

Research Briefing

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# Supported exempt accommodation (England)



## Summary

- 1 What is supported exempt accommodation?
- 2 Who lives in supported exempt accommodation?
- 3 Is supported exempt accommodation regulated?
- 4 Issues and proposed solutions

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## Summary

### What is exempt supported accommodation?

Supported accommodation is a broad term which describes a range of housing types. Exempt accommodation is supported housing which is exempt from certain Housing Benefit provisions. It is defined as:

- a resettlement place; or
- accommodation provided by a county council, housing association, registered charity or voluntary organisation where that body or person acting on their behalf provides the claimant with care, support or supervision.

[Crisis, the national charity for homeless people, has said:](#)

The exempt system was an acknowledgement that the costs of managing shared, supported housing could be higher than the norm, and that not for profit organisations' supported housing services may be unviable if benefit levels were limited using the same rules that applied to mainstream private renting.

### What are the issues?

There are concerns that the sector is under-regulated. There's a view that the growth of exempt provision "[is associated with investors looking to maximise returns using the higher rents permitted by the exempt Housing Benefit provisions.](#)" Some providers are argued to be putting profit before the needs of residents, resulting in poor housing conditions and ineffective care and support for vulnerable residents.

Residents living nears to some units of exempt accommodation complain about its detrimental impact where vulnerable residents are not provided with adequate support.

### Action to address the issues

- On 20 October 2020, the Government published [Supported housing: national statement of expectations](#), which set out a vision for the

planning, commissioning and delivery of supported housing for the first time.

- Also in October 2020, five pilots were established in Birmingham; Blackburn; Blackpool; Bristol; and Hull to improve quality; enforcement; oversight; and value for money in the sector. They focused on short-term, non-commissioned exempt supported accommodation. [An independent evaluation of the pilots](#) was published on 7 April 2022.
- On 17 March 2022, then Minister, Eddie Hughes, issued a [written statement](#) setting out Government plans for supported exempt housing. This included the introduction of minimum standards of support; changes to Housing Benefit regulations to clarify the definition of care, support and supervision; new powers for local authorities to better manage their local supported housing market and “ensure rogue landlords cannot exploit the system”.
- £20 million from the Supported Housing Improvement Programme has been awarded to 26 local authorities from 2022 to 2025 to target quality and value for money in supported housing.
- Bob Blackman MP came seventh in the private member’s bill ballot and introduced the [Supported Housing \(Regulatory Oversight\) Bill](#) on 15 June 2022. The Bill had cross-party support and obtained Royal Assent on 29 June 2023. Its provisions came into force on 29 August 2023. The Act brings forward national standards for support and gives local authorities power to set up licensing schemes to tackle poor quality supported housing in their area.
- The Regulator of Social Housing (RSH) is implementing more rigorous oversight of the sector, resulting in more non-compliant regulatory judgements. [The Social Housing \(Regulation\) Act 2023](#) is aimed at strengthening overall regulation in the social housing sector.
- The Levelling Up, Housing and Communities select committee [launched an inquiry into exempt accommodation](#) on 7 December 2021. The [Committee’s report was published on 27 October 2022](#). [The Government response was published on 21 June 2023](#).

# 1

## What is supported exempt accommodation?

Supported accommodation is a broad term which describes a range of housing types. For example, it includes group homes, hostels, refuges, supported living complexes and sheltered housing.

Exempt accommodation is supported housing which is exempt from certain Housing Benefit provisions.<sup>1</sup> Exempt accommodation is defined as:

- a resettlement place; or
- accommodation provided by a county council, housing association, registered charity or voluntary organisation where that body or person acting on their behalf provides the claimant with care, support or supervision.<sup>2</sup>

Supported accommodation which meets the definition set out above is exempt from Housing Benefit regulations which limit rents to defined local levels.<sup>3</sup>

Housing Benefit isn't 'enhanced' for claimants living in this type of accommodation. Rent levels for supported accommodation are usually higher than rents for mainstream housing. This reflects, for example, higher maintenance; repairs and renewal; security and health and safety measures.

As explained above, claimants do not face the usual limitations which restrict help with housing costs to defined local levels. This means the assistance received through Housing Benefit is likely, subject to a claimant's personal circumstances, to cover the full amount of the rent charged.

