

## Briefing Paper

# Supported Housing and Service Charges

**November 2013**

### Introduction

Supported Housing covers a range of housing types including group homes, hostels, refuges, supported living complexes and sheltered housing. Residents generally receive a level of personal care, support or supervision. The cost of meeting this non-housing related support is met separately from Housing Benefit. Residents typically include the elderly, people with mental, physical and learning disabilities, and substance abusers.

Supported housing that meets certain criteria is treated as “exempt accommodation” for Housing Benefit purposes. As such, the Housing Benefit Regulations that limit rents to defined local levels do not apply to accommodation where the landlord (housing association or voluntary organisation) provides “care, support or supervision.”

For residents who are eligible to receive Housing Benefit, it can help with all or part of their rent payments. Rent levels (including service charges) in supported housing are usually higher than those charged for similar accommodation. The Government’s consultation paper, ‘Housing Benefit Reform – Supported Housing’, identifies the following reasons for this:

*“Supported housing is often of higher quality than mainstream housing. This is because the units of accommodation are purpose built to enable residents to lead more independent lives, with greater accessibility, more space or specific adaptations included. It may also be important for residents to be situated closer to amenities, public transport routes, or in relatively quiet neighbourhoods. As a result, supported housing is often acquired in more expensive areas or attracts higher development costs.*

*“Certain housing types, such as bungalows or detached properties, needed because of access or behavioural difficulties, may be more expensive. Properties tend to be developed and provided in response to demand, often commissioned by adult social care departments or in response to local authority housing needs surveys, which typically specify a lack of purpose built accommodation or particular adaptations required to improve access and provide suitable facilities.*

*“There can also be additional housing management costs through heavier wear and tear. There is not only the cost of replacing or repairing expensive household equipment, such as fridges, washing machines or furniture but also training of repairs and maintenance staff in understanding the respond to unexpected behaviour.*

*“Staffing costs can also be higher due to more time spent on housing management and extra security because of residents’ mental disabilities or chaotic lifestyles. There are a wide variety of services provided that help individuals live independently. The research notes over 400 different types of charges made in addition to the core rent. The main ones centre around:*

- *Providing 24 hour housing management cover*

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- *Providing more housing related support than in mainstream housing*
- *Organising more frequent repairs or refurbishment*
- *Providing more frequent mediating between tenants; and*
- *Providing extra CCTV and security services”*

Residents in supported housing owned and managed by a local authority normally have their rent met in full by Housing Benefit. Supported housing residents whose landlord is a housing association, registered charity, voluntary organisation or county council have their Housing Benefit ‘based on more generous rules than those living in mainstream accommodation’.

### **Department for Work & Pensions Research – December 2010**

The Department for Work & Pensions published research into exempt and supported accommodation in December 2010 – this research assessed the extent and cost of ‘exempt accommodation’ within local authorities and identified underlying reasons for increased expenditure. The main findings included:

- Different claimant groups have different needs in terms of time for which they require supported housing. The types and levels of support also differ; they can range from two carers to one individual (24 hour permanent assistance) to low level support on a temporary basis (for vulnerable young people).
- It is estimated that there are around 130,000 claimants in registered social landlord accommodation and a further 40,000 in other accommodation (although there is some uncertainty around these figures).
- The cost of non-registered social landlord ‘exempt accommodation’ claims is estimated at between £70m and £130m above rent officer determinations (there is considerable uncertainty around these figures). The average additional housing costs appear to have increased by 85% from 2003/04 to 2009/10.
- The lack of effective rent restriction by most local authorities reflects the belief that there is no basis to restrict even where rents are considered high, generally because there is no suitable alternative accommodation available for a meaningful rental comparison.

The findings supported anecdotal evidence that there has been an increase in both the cost and the number of claims from those in ‘exempt accommodation’. The government concluded that while the regulations are straightforward their interpretation has become increasingly complex, difficult to administer and lead to significant uncertainty.

### **Housing Benefit Reform – Supported Housing**

The Government published ‘Housing Benefit Reform – Supported Housing’ in July 2011. The paper set out proposals to change Housing Benefit for those living within supported housing in the social and voluntary sectors. The proposed reforms were not, the consultation paper said, ‘looking to cut expenditure’ but were aimed at better directing it such that ‘any changes will need to be cost neutral overall’.

