

# ‘Exempt’ and supported accommodation

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## Introduction

The rules relating to Housing Benefit (HB) are complex and have changed over time. Several different methods of working out the eligible rent apply, depending on a claimant’s circumstances, on their tenancy type, and when their claim for HB was made. When ‘new scheme’ rules for HB were introduced in 1996, the Social Security Advisory Committee (SSAC) was unhappy about their potential impact on the provision of supported accommodation. SSAC was concerned that the local reference rent, which limited the amount of HB payable, would have been used to restrict the rent of social and voluntary supported accommodation making it unviable. The special treatment of ‘exempt accommodation’ dwellings was included in the regulations to enable HB to meet the additional costs of providing this type of specialist housing.

The HB regulations relating to ‘exempt accommodation’ claims have not changed since they were introduced, although various Commissioner and Upper Tribunal Decisions have helped to clarify how they are interpreted. Whether a claim is treated as an ‘exempt accommodation’ claim and how much the maximum rent should be, is determined to varying extents by:

- the landlord and the type of services they provide;
- the claimant and their needs, e.g. are they a vulnerable individual?

All non-Registered Social Landlords (RSLs) ‘exempt accommodation’ claims must be referred to the Rent Officer, who will provide a Rent Officer Determination (ROD) of the maximum level of mainstream rent that would be appropriate for the accommodation provided. Those whose home fits the definition of ‘exempt accommodation’ have the amount of their rent that is eligible for help

decided under the rules that existed before the 1996 changes, often called the ‘old scheme’ rules. Under these rules local authorities (LAs) must take account of the ROD as well as rent levels of suitable alternative accommodation when looking to place any restriction on the rent they will meet. Where the tenant is elderly, has children or is incapable of work the LA also has to consider whether it is reasonable to expect the tenant to move. LAs can claim back the total amount of HB paid under the ROD as subsidy from the Department for Work and Pensions (DWP), but only 60 per cent of the amount over the ROD for vulnerable claimants, and none of the amount over the ROD for claimants not classed as vulnerable.

Expenditure on ‘exempt accommodation’ claims has increased substantially in some LAs over recent years, however, the regular data sources available to the DWP did not provide the detail needed to understand the underlying reasons for these changes, and for the variation between LAs. DWP is currently carrying out a review of ‘exempt accommodation’, of which this research forms one element, to ensure that HB appropriately recognises those reasonable housing costs associated with providing specialist housing for certain vulnerable customers. The purpose of this research was specifically to assess the extent and costs of supported and ‘exempt accommodation’ within LAs, which, before this work was undertaken, was very poorly understood.

## Research methodology

Our methodology comprised the following stages:

- a review of HB regulations and guidance relating to ‘exempt accommodation’;
- an expert workshop;
- fieldwork at 21 LAs;
- interviews with accommodation providers and other stakeholders.

We selected a random sample of LAs to participate in the fieldwork, based on a stratified sampling frame designed to ensure our sample was representative of caseload size and composition. Participation in our research was voluntary. At each fieldwork visit we collected information about a sample of HB claims for supported and ‘exempt accommodation’, randomly selected from lists of live claims. We also spent time with benefits managers or senior benefits staff discussing the issues surrounding supported or ‘exempt accommodation’ in their area. We also interviewed accommodation providers, both during fieldwork visits and separately, and larger accommodation providers discussed their rent-setting models with us.

## Findings

Claimants living in ‘exempt accommodation’ fall into many categories – their common characteristic is that all are amongst the most vulnerable members of society. Different claimant groups can have very different needs in terms of the **time** for which they require supported housing. For example, those fleeing domestic violence may only require emergency accommodation for a period of a few weeks, while those with learning disabilities are likely to require ongoing support for life. In addition the **types and levels of support** they need also vary widely, as might be expected given the range of claimant groups. Much supported accommodation is provided by RSLs, but this is not generally treated explicitly as ‘exempt accommodation’ by LAs.

In terms of numbers it proved very difficult to obtain an accurate estimate, because current LA software

systems record limited information about this particular type of claim, and the size of our sample in relation to the range of different LA circumstances was small. Using the data we collected at LAs we estimate around 40,000 people live in non-RSL ‘exempt accommodation’ in England, Wales and Scotland, with a further 130,000 living in supported accommodation provided by RSLs, although there is considerable uncertainty associated with these numbers.

The overall cost to the public purse of the non-RSL ‘exempt accommodation’ claims, over that of equivalent mainstream accommodation, is estimated to be £70-130 million, but again there is a large degree of uncertainty associated with these estimates.

Spending on ‘exempt accommodation’ has been increasing for two reasons: The additional costs of providing the specialist housing needs for ‘exempt accommodation’ claimants has risen above inflation since 2003/04, and the number of ‘exempt accommodation’ claims has also risen. There are valid reasons why the costs of supported and ‘exempt accommodation’ should be higher than mainstream accommodation, although in some cases the rents charged appeared to be unreasonably high.

At most LAs we visited we did not find any rents that had been restricted in our sample of claims. The lack of restriction reflected a belief that there was no basis on which to restrict rents, even where they might be considered high. This was generally because there was no suitable alternative accommodation available.

Trends in costs and spending differ across LAs due to variations in factors such as:

- numbers and proportions of claimants in supported or ‘exempt accommodation’;
- different types of provision of supported accommodation available in the area;
- activity of consultants in the area;
- level of scrutiny with which ‘exempt accommodation’ claims are treated.

The research was unable to estimate the numbers of people with higher housing costs and needs that are self-funded or are being met from a source other than HB. Most interviewees did not think this was a significant issue, but several identified cases where claimants are slipping through the net, because they are in accommodation that does not qualify as exempt. Generally, this is because the accommodation is provided by a 'for-profit' organisation, or the care, support or supervision is provided by a third party.

## The way ahead

The key concerns expressed by LAs relating to the current system concern the uncertainty currently facing LAs, claimants, and accommodation providers, because of the complexity of the regulations and differences in interpretation in different areas. There is a feeling that the loss of subsidy for rents paid above the ROD results in a lack of equity. There is also concern that some claimants are treated unfairly because they slip through the net. The challenges of administering the system relating to 'exempt accommodation' are viewed by many as disproportionate to the overall burden on the public purse.

Interviewees expressed a desire for a simpler approach and for all 'exempt accommodation' claims to be migrated onto any new scheme (rather than adding another new scheme on top of the existing systems). Ideas included making the claimant exempt, rather than the accommodation, and implementing a system with either a cap on payments, or several bands based on Local Housing Allowance (LHA) plus a percentage to allow for increased housing needs. Many people suggested a role for Adult Social Care or Supporting People (SP) in determining which band claimants should be allocated to. More radical suggestions included moving administration of benefits for vulnerable individuals to a centralised team, or regionalised teams, to achieve economies of scale and increased expertise, or that only RSLs should provide supported accommodation as they are already subject to regulation.

The current system is complex and probably not amenable to minor modifications. There are, however, some potential short-term actions that may be worth exploring further. Suggestions included a national, standard pro-forma for presenting rent and service charges to simplify administration, and clearer definitions of the terms 'unreasonably high' and 'minimal care, support and supervision'.

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You can download the full report free from: <http://research.dwp.gov.uk/asd/asd5/rrs-index.asp>

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