Prospect, a registered provider of exempt supported accommodation which subsequently decided to close its operation, published a report on its experiences in October 2021. The report describes why exempt provision came about:

Exempt Accommodation was introduced in acknowledgment of the higher costs associated with certain types of supported or supervised accommodation. It is for this reason that residents are allowed to apply for benefits that are more than the LHA. The provision of "care, support and

<sup>1</sup> Help towards housing costs for people living in supported 'exempt' accommodation is provided outside of Universal Credit.

<sup>2</sup> This definition is set out in paragraph 4(10) of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006.

<sup>3</sup> Limits set by Local Reference Rents and Local Housing Allowance rates.

supervision” is critical, as without it, the accommodation cannot be considered as exempt accommodation.<sup>4</sup>

Crisis, the national charity for homeless people, has said:

The exempt system was an acknowledgement that the costs of managing shared, supported housing could be higher than the norm, and that not for profit organisations’ supported housing services may be unviable if benefit levels were limited using the same rules that applied to mainstream private renting.<sup>5</sup>

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<sup>4</sup> [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p8

<sup>5</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021

## 2

## Who lives in supported exempt accommodation?

This accommodation is intended for people with support needs. It is a sector which houses more marginalised groups, such as recent prison leavers; care leavers; those fleeing domestic violence; and homeless people with substance dependence or mental health issues.

Freedom of Information (FOI) data obtained by Crisis (national charity for homeless people) from the Department for Work and Pensions (DWP) showed “153,701 households in Great Britain were housed in exempt accommodation as of May 2021. This represents a 62% increase from 2016 to 2021.”<sup>6</sup>

[Prospect’s report](#) (2021) contains information from FOI requests received from 97 local authorities of which 85 provided some data. Birmingham, the largest authority user of this type of accommodation, did not supply data but estimates are included based on local intelligence and engagement:

At least c.106,000 people are thought to be living in exempt accommodation nationally. This is based on FOI data provided illustrating that 38,000 people were living in exempt accommodation plus an estimate of a further 46,000 for those authorities who were unable to be precise and anecdotal knowledge of a further c.22,000 living in such housing in Birmingham.

We estimate that at least £816m has been spent on exempt accommodation in the last financial year alone. This is based on the responses received and a conservative estimate for those who were unable to provide exact figures.<sup>7</sup>

The data collected by Crisis demonstrates substantial growth but does not “convey the extent to which providers are satisfactory or problematic.” Crisis called for further investigation to quantify the scale and profile of exempt provision and to inform future policy.<sup>8</sup>

Research carried out for *Commonweal Housing* (2019) suggested a broad range of people who access the sector, including:

- Women who are fleeing or have experienced trauma, exploitation, violence and abuse
- Refugee and migrant groups, often directly after leaving asylum accommodation

<sup>6</sup> [Over 150,000 households in controversial exempt accommodation](#), Crisis, 21 September 2021

<sup>7</sup> [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p14

<sup>8</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p8



- Those experiencing substance or addiction issues
- Individuals with mental health problems in varying degrees of severity
- Those rough sleeping immediately prior to access
- Care leavers • Those who have had contact with the criminal justice system: both newly released from prison and those with offending histories
- Individuals leaving a range of other institutional settings such as hospitals, care homes, and addiction treatment centres
- Other individuals who have an urgent housing need and are excluded; either financially or due to previous housing and tenancy-related problems, from accessing more suitable – or desired - forms of provision.<sup>9</sup>

Within these groups, the salient characteristics identified were:

- An urgent need for accommodation
- Perceived by housing providers as ‘risky’, ‘complex’ or ‘high need’
- A reduced ability to assimilate the cultures, practices and systems of homelessness and housing provision.<sup>10</sup>

The Levelling Up, Housing and Communities Committee (LUHC) [launched an inquiry into exempt accommodation in December 2021](#) the report of which was published on 27 October 2022.<sup>11</sup> The Committee remarked on “the dearth of data” on exempt accommodation and called on the Government, within 12 months of the report’s publication, to improve data collection:

...organise the collection, collation and publication of annual statistics at a local authority level under a number of key headings, including the number of exempt accommodation claimants, the number of exempt accommodation providers and the amount of money paid by both the Department for Work and Pensions and the local authority in exempt accommodation housing benefit.<sup>12</sup>

We have commissioned research to provide an up-to-date assessment of the size, cost, and demand of the supported housing sector across Great Britain. Findings will be published by the end of 2023. The research will also consider how government could systematically collect and publish data to monitor the sector, whilst making best use of existing local and national data systems.

The Government response (June 2023) said research had been commissioned “to provide an up-to-date assessment of the size, cost, and demand of the

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<sup>9</sup> [Exempt from Responsibility? - Spring Housing](#), 20 November 2019, p25

<sup>10</sup> As above.