These proposals could have a significant financial impact on local housing authorities that provide sheltered accommodation. Local authority responsibility for controlling supported housing funds and the basis of allocations to individual authorities have yet to be determined.

In 'Housing Benefit Reform – Supported Housing' the Government states that the Housing Benefit system for people in supported housing 'no longer works' and lists the following points in support of this claim:

- The processing of these benefit claims has become too complicated often resulting in time consuming and intrusive investigation of a person's care and support needs, as well as the provider's status and how the care and support is delivered.
- It is incompatible with other government policies as linking housing with care provision in legislation mirrors that for care homes where residents are ineligible for Housing Benefit. It does not fit with the Government's wider objective of personal budgets, where individuals are enabled to exercise choice in commissioning their own care.
- It can be unfair in that it does not provide extra help to those requiring personal care or support whose landlord is not one of the prescribed types, but who have additional housing costs because of their condition. These claimants currently face the same rent restriction rules as other private sector tenants in mainstream housing.
- It creates unnecessary risk as specialist housing providers are said to be reluctant to invest in this housing sector due to uncertainty around how help with their rents will be determined. There is the potential for schemes to become financially unviable, which would leave vulnerable people without the specialist provision they need.
- It is costly to many local authorities who often have to meet some of the Housing Benefit costs for expensive properties themselves.

The objectives of the reforms are listed as to:

- Recognise that supported housing carries higher costs;
- But come with appropriate controls on levels of rent;
- Be clear about the types of additional activities that might be covered and those which would not;
- Be better targeted at those who need help;
- Be easier to understand and administer;
- Provide a predictable level of income for providers;
- Where necessary, use local expertise in setting the level of help available;
- Provide robust expenditure control and provide value for money;
- Be compatible with Universal Credit.<sup>6</sup>

The Government has identified two categories of supported housing. Conventional supported housing, such as hostels, foyers, refuges and other purpose built sheltered housing that is used by the elderly, ex-homeless people, people fleeing domestic violence, young people, ex-offenders or substance abusers, and housing for people with more specific needs.

Supported accommodation provided by the local authorities, registered providers or charities is exempt from some housing benefit restrictions. The higher rents charged are eligible for full housing benefit even though the rent meets some costs of care, support and supervision. Registered care homes are not eligible for housing benefit at all. The government's consultation of July 2011 proposed to change these rules:

- Local Housing Allowance rates plus fixed, standard additions would be used to determine housing benefit levels for schemes with low level care and support. The same rules would become available to private sector providers (conventional supported housing).

- For higher-level needs, housing benefit would be at the basic Local Housing Allowance rate. The Department for Work & Pensions would issue a separate supported housing fund to local authorities and this would be used to help claimants with their support costs (accommodation provided to meet an individual's specific housing needs).

With regard to conventional supported housing, the Government proposed that Housing Benefit for residents should be based on the Local Housing Allowance (a flat rate allowance based on the size and locality of the accommodation and that is subject to certain national caps) with 'an addition that recognises the higher housing costs appropriate to this sort of accommodation'. For those eligible for Housing Benefit, benefit would be paid up to the total amount of the Local Housing Allowance rate plus an additional sum. The additional sum would cover additional management costs associated with communal areas and shared facilities, security staff and higher levels of wear and tear. Sheltered housing was also included in this grouping as, although it meets a long-term housing need, the cost of providing this housing is 'reasonably consistent'.

It was not proposed to include hostels in these rules where support is not provided. The consultation paper sought views on what the additional sum (above core rent) should cover and how it should be calculated.

For accommodation provided to meet an individual's specific housing needs, the Government proposed to treat the rent payments for Housing Benefit purposes in the same way as mainstream accommodation and to base them on the Local Housing Allowance. Claimants would be able to apply to a separate (supported housing) fund to meet their additional housing costs.

