

Appendix 3 Exempt accommodation report

Briefing

NCC has become aware that on 17th September 2012 the DWP announced that the housing component of Universal Credit for vulnerable people (or, more specifically, people in Exempt Accommodation) is to be administered separately from Universal Credit. Exempt Accommodation tenants will also be excluded from the benefit cap, under occupation and direct payments.

The DWP also stated that for the longer term they are exploring a localised funding system for these tenants. To achieve this they are asking that Local Authorities assist by identifying where claimants are accommodated in supported exempt accommodation and applying the appropriate exemptions, e.g. under occupation.

Existing arrangements for this customer group, in the main, rely upon the inter-relationship between Housing Benefit departments, Northamptonshire County Council and service providers. An example being sheltered housing, whereby in many cases tenant's needs have been assessed as fixed and consequently a rigid system of support, funded through the former Supporting People programme and Housing Benefit, is attached to a person's tenure regardless of reduction of need etc.

Recent work undertaken by NCC with some local providers has, where this customer group is reassessed and services personalised, demonstrated that there can be a significant reduction in actual needs based demand for the provided services and subsequently consequential efficiencies.

The following document details an interpretation regarding the opportunities for alternative methods of funding supported exempt accommodation. This information is reproduced with the permission of Support Solutions Ltd.

Welfare Reform, Universal Credit & Exempt Accommodation

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Introduction

At the moment there is much concern and rumour circulating in relation to Welfare Reform, Universal Credit and Exempt Accommodation. This includes but isn't limited to:

- How will Universal Credit affect vulnerable people and the organisations that work with them?
- What is Exempt Accommodation and whom does it benefit?
- What is the status of Intensive Housing Management and can it be funded under Welfare Reform/Universal Credit
- Is Directly Managed Supported Housing Exempt Accommodation?
- Are agency-managed schemes Exempt Accommodation?
- Is Sheltered Housing Exempt Accommodation?
- Can Tenancy Sustainment Services be funded through the additional revenue if they are seen as Exempt Accommodation?

Support Solutions has been at the forefront of thinking on issues associated with Welfare Reform, Universal Credit and Exempt Accommodation both strategically and technically. In a situation of fundamental and complex change we have accurately predicted and assessed how these issues have developed and what impact they will have on supported and sheltered housing providers and the people they accommodate and/or support.

Our primary concerns have been and remain to provide clear and unambiguous advice on the policy and financial issues in an environment of uncertainty and misinformation. You can read our previous briefings on these and other relevant issues at www.supportsolutions.co.uk/services/the_briefing.html.

What is the Relationship between Welfare Reform & Universal Credit?

The Welfare Reform Act is the biggest change to the welfare state since its inception and the Government's intention is to save money by streamlining the welfare system and to incentivise work. The centerpiece of the Welfare Reform Act is Universal Credit, a new form of welfare benefit that is intended to replace 6 separate benefits for working age people with a single benefit called Universal Credit. The 6 benefits in question are:

- Income Support
- income-based Job Seekers Allowance
- Income-based Employment & Support Allowance
- Housing Benefit
- Council Tax Benefit
- Working Tax Credit

Universal Credit is to be implemented in stages up to 2017.

What is the status of “Intensive Housing Management” and can it be funded under Welfare Reform/Universal Credit?

"Intensive Housing Management" is a term that was in widespread use until the advent of Supporting People in 2003. The funding for Intensive Housing Management tasks was in the form of a budget called SHMG (Supported Housing Management Grant). SHMG was paid to Registered Providers by what was the Housing Corporation for them, or Agencies on their behalf, to fund Intensive Housing Management tasks. These are the sorts of tasks that supported and sheltered housing providers routine need to undertake over and above normal property management functions because of the vulnerabilities of the tenants in question.

Support Solutions has, over the past few years, reintroduced Intensive Housing Management as a strategic tool to enhance levels of Housing Benefit revenue for Exempt Accommodation schemes as the Supporting People budget has retrenched. This has worked really well. However, the DWP has recently stated that we should collectively avoid the use of the term "Intensive Housing Management". They have not said why and it may be that they may have a concern about formalising a definition of Intensive Housing Management such that it constitutes an agreed list of fundable tasks. Whatever the reason, perhaps it is best if we re-describe these tasks more generally as "additional housing management services", which is what Intensive Housing Management is anyway. For the purpose of this Briefing we will use the 2 terms interchangeably and in future we'll stick to using "additional housing management services" to describe the same tasks and activities as we have previously included within the "Intensive Housing Management" definition.