<sup>11</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23

<sup>12</sup> As above, para 83

supported housing sector across Great Britain.”<sup>13</sup> Findings are expected by the end of 2023 and will consider systematic collection of data on the sector to aid monitoring.

In April 2022 the Department for Work and Pensions (DWP) changed local authority Housing Benefit data collection methods on supported housing claims. Over time, better data on the number of claimants in exempt accommodation and associated costs will be available. The Government said “DWP have also secured funding to cover the cost of local authorities undertaking a full desk-based review of their Housing Benefit stock cases from April 2023, to improve the accuracy of the data.”<sup>14</sup>

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<sup>13</sup> [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023, para 35

<sup>14</sup> As above, para 36

## 3

## Is supported exempt accommodation regulated?

Crisis described the sector as “dangerously under-regulated.”<sup>15</sup> The research conducted for Commonweal Housing (2019) said:

...as it stands, the fact non-commissioned exempt providers may be, directly or indirectly, under the auspices of the government Regulator does not appear to give assurances about adequate levels of accountability, monitoring, support and wellbeing considerations for largely vulnerable and excluded client groups.<sup>16</sup>

There is no single central regulator of supported accommodation. If the accommodation is provided by a housing association, in most cases the landlord will be registered with the [Regulator of Social Housing](#) (RSH) and will be subject to the associated [regulatory framework](#).<sup>17</sup> Within an association, the Board carries responsibility for ensuring compliance with statutory obligations and the regulatory framework.

The approach to regulation taken by the RSH is risk-based. The focus is on providers with more than 1,000 units of social housing. Additionally, priority has been given to the governance and financial viability of these providers; consumer regulation has played a lesser role although measures in the Social Housing (Regulation) Act 2023 are aimed at changing this balance.<sup>18</sup>

Many of the issues identified with supported exempt accommodation concern consumer issues such as the standard of accommodation provided, the standard of support provided, and the impact of poorly managed units on local neighbourhoods. Ashley Horsey, Chief Executive at Commonweal Housing, has called for the Social Housing (Regulation) Bill to “make specific reference to exempt accommodation”.<sup>19</sup>

A notable development has been the growth of lease-based providers of supported exempt accommodation. Under this model the association leases accommodation. For example, Prospect housing association leased over

<sup>15</sup> [Over 150,000 households in controversial exempt accommodation](#), Crisis, 21 September 2021

<sup>16</sup> [Exempt from Responsibility? - Spring Housing](#), 20 November 2019, p20

<sup>17</sup> Other bodies involved in regulation might be the Charity Commission if they are registered charities; The Financial Conduct Authority; and The Office of the Regulator of Community Interest Companies if they have been established as CICs.

<sup>18</sup> For more information see Library papers [Social Housing \(Regulation\) Bill \[HL\] 2022-23](#) and [Social Housing Reform in England: What Next?](#)

<sup>19</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 44

2,000 units of accommodation in 300 buildings from private landlords. Day-to-day management was supplied through contracts with managing agents.<sup>20</sup>

Support can be supplied by managing agents or, as in Prospect's case where around 25% of residents received care and support direct from Prospect, by the landlord housing association.<sup>21</sup>

The lease-based model is subject to the same regulatory requirements as other registered providers.

Crisis identified an issue with regulation where registered providers are judged to be providing exempt accommodation which is 'non-social' housing, which it describes as units let at market rents:

Further, where registered providers are judged to be providing 'non-social housing', as is often the case for exempt providers, they are not subject to even reactive consumer regulation. These loopholes in regulation have created particular problems in neighbourhoods where large numbers of homes are converted for use as exempt housing.<sup>22</sup>

Where the provision of exempt accommodation is commissioned by a local authority the commissioning body (local authority) would be responsible for monitoring delivery and ensuring it meets contractual requirements.

