



Consultation on Housing Benefit Reform – Supported Housing

October 2011

To: Housing Benefit Team (Supported housing consultation)
Department for Work and Pensions
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An introduction to Sitra

Sitra is the umbrella organisation committed to raising standards in the housing, care and support sector. We are a membership organisation and a registered charity with over 25 years' experience of offering practitioners a range of affordable policy, training, consultancy, information, conference and capacity building services.

Our membership comprises about 600 practitioner organisations in the field of housing with care and support. The membership elects the committee. Members are drawn from both providers and commissioners, and from the statutory, voluntary and private sectors.

We operate throughout England, and have offices in London, Birmingham, Bristol and Southampton. Our work covers all aspects of supported housing, together with associated activities such as human resources and staffing issues, financial management, and community care.

We are recognised, funded and consulted by government departments and other bodies as representatives of providers of supported housing. We work with them on issues of national strategic significance for the sector. For example we have been working with DCLG on piloting personalisation and payment by results in the housing related support sector, and with the Department for Work and Pensions on the Right to Control initiative in relation to housing related support and Disabled Facilities Grants.

The monthly Sitra bulletin is widely recognised as a key source of technical information and policy development news throughout the supported housing sector. With a circulation of around 3,000, it is the most widely distributed specialist publication within the supported housing sector. We supplement the bulletin with regular briefings on matters relating to supported housing and its related fields.

Sitra is also known as a leading training provider. Each year we train over 4,000 individuals across the country, either on our general programme or on tailored made inhouse courses for members and clients. We also provide a range of seminars and conferences on supported housing related themes. We estimate that over 2,000 people attend such a Sitra event each year.

We are therefore in a unique position of combining a detailed knowledge of the housing related support sector on the ground with an understanding of and engagement with the developing national strategic agenda.

We welcome the opportunity to respond to the consultation on these proposals.

Introduction to our response

Sitra believes the exempt accommodation rule has been a cornerstone of the supported and sheltered housing sector. For more than fifteen years it has protected the ability of many vulnerable people to meet the whole of the reasonable cost of specialist rented housing appropriate to their needs.

The rule has also been an essential building block of the Supporting People arrangements: the costs of care and support were finally removed from Housing Benefit in 2003 and transferred in England to upper-tier local authorities¹, but the rule provided an assurance that legitimate housing costs would continue to be met by the social security system.

Scrapping this protection for the housing costs of tenants presents significant risks at a time when funding for their support is facing unprecedented pressure, placing in jeopardy the homes and the wellbeing of thousands of highly vulnerable people to many of whom no local authority accepts it has a statutory duty.

The consultation paper produced by the Department for Work and Pensions has emerged following publication of a research report based on a small sample of English local authorities which produced extremely tentative evidence about the extent and the costs of the housing protected by the rule.²

So it has caused alarm in the sheltered and supported housing world that the Department seems committed to changing a benefit rule about which it has found it so far impossible to obtain reliable, comprehensive information and yet which is clearly so important to adult and children's social services, community safety, health and homelessness services.

So for us, our members and the people they accommodate in specialist housing the key test is that the government should ensure reasonable housing costs continue to be met, even though these may in some cases be well above those of mainstream housing. The Department's initial proposals do not meet that test.

Research commissioned by a different government department has demonstrated that in England supported housing and other forms of housing-related support avoid substantial costs to the taxpayer in relation to health, homelessness, reoffending and social care.³

We do not believe the Department should proceed with any changes unless it can reliably estimate their impact on the sector and has agreed with other government departments how any negative impacts are to be mitigated.

We seek nothing less than a joined up approach from government to the sheltered and supported housing sector. In England alone registered providers record:

- more than 320,000 units of rented accommodation in specialist housing for older people
- more than 103,000 further units of rented accommodation in supported housing.⁴

The ability of these hundreds of thousands of households to continue to pay their rent deserves very serious attention.

¹ Part of the Supporting People programme has been administered nationally in Wales. In Northern Ireland the whole programme has been administered by the Northern Ireland Housing Executive.

² Available at: <http://statistics.dwp.gov.uk/asd/asd5/rports2009-2010/rrep714.pdf>

³ Available at: <http://www.communities.gov.uk/documents/housing/pdf/1274439>. Available at:

⁴ Figures taken from Table 1 in the Tenants Services Authority's Statistical Release 2011: http://www.tenantservicesauthority.org/upload/pdf/Statistical_release_August_2011r.pdf. By contrast the Department's researchers estimated there were only 130,000 claims from tenants of registered providers' sheltered and supported housing, which appears to be far too low: we doubt less than one-third of these tenants receive Housing Benefit.

Conventional supported housing

In answering the questions in this section we have been keenly aware of the degree of variation that exists in the rents for the sheltered and supported housing of registered providers in England, for which extensive data is available.

We have made no assumption as to whether there is a similar degree of variation in the rents for the sheltered and supported housing of non-registered providers in England, for which comparable data is not available.

We have illustrated the challenge of introducing any flat-rate approach in Appendix 1 where we have shown how far rents deviate from any single figure even within the same authority in the case of the sheltered and supported housing of registered providers.