What will be the impact of Universal Credit on Exempt Accommodation?

As long ago as October 2011 Support Solutions predicted and advised that the DWP might exclude some components of the welfare benefit entitlements of vulnerable people from Universal Credit. This is what has happened. On 17th September 2012 the DWP announced that the housing component of Universal Credit for vulnerable people (or, more specifically, people in Exempt Accommodation - see below) is to be administered separately from Universal Credit in broadly the same way as it is now: i.e. a locally-based Housing Benefit system that acknowledges and funds the additional costs of supported and sheltered housing.

So that's a good thing. Support Solutions has been largely responsible for informing the strategy of incorporating legitimate Intensive Housing Management costs into the rent or service charge payable by Housing Benefit assistance, which has helped providers and Local Authorities in managing reductions in the Supporting People budget without negatively impacting on service delivery, revenue for services and in funding preventative services.

Additionally, where a Registered Provider as distinct from a non-Registered Provider organisation, has a legal interest in the property by way of ownership or lease and justifiably incorporates Intensive Housing Management/additional housing management services costs onto the gross Housing Benefit eligible charge, the Local Authority, which pays the enhanced rates of Housing Benefit that are payable as a consequence, can claim all of it back from the DWP. Where the landlord is a non-profit

organisation but not a Registered Provider the Local Authority can reclaim 60% of the difference between the rent service determined market rent level and the actual rent charged.

This system will continue to operate on broadly the same way as it does now. A locally based arrangement for funding the additional costs of housing for vulnerable people provided that the accommodation in question qualifies as Exempt Accommodation.

So what is Exempt Accommodation?

Exempt Accommodation is accommodation provided by a registered provider of social housing, registered charity, non-metropolitan County Council or another form of non-profit making organization where the landlord provides care, support or supervision directly or where the care, support or supervision is provided on the landlord's behalf. The Exempt Accommodation rules allow providers of such accommodation to fund additional housing management services to vulnerable tenants (provided that the costs can be properly justified). You can learn more about how this system works and how we can help you with it by clicking [here](#).

Many people within the Sector thought that Exempt Accommodation would be abolished by the Welfare Reform Act; however, the very opposite has happened. The DWP decided to administer the housing component of welfare benefit entitlements for people in Exempt Accommodation outside of Universal Credit, which means that higher levels of housing revenue continue to be payable to providers of Exempt Accommodation because they provide additional housing management services. This arrangement is set to continue for some time yet and it is very important that eligible providers (any Exempt Landlord) take steps now to ensure that their revenue position is optimised. [Talk to us](#). We can ensure that you achieve this in a financially and operationally painless way.

It is undoubtedly in the interests of commissioners within Local Authorities responsible for purchasing care and support for Exempt Accommodation conditions to exist or be created in a manner entirely consistent with the Exempt Accommodation rules. The Local Authority recovers money it would otherwise either have to pay out from the Supporting People or Social Services budgets or not fund at all. Providers retain the revenue necessary to fund preventative services (which saves the statutory sector, including the Local Authority, a lot more money) and vulnerable people get the services they need.

The existence and creation of genuine Exempt Accommodation scenarios is important not only because of the financial resource benefits to the Local Authorities, the Providers and the Tenants but also because it continues to allow the funding of preventative services where other revenue streams are being retrenched.

However, there are additional benefits to Exempt Accommodation status in relation to Universal Credit.

Under Universal Credit people have their benefit entitlement capped at £350 per week for a single person without dependents and £500 per week for families. Of course these caps wouldn't affect everyone living in supported and sheltered housing; however they will not apply to anyone living in Exempt Accommodation.

The Bedroom Tax is designed to make under occupation of property financially disadvantageous to Universal Credit claimants by deducting 14% of the housing component of the claimant's Universal Credit for one unoccupied room and 25% for 2 or more unoccupied rooms. This is unlikely in Exempt Accommodation situations; however, Exempt Accommodation tenants are exempt from the Bedroom Tax anyway.