Issues arising within this sector primarily concern non-commissioned exempt supported accommodation. Crisis has said commissioned exempt accommodation can work well:

Much exempt accommodation is commissioned by public sector bodies alongside funding for support and is subject to their oversight. Even when exempt accommodation is not formally commissioned, it can work well if delivered in collaboration local authorities, with councils playing an active role in ensuring that provision is good quality and meets local needs.<sup>23</sup>

Local Authorities have an oversight role in ensuring that Housing Benefit claims comply with requirements set out in legislation. In a response to a parliamentary question (July 2020) then-Housing Minister, Christopher Pincher, said decisions about whether a provider falls under the 'exempt' definition, and is therefore unaffected by rules limiting Housing Benefit payments, is one for local authorities to make:

As set out in my answer of 21 July 2020 to the Honourable Member for Ladywood (Questions: 75242, 75243 and 75244), whether or not accommodation is 'exempt' is a matter for local authority housing benefit departments. The Regulator of Social Housing regulates only those landlords that wish to register with it and who are able to meet its registration requirements (other than local authorities who own homes that are automatically registered). All housing must comply with housing health and

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<sup>20</sup> [Safe Successful Sustainable: A shared vision for better homes, support, and opportunities](#), Prospect, October 2021, p3

<sup>21</sup> As above, p12

<sup>22</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p7

<sup>23</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p1

safety and building regulations legislation, which is designed to ensure adequate living standards.<sup>24</sup>

The Government has updated Housing Benefit guidance for supported housing claims “to provide more support for local authorities with their decision-making.”<sup>25</sup>

A further issue raised in relation to regulation is the lack of a requirement to seek a licence to operate certain Houses in Multiple Occupation (HMO) where the landlord is a registered provider. A proportion of supported exempt accommodation would fall within the definition of a licensable HMO but for this exemption. The Crisis policy briefing observed “providers face fewer obligations in respect of property standards, management and safety.”<sup>26</sup>

The LUHC Committee received evidence “critical of the fact that there is no central regulation of exempt accommodation.”<sup>27</sup> The report referred to multiple regulators including the Social Housing Regulator, Charity Commission, the Financial Conduct Authority and the Office of the Regulator of Community Interest Companies. Commonweal Housing told the Committee some providers amend their structures and status to bypass regulation or minimise scrutiny.<sup>28</sup>

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<sup>24</sup> [PQ 76658 \[Supported Housing: Regulation\], 1 September 2020.](#)

<sup>25</sup> [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023, para 11

<sup>26</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p4

<sup>27</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 47

<sup>28</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, para 47

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## 4 Issues and proposed solutions

### 4.1 Exploiting exempt Housing Benefit provisions

There is significant demand for accommodation to meet the needs of more marginalised groups such as prison leavers, care leavers and those with mental health or addiction issues. The needs of these people are not easily met by the traditional social housing sector within the context of what Crisis describes as “the critical shortage of affordable homes”.<sup>29</sup>

There’s a view that the growth of exempt provision “is associated with investors looking to maximise returns using the higher rents permitted by the exempt Housing Benefit provisions.”<sup>30</sup> Some providers are argued to be putting profit before the needs of residents, resulting in poor housing conditions and ineffective care and support. The LUHC Committee said it received “overwhelming evidence of unscrupulous landlords who claim uncapped housing benefit to make a profit.”<sup>31</sup>

Where the properties are badly managed, there can be knock-on effects for the local community which in turn can lead to the stigmatisation of residents. The concentration of vulnerable residents with varying support needs can, according to Prospect, place a “disproportionate and unsustainable demand on public services”.<sup>32</sup>

The Crisis briefing referred to anecdotal evidence of registered providers being set up by investment vehicles to minimise their regulatory burden and generate income through the benefits system:

This has been fuelled by specialist consultants that advise investors on which areas of the country to target to maximise returns. We have heard about examples of extreme malpractice, such as the sale of properties and trading of services at artificially inflated prices between linked agencies as a contrivance to engineer higher rents.<sup>33</sup>

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<sup>29</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p1

<sup>30</sup> As above, p2

<sup>31</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 69

<sup>32</sup> [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p33

<sup>33</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p5

Where a Housing Benefit claim is received from a tenant of a registered provider the local authority will normally recover 100% of the cost via subsidy from the Department for Work and Pensions.<sup>34</sup>

Crisis called for:

Clarification of the steps needed to achieve greater consistency across local authorities in assessing exempt Housing Benefit claims. The aim is to ensure councils have the tools they need to limit or refuse payment as appropriate and to achieve “greater transparency in the way exempt rents are set.”<sup>35</sup>

Prospect suggested:

Government considers introducing a minor change to Housing Benefit legislation to prevent housing benefit being paid on exempt accommodation which is not social housing. This will close the loophole that allows some providers to reduce their regulatory scrutiny.<sup>36</sup>

In [Exempt from Responsibility?](#) (2019) Spring Housing called on the DWP to “strengthen the criteria and definitions of ‘care, support and supervision’ in exempt Housing Benefit and Universal Credit Regulations.”<sup>37</sup> The aim would be to ensure “organisations and landlords are appropriately funded for the accommodation services they provide to clients” and that clients are appropriately placed according to their level of need.

