the apartments and changes to the cost of building and managing the housing. The utility value is to be assessed objectively on the basis of how tenants generally value various characteristics such as nature of the apartment, benefits, location, environment, quality of property management, etc., and without regard to the landlord's costs. Part of the negotiation therefore relates to assessing the various utility values of the apartments and valuing these in monetary terms. In between negotiations the parties often work on both surveying the apartments' utility values (e.g. through documentation and by means of a points system) and ascertaining the values attributed by tenants (e.g. by means of questionnaires). Negotiations generally result in rent levels being adapted to the utility value when necessary, although this will be effected gradually where substantial rent adjustments are involved. As regards the cost of managing and building housing, the negotiations involve assessing cost increases within the sector.

The way in which negotiations are managed and the arguments advanced by the parties varies from municipality to municipality and between different landlords. The parties consider that great value is attached to negotiations being conducted on the basis of the conditions prevailing in the respective local housing market. The parties have a duty of disclosure, which means that a party who refers to a certain written document must be able to show this to the other party. Negotiations can sometimes be tough as well as protracted. It is extremely rare for landlords to receive the full rent increase requested, but the agreement is usually some form of compromise. In most cases the parties ultimately come to an agreement through negotiations, although sometimes they do not. What happens then varies depending on who the landlord is.

If the landlord is a public municipal housing company, the dispute is referred to the Rental Market Committee, a central body established by the Swedish Association of Public Housing Companies (SABO) and the Swedish Union of Tenants for the purpose of preventing and resolving local disputes. The Rental Market Committee first tries to mediate between the parties, but if mediation is unsuccessful, the Committee will usually make a decision on the size of the rent increase. The Committee must be unanimous in order to make a decision. The local parties undertake through the agreement on negotiation rules to comply with the Committee's decision. Thus after the decision has been made, local negotiations resume and the decision is implemented.

It is not possible to refer to the Rental Market Committee or a similar instance if the landlord is a private property owner. The landlord must in this case refer to the national Regional Rent Tribunal. The Tribunal offers the opportunity of mediation, provided this is accepted by both parties. Otherwise, or if mediation is unsuccessful, the Regional Rent Tribunal will conduct a utility value review (see below) of the rent for the individual apartments. This is a very time-consuming process, particularly if it involves a large number of apartments with different utility values, which means that rent increases may be postponed with consequential retroactive rent demands. Practice within this area is in the process of development as up until 2010 private landlords have concluded agreements in line with the municipal companies' rent increases.

### **Utility value system**

There is a utility value system that exists alongside the negotiation system. This system is managed by Regional Rent Tribunals. These tribunals are central government administrative authorities managed by a district rental tribunal officer and whose members represent the parties in the housing market.

The rules and regulations for the utility value system form part of the Tenancy Act and should ultimately be viewed as a form of national protection for private tenants. The aim of the utility value system is not to govern the setting of rent but to protect the tenants' security of tenure.

According to law, each tenant that has a direct tenancy agreement (head lease) is entitled to continue to rent the apartment for as long as the rent is paid and neighbours are not disturbed, etc. This is known as 'security of tenure'. However, such security of tenure would hardly be worth much if the landlord were able to increase the rent by such a large amount that the tenant is unable or does not want to pay and is therefore compelled to move. There must consequently be a ceiling for the amount of rent that landlords can charge. This is expressed in the Tenancy Act as the landlord not being allowed to impose a rent that is more than would represent a reasonable amount.

The Regional Rent Tribunal conducts a utility value review to establish what is meant by a 'reasonable amount'. This means that they find out what rent is being charged for other apartments with a similar utility value; i.e. with approximately the same location, standard, equipment, etc. ('comparative apartments'). The limit for a reasonable rent is expressed as the highest rental level that other tenants pay for similar apartments, which may be exceeded by approximately five per cent.

However, the fact that some individual tenants pay a particular rent for a comparative apartment is not in itself enough; such a rent must represent an established rent level. One further restriction is that the review must only refer to comparative apartments that have their rents set through collective negotiations. On the other hand, it is irrelevant whether the apartment is owned by a public municipal housing company or by a private landlord.

By making such a comparison the Regional Rent Tribunal decides what a reasonable rent would be for the apartment to which the dispute relates ('review apartment'). If there are no relevant comparative apartments, the Regional Rent Tribunal will make a general assessment of reasonableness in light of its knowledge of the rental situation in the municipality.

Thus the utility value review does not involve estimating the utility value of the apartment in monetary terms. It only involves comparing the rent level with other apartments with a corresponding utility value. This is an important distinction: the central government should not get involved in rent levels, but should only protect security of tenure for private tenants. Rent levels are determined by the market parties, whose negotiated agreements are based on various utility values being valued in monetary terms.

A tenant can always require a utility value review for the rent of their own apartment. This also applies in those cases where the rent is determined through collective negotiations. An integral function of this provision is to provide consumer protection.

The costs of building new residential buildings in Sweden are very high, and rising. This means that landlords that build new dwellings seek to charge rents that are significantly higher than the rents for slightly older buildings, even if there is not much difference in the utility value. A provision was introduced some years ago regarding 'presumption rents' in order to make these higher rent levels possible while ensuring that they do not push up rent levels for the existing stock. These rules, the application of which is voluntary, briefly mean that the rent for an apartment in a new building that has been determined by an agreement with an established tenants' organisation before moving in should be deemed to be reasonable without any further review. This applies for ten years. At the same time, such an apartment may not be used as a comparative apartment for utility value reviews.