It was proposed that decisions on the level of any additional help towards rent payments would be made locally and that those making the decisions would have a background in and knowledge of housing procurement and the costs involved in providing specialist supported housing, or have access to people with this expertise. The paper states:

*"This would take the decision making process away from those responsible for administering Housing Benefit to those with expertise in the local provision of supported housing, creating a joined-up approach to ensure the best outcome for the client and the tax payer. The main advantage would be that the overall funding of supported housing would be brought within the local authority's broader responsibility of commissioning care and support for those who live in their area. We anticipate that overall policy responsibility for these additional housing costs would remain within the Department for Work and Pensions."*

The paper referred to the need to consider how funding should be fixed under this system, 'as it would need to be sufficiently flexible to be able to respond to changes in caseload but will need to be controlled, perhaps by limits on individuals or be reference to a rent officer assessment'.

Where supported housing is provided by a housing association, Housing Benefit generally meets these rents in full (subject to the individual claimant's eligibility). The Government intended that this practice should be regularised with claimants continuing to receive Housing Benefit based on their contractual rent less any ineligible service charges. The consultation document went on to state that the Government intended to consider the level of service charges in the supported housing sector:

*“Over recent years local authorities have raised concerns over the level of increases in the service charges of these providers. Rent levels in the social rented sector are regulated, but this is not the same for their service charges where guidance is provided. Our research has shown some evidence that service charges have begun to rise for Registered Social Landlords and Registered Providers, although overall rents still tend to be lower than for other providers.*

*“We aim to support service charges at a level adequate to meet the running costs of supported housing, but to ensure these charges are limited to genuine housing related costs. We intend to review how these rules work in association with the Department for Communities and Local Government and their Scottish and Welsh counterparts”.*

In a section entitled Wider Reform, the paper asked whether there was a case for paying eligible residents in supported housing standard Housing Benefit ‘and separating out the additional help altogether and administering it locally in the same way as Personal Budgets’.

### **Supported Housing Investigation Launched**

At the same time as issuing the consultation paper the government also launched an investigation into the level of service charges levied by supported housing providers, after becoming concerned that some were inflating costs.

The move followed research into the costs of supported housing published in 2010 by the Department for Work & Pensions that revealed median service charges had increased in 2009/10 compared with the previous year.

The investigation prompted fears among supported housing providers that the Department for Work & Pensions may insist on service charge reductions that could end the viability of some schemes.

The Department for Work & Pensions' paper stated that it aims to ‘support service charges at a level adequate to meet the running costs of supported housing, but to ensure these charges are limited to genuine housing related cost’.

### **Reactions of the Sector**

Providers of supported housing acknowledge the need for a simpler system and welcomed the commitment to cost neutral change but raised several concerns in relation to the proposals.

The distinction between the different types of supported housing is viewed as unclear – it is suggested that this lack of clarity could jeopardise the aim of creating a simpler system. There are concerns that residents in some types of supported housing (provided to meet an individual's specific needs) will lose entitlement to assistance if it is provided from a discretionary pot subject to locally set priorities and accessed through social services.

For providers, discretionary funding represents an increased risk and could result in some withdrawing from this area of housing provision – leaving vulnerable clients with fewer housing options and increasing the burden on other services.

Responses also called for the establishment of a process to capture the real costs of the current system prior to any transfer of responsibilities to ensure that any change is fully funded.

## **Reaction of the National Housing Federation**

The National Housing Federation responded that:

*“Clarity is needed on the Department for Work & Pensions’s approach to different types of supported and sheltered housing. The consultation sets out the three broad types of supported housing based on the different level of benefits available to tenants: group one with Local Housing Allowance plus a fixed sum, group two with Local Housing Allowance plus a locally determined top-up and registered providers, with regulated rents plus eligible service charges. Each of these broad groups cover a huge variety of different schemes for different needs with different costs. Rent levels vary for all providers due to a complex web of factors, including historical property costs, location, needs of clients, scheme size, density and lay out. These variations need to be fully understood and taken into account before reform is implemented. Otherwise reform will damage the viability of housing, care and support schemes for vulnerable people with few other housing options.”*

The National Housing Federation welcomed the decision not to propose a major change for housing associations that provide supported and sheltered housing but identified several risks around the need to ensure that the supported housing element of Housing Benefit ‘fits’ with the Universal Credit. For example, in relation to service charges:

*“We need a detailed scope and clear aims for the Government’s review of service charges. The Federation has argued that service charges reflect actual costs of housing and pointed out that they are controlled by regulation and the legal framework of variable service charges. It is important that the separate issues of whether a service charge is eligible for Housing Benefit and whether a cost is eligible to be recovered through a service charge are not confused.”*

The National Housing Federation’s detailed comments were as follows:

*“The Federation welcomes the acknowledgement that certain groups of people will experience higher housing costs due to their disability or vulnerability; we also welcome the confirmation that the changes to the system that will result out of this consultation will not be guided by the need to reduce costs, and that Government is not proposing a major change for housing associations providing supported and sheltered housing. As part of the Government’s working group the Federation pressed the Department for Work & Pensions to continue to cover actual rents in social housing.*

*“Reforming the payment of the supported housing element of Housing Benefit and its fit with the Universal Credit brings a number of risks. The Federation will be pursuing the following points with the Department for Work & Pensions:*

- *We need a detailed scope and clear aims for the Government’s review of service charges. The Federation has argued that service charges reflect actual costs of housing and pointed out that they are controlled by regulation and the legal framework of variable service*

*charges. It is important that the separate issues of whether a service charge is eligible for Housing Benefit and whether a cost is eligible to be recovered through a service charge are not confused.*

- Clarity is needed on the Department for Work & Pensions' approach to different types of supported and sheltered housing. The consultation sets out the three broad types of supported housing based on the different level of benefits available to tenants: group one with Local Housing Allowance plus a fixed sum, group two with Local Housing Allowance plus a locally determined top-up and registered providers, with regulated rents plus eligible service charges. Each of these broad groups cover a huge variety of different schemes for different needs with different costs. Rent levels vary for all providers due to a complex web of factors, including historical property costs, location, needs of clients, scheme size, density and lay out. These variations need to be fully understood and taken into account before reform is implemented. Otherwise reform will damage the viability of housing, care and support schemes for vulnerable people with few other housing options.*
- Consideration needs to be given to the use of referrals of rents to the rent officer. Currently, very few registered providers' rents are referred. There needs to be a practical and transparent system for scrutinising outlying rent levels, but it would not be helpful to provision or practical to manage routine referrals to rent officers. The new investment framework for affordable housing is dependent on higher 'affordable' rents. Reassurance is also needed that the new 'affordable' rents of the new investment framework will not be referred to the rent officer.*
- The consultation acknowledges the need to consider Housing Benefit for supported housing as part of the wider provision of accommodation and services that support vulnerable people to live independently. The consultation needs to consider the intended and unintended impact reform will have on the market for supported and specialist housing. The process by which rents are arrived at should be transparent, but transparency and simplicity should not come at the cost of, for instance, providers being forced into running larger schemes to achieve economies of scale in order to reach an artificial flat-rate of Housing Benefit. The consultation also explicitly includes the private sector in the first group of accommodation that could receive Local Housing Allowance plus a fixed sum. This prompts concerns about the potential of unregulated private providers setting up schemes able to take advantage of higher levels of Local Housing Allowance but with less focus on quality of services or accommodation.*
- The Department for Work & Pensions has made clear that this is not a cost-cutting exercise. However, there are significant consequences and real risks to shifting funding around in a cost neutral way within a new system. Department for Work & Pensions' research on existing 'exempt' accommodation does not provide a robust assessment of existing schemes or current costs. The research included many local authorities reporting that they did not have any 'exempt' accommodation. It is not clear what impact a new system would have on existing tenants in areas where there is a concentration of schemes with higher rents. Or if and how protections would be put in place for existing tenants. If additional amounts are paid on top of Local Housing Allowance for some groups and projects, it is not clear how or where these will be recovered in the system.*

- *The consultation asks for responses on which teams in a local authority should be responsible for deciding how extra help is allocated and managing those allocations. Expertise on 'exempt' accommodation is held by local government. It is not clear how this expertise can be captured and preserved in the move to new systems of administration and allocations."*

Commenting to 'Inside Housing' on the investigation into the costs of supported housing, Helen Williams, Assistant Director of the National Housing Federation, said:

*"We believe that service charges cover real costs within supported housing and these remain eligible for housing benefit".*