In the short-term, Spring Housing said the DWP should “develop guidelines on assessing ‘exempt’ claims to allow for greater consistency across all local authorities and greater transparency for residents and providers.”<sup>38</sup>

LUHC Committee was critical of the lack of information held by the Government on how much money is spent on exempt accommodation and said, “It cannot know whether the current system is delivering value for money.”<sup>39</sup> The Committee recommended a review of exempt Housing Benefit claims:

...to determine how much is being spent and on what. Rent should be capped at a reasonable level that meets the higher costs of managing exempt accommodation. Funding for support should be provided separately.<sup>40</sup>

The Committee also called for consideration of how councils might be given “greater control over rents for exempt accommodation to ensure value for

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<sup>34</sup> Limitations on subsidy payments apply where claims concern tenants of non-registered providers. 60% subsidy is paid in these cases meaning the local authority meets part of the cost itself.

<sup>35</sup> As above, pp10-11

<sup>36</sup> [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p29

<sup>37</sup> [Exempt from Responsibility? - Spring Housing](#), 20 November 2019, p53

<sup>38</sup> As above.

<sup>39</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 86

<sup>40</sup> As above.

money” and for all claims to attract 100% subsidy irrespective of the provider:

The same 100% subsidy should be paid by DWP whether or not the provider is registered. Later in this report we recommend that all providers be registered. While this will result in increased costs for DWP, this is likely to be offset by savings resulting from implementing our recommendations to drive out unscrupulous, profit-driven providers.<sup>41</sup>

## The Government response

### Pilot schemes (now finished)

In October 2020, the Ministry of Housing, Communities and Local Government (MHCLG)<sup>42</sup> announced five pilots in Birmingham; Blackburn; Blackpool; Bristol; and Hull, supported by £3 million.<sup>43</sup> The pilots were established to improve quality; enforcement; oversight; and value for money and were expected to focus on short-term, non-commissioned exempt supported accommodation.

Four of the pilots were extended for six months from March 2021.<sup>44</sup> The Bristol pilot did not submit a bid for funding for phase two but “will still carry out inspections and monitoring of the city’s supported housing units in the coming months.”<sup>45</sup> Findings are being used to inform future national policy.<sup>46</sup>

[An independent evaluation of the pilots](#) was published on 7 April 2022. On Housing Benefit, the evaluation found:

- Over the course of the pilots, local authorities reduced the number of illegitimate or unreasonable Housing Benefit claims paid out. They improved the process of Housing Benefit scrutiny and increased the number of reviews carried out.
- Local authorities estimated by the end of the pilot they had prevented £6.2 million being paid in error.<sup>47</sup>

There were some limitations to the impact of the pilots due to:

- The lack of a definition of care, support or supervision in the Housing Benefit regulations.
- Housing Benefit decisions can be appealed and there is a “low chance” of an authority’s decision being upheld.

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<sup>41</sup> As above, para 87

<sup>42</sup> Now the Department for Levelling Up, Housing and Communities (DLUHC).

<sup>43</sup> Localgov, “[Government launches £3m supported housing pilot](#)”, 20 October 2020

<sup>44</sup> As above.

<sup>45</sup> As above.

<sup>46</sup> [Pilots to improve supported housing for vulnerable people extended](#), MHCLG, 19 March 2021

<sup>47</sup> DLUHC, [Supported housing oversight pilots: independent evaluation](#), 7 April 2022, para 1.5



- Authorities may not make blanket decisions on whether a scheme meets the specified supported housing requirements in Housing Benefit regulations. Entitlement relies on an individual’s circumstances.<sup>48</sup>

Recommendations included:

- Aim to define “care, support and supervision”, and review regulations around rent levels and subsidy, to increase the impact of Housing Benefit scrutiny activities.<sup>49</sup>

### Government announcement March 2022

On 17 March 2022, then Minister, Eddie Hughes issued a [written statement](#) setting out Government plans for supported exempt housing which included the following on Housing Benefit:

Changes to housing benefit regulations to seek to define care, support and supervision to improve quality and value for money across all specified supported housing provision.