The DWP has piloted the notion of paying all Universal Credit entitlements including the housing component (it is a single benefit remember) direct to the tenant. The intention is to prepare people for the need to budget on a monthly income as they would if they were in paid employment. However, the DWP is considering making payments to Landlords instead on a "payment exceptions" basis, which means that where people fulfill certain criteria around vulnerability they will not be paid direct and the rent will be paid to the landlord much as it is now. People who live in supported or sheltered housing would qualify for a "payment exception" under the arrangements under discussion. Please see our recent [Blog](#) for more details on this.

Exempt Accommodation is a complex technical area and there has been much discussion, rumour and misinformation about it, particularly in recent weeks and months. Support Solutions would therefore like to take the opportunity to clarify the position for you in relation to different types of arrangement through which vulnerable people are accommodated and supported.

Directly Managed Supported Housing

Directly managed supported housing is Exempt Accommodation provided that:

- The landlord is a non-profit organisation
- The landlord has a legal interest in the property (it owns or leases it)
- The people who live in the property are in need of some form of care, support or supervision
- The Landlord provides additional housing management services (it can be provided by an Agency on the Landlord's behalf and also be Exempt Accommodation, but obviously this would not be directly managed supported housing)

Agency Managed Supported Housing

Agency-managed supported housing is where an agency (non-profit or Registered Provider) manages a supported housing service typically in a property owned by a Registered Provider landlord and where the people who live there are tenants of the Registered Provider, not the managing Agency.

In such arrangements most of the factors that would qualify directly managed supported housing as Exempt Accommodation will all typically be in place:

- The landlord is a non-profit organisation
- The landlord has a legal interest in the property (it owns or leases it)
- The people who live in the property are in need of some form of care, support or supervision

By definition, in directly managed schemes the service will be provided by the Landlord thus fulfilling the requirement that the care, support or supervision must be provided "by or on behalf of the Landlord". However, in Agency managed schemes there is a question mark over whether the "by or on behalf of the Landlord" rule is complied with. In these arrangements the Landlord definitely does not provide the care, support or supervision and additional housing management services; the Agency provides it. But does the Agency provide the service on behalf of the Landlord or on behalf of the Local Authority or other Commissioning Authority that commissions the service? A Housing Benefit adjudication officer might be correct in arguing that actually the Agency is providing the service on behalf of whoever commissioned it to provide the service and not on behalf of the Landlord. In which case it's not Exempt Accommodation.

However, all is not lost! We don't have the word "solutions" in our name for nothing. There are a number of ways to deal with this:

1. Ensure that the Management Agreement between the Landlord and the Agency states that the Agency provides "additional housing management services" on behalf of the Landlord. The occupancy agreements within such properties should also refer to the fact that the Agency provides "additional housing management services" and may list them as a schedule to the occupancy agreement. Practical evidence should be established to justify the provision of additional housing management services on behalf of the owning landlord.
2. A Tripartite Agreement between the Commissioning Authority (typically, but not always, a Local Authority in some form or other), the Landlord and the Agency wherein the Commissioning Authority might commission the Landlord to provide the service on the basis that the Landlord subcontracts it to the Agency.
3. The Landlord could provide some additional housing management services in addition to anything provided by the Agency if there is scope and need to do so, and there often is.
4. The Landlord could lease the property to the Agency for a period of time, meaning that the Agency becomes the Landlord and the scheme becomes a directly managed supported housing scheme. It should be noted, however, that if the Agency isn't a Registered Provider the Local Authority would only be able to reclaim from the DWP 60% of the difference between the Local Housing Allowance rate and the actual rent. It helps the Local Authority for a Registered Provider to be involved and for Exempt Accommodation situations to exist in general.

At a wider level it is really important that both the Landlord and the Agency talk to each other and colleagues in the Commissioning Authority and Housing Benefit team, bearing in mind the fact that the priorities of the Housing Benefit Team and their Commissioning Authority colleagues may not always be the same.

Sheltered Housing

There has been much speculation and advice recently to the effect that sheltered housing isn't Exempt Accommodation. We disagree. Sheltered housing is Exempt Accommodation if the people who live in the accommodation are provided with some additional housing management services that would not ordinarily be provided in general needs accommodation due to the nature of the accommodation and the tenant group. An example of this is an emergency alarm, warden call system, lifeline or some other form of proactive or reactive housing management or support facility. A landlord should ask themselves

the question, "does this additional service make a real difference to the tenant's ability to live in their accommodation adequately" If the answer is yes then the service can be categorised as support.