### **Other Reactions**

The Chartered Institute of Housing responded that:

*"This has the potential for putting at risk services for some of the most vulnerable (the pressures for local authorities' finances, that have led to some large reductions in services under the previous Supporting People programme demonstrate the risks). There are also concerns over the assessment process and many could potentially fall through the gap if not able to access services in group 1.*

*"The Chartered Institute of Housing believes that it is more appropriate for to apply the proposals for group 1 (including the proposals for registered providers/ registered social landlords) to all supported housing provision, whereby the additional housing costs required are addressed under the housing benefit system (and the housing element for universal credit). Housing benefit provides a steady funding stream for providers and being able to make long term plans is essential for the provision of quality supported housing.*

*"It maintains the individual's right's as a citizen, supports choice and independent living.*

*"In order to meet the government's aims of encouraging a wide range of providers, but also to ensure that there is a level of quality and standards, and robust governance in place to protect the interests of vulnerable tenants, landlords could be required to follow some registrations or accreditation scheme. This could involve either registration as a registered provider/ registered social landlord or as a charity, or alternatively a different accreditation route whereby Registered Providers / Registered Social Landlords and charities are automatically accredited.*

*"This can then be reviewed once the operational system for Universal Credit is known and in place, to ensure that it works effectively for individuals, providers and government. The Chartered Institute of Housing believes it is unhelpful to devise an entirely new system for this sub set of the housing sector before the system for Universal Credit is fully in place."*

A coalition of 36 charities including Mencap, the National Autistic Society and Scope, submitted a joint response to the consultation document in which they called for the following five principles to be adopted as the basis of any reform around supported housing:

- Choice and control for disabled people
- Entitlement and a right to higher housing benefit
- Meeting the real cost of providing property for vulnerable people
- Equality and the right to independent living
- Protection of current tenants

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The charity, Rethink Mental Illness, called for the supported housing fund to be ring-fenced:

*“If funding is to be administered at a local level, it is essential that this money is ring-fenced so that it is only spent on the additional housing costs of those people with more specific housing needs. The decision making process to allocate these funds also needs to be robust and transparent to ensure that money is allocated based on entitlement, not on available budget or the discretion of decision makers”.*

Charities said it was unclear how much money would be given to councils - that would decide the size of support payments themselves - meaning local pots might be insufficient. This could harm residents' ability to pay for support or harm the viability of the organisations that provide it. Beatrice Barleon, senior campaigns and police officer at charity Mencap, asked 'Inside Housing' the rhetorical question:

*“How do you make sure payments don't become so discretionary that they don't happen?”*

### **Supported Housing and Universal Credit**

In September 2012, the Government set out in broad terms their approach to the future of paying for housing benefit in supported and specialist housing. Following Iain Duncan Smith's statement to the Department for Work & Pensions select committee on 17th September, the Department for Work & Pensions clarified that additional housing costs for supported and specialist housing, 'exempt accommodation', will be managed outside the Universal Credit. In the short-term, there will be an interim system that is broadly similar to current arrangements. People in supported and specialist accommodation with higher housing costs will continue to be eligible for housing benefit from their local authority. In the medium term, the Department for Work & Pensions will design, develop and potentially pilot a more localised system for managing these costs outside Universal Credit. Ministers have decided that 'exempt accommodation' should come out of Universal Credit so residents will have no entitlement to housing costs through Universal Credit. The Department for Work & Pensions see this as the best way forward to ensure system is flexible enough to cover the various costs within supported housing. They intend using the existing definition of exempt accommodation. The Government also confirmed that Housing Benefit paid to households in supported exempt accommodation will be disregarded from the household benefit cap (introduced on 15th April 2013) and under Universal Credit.