We will introduce any measures requiring legislation when parliamentary time allows.<sup>50</sup>

### Response to the LUHC Committee June 2023

The Government response to the LUHC Committee’s report repeats the commitment to amend the regulations and says DWP guidance for local authorities on supported housing Housing Benefit claims has been updated “to provide more support for local authorities with their decision-making.”<sup>51</sup> Work is “in hand” to improve the quality of data held.<sup>52</sup>

The response notes that authorities have powers to restrict the rent covered by a benefit award where it is unreasonably high, “However, the reality is that it is difficult for local authorities to find suitable alternative accommodation, which is cheaper, as other providers will ‘match’ rents in that area to market levels.”<sup>53</sup>

## 4.2 Inadequate regulation

The issues set out in section 4.1 are thought to have arisen in part because of inadequate oversight and regulation of the sector.

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<sup>48</sup> As above.

<sup>49</sup> As above.

<sup>50</sup> [HCWS696](#)

<sup>51</sup> [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023, para 36

<sup>52</sup> As above, para 38

<sup>53</sup> As above, para 40

Crisis called on Government to:

Identify the additional tools local authorities and the Regulator of Social Housing need to ensure non-commissioned, shared exempt accommodation meets acceptable standards on an ongoing basis.<sup>54</sup>

This might involve changes to local authorities' licensing powers in relation to HMOs and a review of proposed reforms to the RSH "to ensure they are sufficient to prevent exploitation of the exempt accommodation system."<sup>55</sup>

Prospect supported a specific local authority-led licensing scheme for exempt supported accommodation "to prevent an over saturation of accommodation in particular areas."<sup>56</sup>

Prospect also recommended improved oversight by the Boards of lease-based providers:

- Boards of lease based exempt providers to regularly review skills compliment of their Board to ensure they meet the need of the organisation, up-skilling existing or recruiting new members where skills gaps are evident.
- Regular reviews of the performance of the Board and its members, including a formal annual appraisal.
- Lease based exempt providers Boards to review their assurance processes to make sure that they are robust, and expectations fully articulated to organisational management teams.<sup>57</sup>

In [Exempt from Responsibility?](#) (2019) Spring Housing called for guidance for providers on "embedding a resident feedback regime" with annual monitoring of implementation and client feedback ratings.<sup>58</sup>

The LUHC Committee found "the patchwork regulation of exempt accommodation has too many holes" and recommended a National Oversight Committee be established:

...to address the oversight issues relating to exempt accommodation. Among its functions we expect that it would coordinate awareness of emerging issues, inform the development of policy in this area and develop proposals for reform of the regulatory system. The composition of the committee should include the existing regulators—the Care Quality Commission, Regulator of Social Housing, Charity Commission, Financial Conduct Authority and the Office of the Regulator of Community Interest Companies—officials from DLUHC, the Local Government Association, and any other organisation it was thought would make a valuable contribution to improving oversight. One of the committee's

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<sup>54</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p11

<sup>55</sup> As above.

<sup>56</sup> [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p33

<sup>57</sup> [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p40

<sup>58</sup> [Exempt from Responsibility? - Spring Housing](#), 20 November 2019, p53

first tasks should be to input into the development of the national standards we have recommended.<sup>59</sup>

The Committee received evidence calling for reforms to enable councils to manage supply of exempt accommodation in line with locally assessed need. The changes supported by some involve extending coverage of HMO licensing to registered providers<sup>60</sup> and bringing these providers within Article 4 directions.<sup>61</sup> There was also support for bringing non-registered providers with properties containing six or fewer residents within the planning regime.<sup>62</sup>

There isn't universal support for these changes. Some witnesses thought additional planning restrictions might be used to block development of much needed specialist accommodation.<sup>63</sup>

The Committee recommended:

...the Government end the existing exemptions that registered providers have from HMO licensing and the Article 4 direction. Furthermore, we recommend that the loophole relating to non-registered providers with properties containing six or fewer residents also be addressed so that they are brought within the planning regime. This action would prevent there being a change of use without planning permission, which would be a much-needed tool to enable local authorities to balance the provision of exempt accommodation with other housing need and to control the density of exempt accommodation in an area.<sup>64</sup>

[The independent evaluation of the pilots](#) announced in October 2020 found:

- The pilots led to improved quality and standards of accommodation through investment in property inspections by local authorities and enforcement activities to identify and resolve property hazards.
- Local authorities found an assessment of demand for, and supply of supported housing helped to improve their understanding of the local market. Local authorities which conducted a strategic planning exercise experienced further benefits.
- The pilots improved authorities' ability to intervene in new provision and prevent providers from establishing new and unnecessary schemes.<sup>65</sup>

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<sup>59</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 60

<sup>60</sup> Local authority environmental health officers enforce standards within HMOs.

