



Housing Select Committee

Report title: Update on Supported Exempt Accommodation

Date: 5th January 2023

Key decision: No

Class: Part 1

Ward(s) affected: All

Contributors: Fenella Beckman (Director of Housing Services), Kenneth Gregory (Director of Adults Integrated Commissioning), Maxine Gordon (Director of Resident and Business Services), Emma Talbot (Director of Planning)

Outline and recommendations

The purpose of this report is to provide members with an overview of the current position of the council in responding to the issue Supported Exempt Accommodation.

As background to this item, we are attaching a new report and recommendations to government from the Levelling Up, Housing and Communities Committee (LUHC) in Appendix A.

1. Summary

1.1 This paper provides an overview of the current activity of the council in responding to Supported Exempt Accommodation.

2. Recommendations

- Note the findings of the Levelling Up, Housing and Communities report and recommendations to government on Exempt Accommodation;
- Note the current activity of the council in managing Supported Exempt Accommodation in the borough.

3. Policy context

3.1 The Supported Exempt Accommodation programme supports the aims and objectives the councils Corporate Strategy:

- Quality Housing - to provide as many people as possible with safe, comfortable accommodation that they can be proud of and happy living in, and holding landlords to account.

3.2 The contents of this report support the achievement of the following Housing Strategy 2020-26 objectives:

- Preventing Homelessness and meeting housing need

4. Background and context

4.1 Exempt accommodation is a category of supported housing that is exempt from locally set caps on housing benefit. Supported housing encompasses a wide range of housing that combines housing with support for people with different needs, such as older people, people with disabilities, and people with complex needs. Exempt accommodation is exempt from housing benefit regulations that limit local housing allowance levels. This means Housing Benefit, which is paid by the Department for Work and Pensions and is administered by the local council, may cover the full amount of rent charged by providers.

4.2 The reason for this exemption is that these housing costs more to run than general needs tenancies, for example having higher costs for administration, insurance, and repairs and maintenance, as well as the cost of providing the support. Qualifying providers can therefore receive housing benefit payments often far in excess of Local Housing Allowance Rates or social sector 'general needs' rents.

4.3 Exempt accommodation in England can be provided by a non-metropolitan county council, unitary council, housing association, registered charity or voluntary organisation. To qualify for exempt status, providers must show that they have not-for-profit status and that they are providing care, support, or supervision. Providers can be commissioned by a council, or in some cases by the NHS or another statutory body, and there are also non-commissioned providers. Some providers are registered with the Regulator of Social Housing, though this is not mandatory except for local authorities. Some providers own their properties, while others lease them from landlords or companies.

4.4 Exempt supported accommodation is generally transitional in nature and occupied by a wide cross section of vulnerable citizens; many with multiple or complex care and support needs. Many people who live in exempt accommodation have experienced or are currently

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dealing with challenges that mean they have few alternative housing options. Residents include refugees, care leavers, people with disabilities and those who have formerly been homeless, had alcohol and drug addictions, been recently released from prison, or been a victim of crime such as domestic abuse or modern slavery. There are significant variations in the amount and standard of care provided within the exempt sector.

4.5 Referrals into these schemes can come from a range of places. Some people are referred into exempt accommodation by NHS services or from prisons and this does not always follow a set standard process. Alternatively, residents can self-refer, often by responding to advertisements online. As a result, different providers and referring agencies vary in their assessment of the prospective resident's needs. This is in contrast to accommodation funded by the local authority where referrals follow a set standard process and criteria.

4.6 The 'exempt system' is currently unregulated and in recent years there have been growing concerns from regulators, providers and councils. There have been concerns about the quality of provision, including bad quality accommodation and a lack of support; the growth in exempt accommodation in certain areas and its impact on local communities; a lack of regulation; the governance of providers; and the exploitation of the system by unscrupulous landlords to profit from their operations.

4.7 Registered Providers providing Supported Exempt Accommodation are exempt from mandatory, selective or additional licensing and Houses of Multiple Occupation (HMO) management regulations (though non-registered providers are not) and the type of support provided, unless commissioned, has no minimum standards set or monitoring systems required. Furthermore, Exempt accommodation where 6 people or less are living together with an element of care provided is classified as a single household in planning terms. This means that planning legislation does not recognise that there is a difference between a family home and exempt accommodation, and that Article 4 Directions do not apply and cannot be used to control this use. This means that for providers that are not commissioned directly by the council, local authorities have few regulatory powers or resources. This is in contrast to services commissioned directly by local authorities.

5. National Policy Context / Parliamentary action to date

5.1 In October 2020, the Government published *Supported housing: national statement of expectations* setting out a vision for the planning, commissioning and delivery of supported housing. Between September 2020 and October 2021, the Government conducted pilots across five councils to test enforcement measures to improve quality and value for money in supported housing, and published its evaluation report in April 2022.

5.2 In December 2021 the Levelling Up, Housing and Communities Committee (LUHC) opened an inquiry to obtain more information about exempt accommodation. The findings of the Committee's inquiry can be found on in the attached report in Appendix A.

5.3 In June 2022 Bob Blackman MP introduced the Supported Housing (Regulatory Oversight) Bill on 15 June 2022. The bill and its explanatory notes were published on 14 November 2022 (Appendix B). The bill would:

- require local authorities in England to review supported housing in their areas and develop strategies;
- provide for the creation of a national expert advisory panel to advise on matters related to supported housing;
- give the Secretary of State power to introduce national support standards;

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- give local authorities power to create local licensing schemes for exempt accommodation; and
- give the Secretary of State an option to introduce a new planning Use-Class for exempt accommodation.