The government stated that:

*“Last year we consulted on how to deal with such cases and we received a significant number of responses. A large number of concerns have also been expressed about their treatment within Universal Credit during the consultation on those regulations. Ministers have taken account of these responses in reaching this decision and feel it is important that we continue to provide a flexible system to help meet the higher costs often associated with providing this type of accommodation.*

*“In the short term this help will be delivered broadly as now through local authority housing benefit teams under existing Department for Work & Pensions legislation and funding arrangements. People in supported 'exempt' accommodation will still be able to claim and receive Universal Credit but their housing costs will be provided separately.*

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*“There will be those living in supported housing not classed as ‘exempt’ who will receive help with their housing costs through Universal Credit. The most common of these will be those whose landlord is a local authority and those housing association tenants where the landlord is not involved in providing their care, support or supervision.*

*“For the longer term we are exploring the feasibility of a localised funding system. This is because local knowledge is essential to help identify this often diverse group, build effective relationships with providers and ensure that resources are targeted effectively at those who need it.*

*“As we confirmed in our consultation we are not looking to cut costs. We will of course continue to expect costs to be questioned where they seem unreasonably high. But local knowledge plays a big part in that and helps to ensure that any scrutiny is well directed.”*

The confirmation that help towards housing costs for those living in exempt supported accommodation would be provided outside Universal Credit was welcomed but housing organisations were still concerned that the household benefit cap would apply to residents of supported housing prior to the introduction of Universal Credit. When questioned on the issue during consideration of the draft Housing Benefit Cap regulations Lord Freud said:

*“Once universal credit comes in we are looking to keep the housing costs outside universal credit. I am looking to make some long-term arrangements for people in exempt accommodation. I am particularly concerned about people in refuges and, clearly, in hostels. I acknowledge absolutely the issue of support and exempt accommodation, which needs some quite sophisticated work. Meanwhile, we are writing very specific guidance, as these are the people for whom Discretionary Housing Payments really are designed to prevent some effects that we do not want to see.”*

The National Housing Federation has held a number of meetings with officials and ministers where they have pressed for the greater certainty and clarity that the legitimate additional costs of supported and specialist housing will be met. They consider that this marks important progress in Government’s decision-making following the 2011 consultation on possible future models for housing benefit for supported housing. They also consider that it is helpful that the Government has recognised that a simplified national system will not give the flexibility needed to respond to the real costs of rent and services of individual projects. However, they believe that big questions still remain about both the initial interim system for the coming years and the longer term more localised system. These issues include:

- How interim and localised systems can ensure the real additional costs of supported and specialist housing will be met, and existing or new claimants will not lose out from any shift from a system based on entitlement to one based on local decision making
- Assurances that administering these costs outside the universal credit will mean supported and specialist housing are fully excluded from the overall cap on benefits and under-occupation penalties.
- Developing approaches that work for sheltered housing, and homes with differing levels of support.
- Sensible and efficient administration to ensure claimants can claim for their housing costs easily and get timely support to do so where needed.

## **Autumn Statement 2012**

As part of the Autumn Statement on 5th December 2012 the Government announced that Housing Benefit paid to households in supported exempt accommodation would be disregarded from the benefit cap and advised that this would be the case from April 2013 and under Universal Credit. Housing Benefit / Council Tax Benefit Circular U5/2012 explains the position as follows:

*“Housing Benefit paid to households in supported exempt accommodation is being disregarded from the benefit cap. The disregard will apply both to benefit cap cases under Housing Benefit from April 2013 and under Universal Credit. While this does not mean that these households are exempt, by not including Housing Benefit in the calculation we expect that the vast majority of these cases will no longer be affected by the cap.*

*“This change has been made following consideration of the representations raised in recent weeks, particularly in light of the decision to pay housing support outside Universal Credit for those living in supported exempt accommodation. This positive step will help protect this vulnerable group.*

*“In making the change we recognise that those households in supported exempt accommodation will be paying higher than average housing costs and are not generally in a position to make the behavioural changes required to remove themselves from the cap, therefore needing additional support. It also addresses a specific concern about the impact of the benefit cap on those claimants who are fleeing domestic violence into supported exempt accommodation.*

*“We had previously stated that this additional support would be met through the additional funding provided through Discretionary Housing Payments for those affected by the benefit cap. To meet the cost of this change before we move to Universal Credit we will therefore be reducing the Discretionary Housing Payments available to support claimants affected by the benefit cap. The national allocation to support those affected by the benefit cap will be up to £65million in 2013/14 and up to £35million in 2014/15. This means that the total funding the Department for Work & Pensions will be providing for Discretionary Housing Payments will be up to £155million in 2013/14 and up to £125million in 2014/15.*