<sup>61</sup> Article 4 directions give councils discretion to restrict the change of use of a property under permitted development rights. Where there is a relevant Article 4 direction in place, a change of use to an HMO would require planning permission.

<sup>62</sup> Planning permission is not required for the conversion of a family home into an HMO where intended occupation is six or fewer residents living together as a single household where care is provided.

<sup>63</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 95

<sup>64</sup> As above, para 99

<sup>65</sup> DLUHC, [Supported housing oversight pilots: independent evaluation](#), 7 April 2022, para 1.5

The evaluation work included a recommendation to strengthen authorities' powers in relation to exempt accommodation supply:

- Strengthen local authorities' powers to support them to intervene in new supply where it is unnecessary or poor-quality. Options could include requiring a provider to seek the approval of the local authorities before establishing a new scheme.<sup>66</sup>

## The Government response

On 20 October 2020, the Government published [Supported housing: national statement of expectations](#):

The national statement of expectations (NSE) sets out the government's vision for the planning, commissioning and delivery of supported housing for the first time.

The guidance is aimed at local authorities, providers and other local partners. It is non-statutory, but our intention is the NSE will consolidate 'what good looks like' and empower local authorities to ensure provision is good quality and value for money.

It also includes case studies highlighting best practice by providers and local authorities.<sup>67</sup>

The [Supported Housing \(Regulatory Oversight\) Act 2023](#) contains measures to establish a Supported Housing Advisory Panel which will provide information and advice on the regulatory oversight of supported housing.

The Act also brings forward national standards for support and gives local authorities power to set up licensing schemes where there is poor quality supported housing in their area.<sup>68</sup> There's a commitment to consult on the licensing scheme and national standards for support "as soon as possible after Royal Assent."<sup>69</sup>

There's more information on the Act in the Library paper: [The Supported Housing \(Regulatory Oversight\) Act 2023: debate in parliament](#).

The Government rejected planning reforms to end existing exemptions for registered providers from HMO licensing and Article 4 directions, and calls to bring non-registered providers with properties containing six or fewer residents within the planning regime:

It is important that local areas plan to meet local need for supported housing and that registered social landlords are not overburdened with additional requirements above what is already in place. However, the government

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<sup>66</sup> DLUHC, [Supported housing oversight pilots: independent evaluation](#), 7 April 2022, para 1.5

<sup>67</sup> Ministry of Housing, Communities and Local Government (MHCLG), [Supported housing: national statement of expectations](#), 20 October 2020

<sup>68</sup> [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023, para 23

<sup>69</sup> As above, para 25

recognises that some local authorities feel powerless to prevent new supported housing provision that is not required or that does not align with strategic plans. We believe that the local housing authority licensing schemes and national support standards are the best way to ensure that the right provision in the right places is ensured. These measures are targeted at the problem we are seeing with poor quality provision. Where local authorities implement a licensing scheme this will supersede Houses in Multiple Occupation (HMO) licensing.

While there are no plans to make changes to the use classes, we recognise that local areas want to plan effectively to meet local need. Therefore, the Supported Housing (Regulatory Oversight) Bill includes a proposed duty for local authorities to produce local supported housing strategies. This will enable local authorities to map supported housing supply and demand and will provide local authorities and the government with a strategic view of provision.

The Department for Levelling Up, Housing and Communities (DLUHC) Secretary of State has committed to undertake a review of the effect of licensing schemes on accommodation and support within 3 years after the regulations are made. At this stage, a determination will be made as to whether planning reform is required through creating a separate use class for exempt accommodation.<sup>70</sup>

## 4.3 Funding

Commentators have identified changes to the funding regime for supported housing as one of the drivers behind growth in exempt provision.

The Supporting People programme was launched in 2003 as a £1.8 billion ring-fenced grant to local authorities intended to fund services to help vulnerable people live independently. The ring-fence was removed in 2009.