Case law precedent establishes that additional housing management services can be sufficient to meet the definition of support, even where that additional housing management is actually being recovered in the rent or the service charges. It is the requirement of these services, and the subsequent delivery that qualifies this type of service as sufficient to meet the definition of support. Clearly an emergency alarm, or something similar would be sufficient to meet the definition of support and therefore meet the qualifying criteria for exempt accommodation.

Of course the same 4 basic criteria for Exempt Accommodation that apply to supported housing as apply to sheltered housing.

It is actually very important that sheltered housing is seen as Exempt Accommodation as many Local Authorities have made the decision not to fund services in sheltered housing through their Supporting People or Social Services budgets and it is important that legitimate additional housing management services can be met through Housing Benefit.

Another problem for sheltered housing providers is the difficulty of funding alarms. Housing Benefit routinely does not fund alarms and Local Authorities are increasingly not doing so. However, it is possible to find assistive technology that is fully Housing Benefit fundable (i.e., it costs the Landlord nothing at all and it costs the tenant nothing at provided they are eligible for Housing Benefit). The only example of this is the Housing Proactive system.

Housing Proactive is a housing management system based around proactive contact that enables providers to efficiently manage properties in which a level of support is required due to the type of accommodation and resident group.

Housing Proactive replaces housing management functions that were traditionally provided by a "Scheme Manager" allowing staff to focus on residents with the highest needs, irrespective of staffing levels or structure.

The key features of this system, which provides additional housing management services include

- Proactive property checks
- Maintenance news messaging
- Buildings safety emergency messaging
- Occupancy tracking for fire safety
- Void property management
- Repairs hotline button
- Property standards surveying
- Housing management reports
- Housing staff rapid location

It also has optional support features including support and well-being checks, medication and appointment reminders and discounted dispersed alarm services. These optional features are not Housing Benefit eligible; all of the others listed above are Housing Benefit eligible.

Sheltered housing is not only Exempt Accommodation it is also able to augment staffing and provide a solution to some of the problems around the funding of alarms through the use of Housing Benefit fundable assistive technology systems such as Housing Proactive which provide additional housing management services.

Tenancy Sustainment Services

We at Support Solutions have recently done quite a lot of thinking about how to fund much needed tenancy sustainment services in general needs accommodation. Many of our clients raise this with us and we believe that it is not only possible to provide additional housing management services to vulnerable tenants in general needs accommodation, provided that it fulfills the Exempt Accommodation criteria, it is also necessary as a means of preventing the human and financial cost of arrears, evictions, voids and additional pressure on Local Authorities statutory homelessness functions and budgets.

This can be done on a directly managed and agency managed basis where an Exempt Accommodation situation exists. It would require the tenant to agree to a deed of variation to their tenancy agreement that allows the Landlord, or an Agency on its behalf, to provide additional housing management services in order to assist the vulnerable tenant to sustain their tenancy. This can be either to avoid eviction in a crisis through a short-term intervention, or to assist a tenant on a more routine basis to live in independent accommodation where the alternative might be supported and sheltered housing, extra care or residential care.

General Summary

Much of the coverage of Welfare Reform, Universal Credit and Exempt Accommodation has been negative and worrying; however, Support Solutions takes a rather different view as far as Universal Credit applies to Exempt Accommodation.

There was much speculation, which we disagreed with, that Exempt Accommodation wouldn't survive the Welfare Reform Act. In fact the opposite is true: Exempt Accommodation has had its status reinforced as it becomes the passport to having routine and additional housing costs met outside of Universal Credit in much the same way as they are now, which is reflective of the higher costs of supported and sheltered housing.

Exempt Accommodation tenants will be excluded from the benefit cap, the bedroom tax and direct payments.

Support Solutions believes that directly managed supported housing and sheltered housing is typically Exempt Accommodation and that agency managed supported housing and tenancy sustainment services can and should be Exempt Accommodation if the strategies we identify are followed to the mutual benefit of Local and other Commissioning Authorities, Landlords, Agents and Tenants