5.4 In July 2022, the Government published the prospectus for its £20 million Supported Housing Improvement Programme, which invites councils to bid for funding to directly target local quality issues in Supported Exempt Accommodation in their area.

6. Exempt Accommodation in Lewisham

6.1 Lewisham has a large amount of Supported Exempt Accommodation. Last year the council received 2,042 active claims for exempt accommodation. This is divided into three sets of supported housing:

	Type of accommodation	Number (at September 2022)
1	Funded by Lewisham Council	525
2	Recognised by Lewisham Council and funded by Housing Benefit	495
3	Funded by Housing Benefit without consulting the Council	1,022

Schemes funded by Lewisham Council

6.2 The council currently commission 525 units of supported housing schemes, amongst other services. As the provision is commissioned by the council, Lewisham council is responsible for monitoring delivery and ensuring these schemes meet contractual requirements.

6.3 There is a need for supported Housing beyond the capacity of our commissioned provision. Of the 525 placements funded by the council, there is currently a waiting list of 82 people.

Schemes recognised by Lewisham Council and funded by Housing Benefit

6.4 These schemes seek to provide similar services to those commissioned by the council, however funded not through council commissioning but through rental income, generally through high levels of Housing Benefit charges and personal service charges to individuals. The Council has no contractual levers to manage these providers, however we are responsible for determining whether or not these providers meet the qualifying criteria to be considered as an 'exempt' provider.

6.5 There is a need for supported Housing beyond the capacity of our commissioned provision, so the integrated commissioning team do work with some of the larger providers and partners such as the mental health trust. Where these providers want to improve quality we provide advice and guidance on best practice and quality and assurance approaches. However, without further funding or powers from central government, the council does not have the resource to assess or enforce compliance against this.

Schemes funded by Housing Benefit without consulting the Council

6.6 There are also many other providers approaching our Housing Benefit colleagues, which currently has no quality control beyond Housing Benefit. This sector is increasing and

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since 2021 there have been 9 new organisations making exempt housing benefit applications.

- 6.7 Over the last two years we have completed two audits of providers within the borough to assess the standard of accommodation and support provided. Both audits showed poor quality accommodation, buildings and facilities which would be unacceptable for a commissioned service. Beyond determining whether or not these providers meet the qualifying criteria to be considered as an 'exempt' provider, the Council has no contractual levers to manage these providers.

7. Proposed next steps

- 7.1 For providers that are not commissioned directly by the council, the council has few regulatory powers or resources. In July 2022, the Government published the prospectus for its £20 million Supported Housing Improvement Programme, which invites councils to bid for funding to directly target local quality issues in Supported Exempt Accommodation in their area. Lewisham submitted a bid for £846,000 to deliver a multi-disciplinary project team aimed at delivering improved joint responses. This included funding for 4 members of staff from the following services:
- **Housing Benefit** – The Housing Benefit process claims for supported exempt status. This officer would provide intelligence to the wider project team about current and new Supported Exempt Accommodation Claims, and ensuring standards are in line with benefit regulations.
 - **Housing Enforcement** – The housing enforcement team are responsible for taking action against substandard housing and utilising legal enforcement for improvements where possible. This officer would be responsible for auditing the property standards, inspecting properties flagged by the group and identify where actions can be taken against substandard housing.
 - **Supported Housing Commissioning** – The integrated commissioning team contract manage supported housing funded by the council and hold existing relationships with providers in Lewisham and. This officer would be responsible for auditing the standards of support and service delivery, and identify recommendations and actions for improvements.
 - **Adult Social Care Commissioning** – The ASC commissioning team hold specialist knowledge of providers of supported exempt accommodation for adults with Learning Disabilities. This officer would be responsible for auditing the standards of accommodation and services provided for this cohort.
- 7.2 The structure of this proposal aimed to deliver improved joint responses and develop standardised processes for reviewing standards across the sector. This funding has not been awarded to the council. Officers will explore whether elements of this approach can be incorporated into existing functions, however without additional resource or powers from central government, the council will not have the full resource it needs to monitor standards until further funding opportunities arise.
- 7.3 Officers will continue to closely monitor the passing of the Supported Housing (Regulatory Oversight) Bill 2022-23 any other regulatory or legislative changes that may impact the council's powers. This will allow the council to adapt and respond to any issues that arise so that they can be addressed promptly.
- 7.4 Officers will return to the committee to provide an update on current activities.

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8. Financial implications

- 8.1 This report provides members with an overview of the current position of the council in responding to the issue Supported Exempt Accommodation and to note the findings of the Levelling Up, Housing and Communities report and recommendations to government on Exempt Accommodation. As such there are no direct financial implications.
- 8.2 Further financial implications will be provided once council officers have further developed a joint action plan setting out activities and deliverables that the council needs to meet, to audit and regulate providers who have submitted claims for exempt status in Lewisham.

9. Legal implications

- 9.1 This is a report for noting. There are no direct legal implications.

10. Equalities implications

- 10.1 A draft Equalities Analysis Assessment has been completed and is included at Appendix 3.

11. Climate change and environmental implications

- 11.1 There are no anticipated climate change and environmental implications.

12. Crime and disorder implications

- 12.1 There are no anticipated crime and disorder implications.

13. Health and wellbeing implications

- 13.1 Accommodation procured must meet appropriate levels of suitability. Checks will be carried out to ensure that properties are of a decent quality and landlords hold all relevant licenses where applicable.

14. Appendices

- 14.1 Appendix 1: House of Commons, Levelling Up, Housing and Communities Committee: Exempt Accommodation, Third Report of Session 2022–23
- 14.2 Appendix 2: Supported Housing (Regulatory Oversight) Bill

15. Report author and contact

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- 15.3 Comments for and on behalf of the Director of Law, Governance &HR
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