In the 2010 Spending Review, the Government announced Supporting People national funding levels would decrease from £1.64 billion in 2010/11 to £1.59 billion in 2014/15. In addition to reduced funding, concerns were raised about the effect of removing the ring-fence. It was suggested local authorities were using the funding to support other expenditure.<sup>71</sup>

Crisis has suggested providers use exempt status to seek to make-up for losses in Supporting People funding by increasing rents or reclassifying elements of support as housing-related costs covered by Housing Benefit. In turn, it's suggested that lease-based providers saw registered status as a

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<sup>70</sup> [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023, paras 48-50

<sup>71</sup> For more information see [The Supporting People programme](#), Commons Library briefing, RP12-40, 16 July 2012

way of attracting less scrutiny from local authorities because of more generous subsidy rules.<sup>72</sup>

Where support provided in exempt accommodation is not commissioned by a local authority, there is no specified funding for its provision. The cost of support cannot be met by Housing Benefit. Prospect's paper made the point that support provided in its accommodation "was far in excess of what could be reasonably described as enhanced housing management, making it ineligible for Housing Benefit."<sup>73</sup> Thus the cost was met by levying a service charge on residents which they met from their weekly Universal Credit entitlement.

Prospect called for a political conversation at a national level "to consider what care should be provided to homeless vulnerable people, and how it should be funded."<sup>74</sup>

Crisis argued for reduced dependence on the exempt sector by "restoring investment in social housing supply and providing local authorities with a sustained funding stream to commission support services that meet local needs."<sup>75</sup> Crisis supports a housing-led approach to addressing homelessness amongst vulnerable groups, of which Housing First is one example. Housing First "provides a permanent, settled housing and intensive, open ended support targeted at people with high and complex support needs."<sup>76</sup>

The LUHC Committee recommended the provision of separate funding for support costs.<sup>77</sup>

## The Government response

The Government response to the LUHC Committee rejected separate funding for support:

Funding for local authorities for housing-related local support services is through the wider Local Government Settlement, as the government believes that local authorities are best placed to make decisions on what services they provide and commission, based on local priorities and circumstances.

The government is committed to supporting local authorities in making those decisions, including through the Local Government Finance Settlement for 2023/24 which makes available up to £59.7 billion for local government in England, an increase in Core Spending Power of up to £5.1 billion or 9.4% in

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<sup>72</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p6  
See also section 4.1.

<sup>73</sup> [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p13

<sup>74</sup> As above, p20

<sup>75</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p9

<sup>76</sup> As above.

<sup>77</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 85

cash terms on 2022/23. This boost in funding demonstrates how government stands behind councils.<sup>78</sup>

The LUHC Committee reiterated earlier calls to build more social housing on the basis that some of the issues in exempt accommodation were associated with a wider housing crisis: “We reiterate the recommendations from our 2020 report, “Building more social housing”- in particular, our call on the government to build 90,000 social rent homes a year.”<sup>79</sup>

The Government’s response referred to the Affordable Homes Programme:

Equally, we recognise the importance of delivering more socially rented homes – homes that very often serve the needs of those most vulnerable in society. Our Levelling-up White Paper made a commitment to increase the volume of high quality, safe socially rented housing; the Affordable Homes Programme will play a key part in delivering those homes.<sup>80</sup>

## 4.4 Referrals and support

Questions about the suitability of support provided to residents in supported exempt accommodation have focused attention on assessment and referral pathways into non-commissioned provision.

Both Prospect and Crisis saw scope for more effective assessments and planning to ensure residents receive appropriate support. Crisis referred to the need for providers to monitor outcomes for residents to establish, amongst other things, value for money.<sup>81</sup>

In [Exempt from Responsibility?](#) (2019) Spring Housing called for local authorities with exempt accommodation in their areas to:

Invest in a process of comprehensively mapping this sector; creating and disseminating transparent information to aid more appropriate referrals, enhance resident choice and respond more effectively to resident concerns.<sup>82</sup>

The LUHC Committee made recommendations on referral pathways and assessment of needs for those who are housed in exempt accommodation:

Within 12 months of the publication of this report, the government should publish national standards, and give local authorities the power and resources to enforce these standards, in the following areas:

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<sup>78</sup> [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023, paras 41-42

<sup>79</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 100

<sup>80</sup> [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023, para 53

<sup>81</sup> [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p11

<sup>82</sup> [Exempt from Responsibility? - Spring Housing](#), 20 November 2019, p53

- The referral process, which should include an assessment of the prospective resident's support needs and if there are any considerations about with whom they should or should not be housed;
- Care, support, or supervision, which should include helping the resident progress towards independence and employment;
- The quality of housing; and
- Information the provider must give to the resident, including on their rights, particularly their right to work and right to complain.<sup>83</sup>

## The Government response

The Government has said “referral pathways, an assessment of prospective resident's needs, and information provided to residents” will be looked at as part of the development of the licensing regulations and national standards for support.<sup>84</sup>

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<sup>83</sup> Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 55

<sup>84</sup> [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023, para 24




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