*“This does not result in any real reductions for local authorities in their Discretionary Housing Payments as it was always intended these funds should be used to support these vulnerable affected claimants. Furthermore we will be removing the need to cap these households and then meet any resulting need with Discretionary Housing Payments, thereby reducing the administrative burden on local authorities and the uncertainty for affected claimants.*

*“We will be amending the Benefit Cap (Housing Benefit) Regulations 2012 early in the new year with the aim of having the disregard in place as soon as possible after the benefit cap comes into force. Timing will be subject to consultation with local authorities.*

*“In terms of the process for applying the benefit cap from April 2013, this change should have minimal impact on local authorities as the calculation on supported exempt accommodation cases will be completed as normal in the Department for Work & Pensions. Cases that are below cap threshold levels will not be passed across to local authorities.”*

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## **Service Charges eligible for Benefit**

In December 2012 the Department for Work & Pensions published guidance on service charges for social landlords as well as updated universal credit regulations. The main difference between the approach under universal credit and that with housing benefit is that universal credit guidance starts from a principle of eligibility whereas the housing benefit guidance lists ineligible service charges. This different approach is designed to make the process simpler.

This 'exhaustive' list of service charges eligible for benefit was issued in a bid to end uncertainty for social landlords who had raised concerns that fewer service charges might be covered by benefit. For example, there were concerns that charges for estate management, such as communal garden maintenance, may no longer be covered. However, these charges are listed in the new guidance.

Four categories of service charges are eligible:

- Category A – payments to maintain the general standard of the accommodation.
- Category B – payments for the general upkeep of areas of communal use.
- Category C – payments in respect of basic communal services.
- Category D – Accommodation-specific charges.

As with housing benefit there will be no provision for ineligible service charges such as meals personal care or personal utility bills.

However, more than 400 descriptions of service charges are used by landlords opening up the prospect that there could be legal disputes as social landlords try to 'shoehorn' charges into one of the four headings in the guidance.

According to the most recent global accounts for housing associations, service charge income is worth £870 million a year.

## **Support Exempt Accommodation and Temporary Accommodation**

Many welfare reforms do not apply to supported sheltered housing that is defined by government as 'exempt accommodation'. However, some schemes may not meet the government's definition. Changes to benefits for tenants living in supported housing may have a long-term impact on both services and scheme viability. Landlords may need to assess risks to income streams in both the long- and the short-term.

Support 'Exempt' Accommodation is a particular type of accommodation such as homeless hostels and women's refuges) whose tenants will be excluded from the social size criteria and the benefit cap.

Exempt accommodation includes a resettlement place and 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.

Claims for tenants in supported 'exempt' accommodation will continue to be administered under the existing housing benefit regulations and outside of universal credit. This means that people living in supported accommodation will still be able to claim and receive universal credit to meet other living costs but help with their housing costs will be provided separately in future. This is to enable the longer term feasibility of a localised funding system for this kind of support to be explored.

The way that support is provided, especially whether it is provided by or on behalf of the landlord, is important as in some situations support can be commissioned by local authorities or the care and support budget may be held by the tenant. This may mean that such schemes fall outside the definition of 'support' as they are not provided by the landlord.

If the housing scheme falls outside this definition, tenants will be subject to the social size criteria and the benefit cap and will be part of universal credit.

The definition of the exempt accommodation qualifying criteria remains unchanged in the new universal credit regulations. This means that agency managed services may be at risk. Local authorities therefore need to identify exempt accommodation claimants and households prior to the implementation of universal credit.

The size criteria reduction will not be applied for any claimant who is placed in temporary accommodation by the local authority because they are homeless or to prevent homelessness, except where they are placed in local authority owned properties. Temporary accommodation claimants will receive their housing support as part of their universal credit. This will be based on the appropriate local housing allowance rate for the household and will take account of household size rather than property size.

The management element for temporary accommodation cases in universal credit will be separated out and paid directly to local authorities to protect their funding stream. How the separate management element will be paid for universal credit claimants is still under consideration but the government's preferred option is to use top-ups to local authority discretionary housing payments with a mechanism to reflect changes in local caseloads.

### **The Latest Position**

The eligibility of service charges following the introduction of Universal Credit remains a contentious issue. The Department for Work & Pensions has stated an intention to keep the boundary between eligible and ineligible service charges as it is although there have been small adjustments, for example on window cleaning.

The treatment of depreciation is a major issue. The Department for Work & Pensions do not appear to regard depreciation in the same way as do housing accountants, seeing it as a somewhat random notional charge rather than a way of spreading capital costs over the life of the asset. Consequently, the Department for Work & Pensions is still maintaining that service charges based on depreciation will be ineligible for benefit under Universal Credit.

The National Housing Federation considers that the position of the Department for Work & Pensions is not logical. A service charge based on capital costs incurred during the year is eligible for benefit. A service charge based on recovering annual lease rentals for buildings or equipment is eligible for benefit. However, depreciation is not! This matter continues to be an area of negotiation between the Department for Work & Pensions and the National Housing Federation.

Where there is a lack of clarity in the guidance this may be to the advantage of landlords as, in practice, it may provide some flexibility.

The Department for Work & Pensions considers that where service charges exceed a certain level it would not be appropriate to cover them from Universal Credit but would be appropriate to continue to use Housing Benefit. However, the definition of which service charges will be excluded from Universal Credit is still under consideration.

The issues around supported exempt accommodation and temporary accommodation remain unresolved.

In the long-term all housing benefit will be replaced by Universal Credit and local authority funding.

The government will also amend the appeals process. Claimants will have to ask for a decision to be reviewed before it is appealed; new appeal procedures will follow existing principles; and landlords will not be able to appeal a decision whether to make payments directly to them.

## **Conclusions**

It is advisable for local authorities and housing associations to:

- Know their budgets
- Communicate with their tenants
- Check eligibility of service charges for Universal Credit, Housing Benefit or Local Authority Supported Housing Funds
- Keep up to date with developments

**Adrian Waite**  
**November 2013**

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## **All You Want To Know About Service Charges**

We are holding our seminar and workshop 'All You Want to Know about Service Charges' in April. This seminar and workshop is designed to give an introduction and overview to this important subject and is fully up to date with all developments.

Service charges are an integral part of landlords' work in financing value for money services and sustaining customer satisfaction. They have always been relatively complex but with landlords, leaseholders and tenants facing increased financial challenges and with increased legal complexity there is an increased need to understand how service charging works.

This seminar and workshop is presented mainly from a financial point of view and is designed for people who are not experts in service charges, but who need to understand the basics and

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achieve an overview of what is going on. It is suitable for councillors, board members, housing managers, finance staff, tenant representatives, members of the service charges team who have limited experience and others who realise that an understanding of service charges can place them at an advantage!

We believe in quality rather than quantity and so numbers at each session are limited to twenty people to permit the maximum possible interaction and participation.

### **What the Session Covers:**

The session will answer the following questions:

- How do Service Charges work:
  - In Housing Associations and Local Authorities?
  - For Leaseholders and Tenants?
- How are service charges calculated?
- How to de-pool service charges?
- When are service charges eligible for housing benefit?
- How to ensure excellent customer service?

The session includes a participatory case study and is accompanied by a very useful 100 page book that is designed for reference after the session entitled: **“All You Want To Know About Service Charges”**

### **Venue and Date:**

**London:** Novotel Hotel, Waterloo – 29<sup>th</sup> April 2014.

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## **About ‘AWICS’**

‘AWICS’ is a management consultancy and training company. We specialise in providing support in finance and management to clients in local government and housing in England, Scotland and Wales. We are well known for our ability to analyse and explain complex financial and management issues clearly.

Our mission statement is ‘Independence, Integrity, Value’. We therefore provide support to clients from an independent standpoint that is designed to help the client to achieve their objectives. We are passionate about working with the utmost integrity. We believe that we offer the best value for money that is available today!

For more information about us and our services please visit our website at [www.awics.co.uk](http://www.awics.co.uk) or contact Adrian Waite at [Adrian.waite@awics.co.uk](mailto:Adrian.waite@awics.co.uk)

Services that we offer include:

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