1. What types of supported housing are available and how do you suggest they should be identified and grouped?

There is such an enormous variety of types of sheltered and supported housing that Sitra believes it will be difficult to ensure the Universal Credit claims process allows claimants and staff to show which claims are actually from tenants of sheltered and supported housing.

We believe it will probably be impossible reliably to capture additional information about the type of supported or sheltered housing in such a way as to base a robust system of differential treatment – unless the claims process collects an extraordinary mass of information about each claimant's housing costs.

We understand this is not the Department's intention and that it is instead the Department's aim to keep the process simple.

If the Department's research is right, there may be as few as 40,000 such claims to detect in England among many millions being handled by the Department in connection with Universal Credit. We believe it will be a considerable challenge to ensure these comparatively rare claims are identified and handled correctly.

What the claims process will need to do is to identify tenants of non-registered providers who have additional housing costs as a result of their need for care, support or supervision. It is not enough to identify the fact that a person has a need for care, support or supervision as this may not make any difference to their housing costs.

We do not therefore support an attempt to divide up this wide range of housing for benefit purposes while data does not exist to make this possible or genuinely useful.

If the Department needs to introduce a change in time for the introduction of Universal Credit, we recommend it adopts a different approach, which we set out in our answer to question 9.

2. Should there be different geographical rates for each type of mainstream supported housing, such as hostels, sheltered housing or refuges or should a single rate be applied?

No one possesses comprehensive, national data on the rents of the conventional sheltered and supported housing of non-registered providers so there is no basis for anyone to answer the question with confidence.

Sitra believes it would not be appropriate for the Department to proceed with such a proposal in the absence of substantial evidence enabling it to set rates with an ability to estimate their potential impact.

For our part we do not believe it is currently possible for anyone to gather the necessary data quickly, then set the number of rates potentially required in time for an implementation date of April 2013.

We further believe attempts to define the different types of sheltered and supported housing in regulations would be fraught with difficulty and would lead to confusion, error and numerous appeals.

We recommend the Department adopts a different approach, which we set out in our answer to question 9.

3. What types of additional activities or resources are typical of supported housing and how should these be quantified into a weekly amount per unit?

Sitra knows the range of additional costs associated with sheltered and supported housing is very wide. At an event organised in Nottingham by our sister organisation HLG, one delegate from a local authority suggested, while a list of all these costs would be very long, they can probably be grouped under three broad headings relating to:

- people
- health and safety
- wear and tear

We found this distinction helpful.

However, even the Department's English research found it impossible to collect satisfactory data on these costs in the conventional sheltered and supported housing of non-registered providers, so there is currently no basis for saying what a typical weekly amount per unit might be – or if there is no such thing as a typical weekly amount per unit at all.

Nor does the Department indicate what is to happen in cases where a claimant's costs are untypically but unavoidably high. Under the Department's proposals there would in such a case be a shortfall and it might be so great it could not be covered from the rest of a claimant's income.

Sitra believes it would not be appropriate for the Department to proceed with a proposal to set such a weekly addition to a Local Housing Allowance rate in the absence of substantial evidence enabling it to fix such weekly additions with an ability accurately to estimate their potential impact.

We recommend the Department adopts a different approach, which we set out in our answer to question 9.

4. Should an amount for the additional help be worked out using a flat rate addition representing typical additional costs or should a different method be used? Please tell us what you think are the advantages of your preferred option.

Sitra believes the Department is in no position to identify how, if at all, a flat-rate addition to Local Housing Allowance could be made to work for the wide range of sheltered and supported housing of non-registered providers it would potentially cover.

We recommend the Department adopts a different approach, which we set out in our answer to question 9.

Specialist individual housing

5. What types of supported housing would fall into this group and how do you suggest they should be identified?

The Department envisages writing regulations distinguishing the "conventional" sheltered and supported housing of non-registered providers from "individually tailored" sheltered and supported housing where the landlord is not a registered provider.

Sitra does not believe the distinction drawn by the Department can be successfully made in regulations or in practice.

6. What types of higher housing costs are typical of this type of supported housing that are over and above adaptations or specialist equipment, which have funding sources elsewhere and how should these be quantified?

The Department's English research found it impossible to collect satisfactory data on these costs, so Sitra believes there is currently no basis nationally for saying what types of higher housing costs are typical – or if there are no typical higher housing costs at all.

7. Would the additional help for those with very individual housing needs be better met from separate funding administered by local authorities, expert in providing housing and/or care in the community?

Sitra believes the Department is mistaken in believing local authorities generally have expertise in relation to the cost of developing or running sheltered or supported housing.

There are housing authorities that continue to own and run sheltered housing, some of which do also have recent experience of the costs of developing or refurbishing it. But many authorities, including all the English shire counties, are not in this position.

Very few English local authorities have recent experience of owning, running, developing or refurbishing other kinds of supported housing.

Upper-tier authorities in England do now have eight years' experience of commissioning housing-related support but this function has not required them to understand the housing costs that fall on landlords, nor do most understand them.

This is not a criticism of these authorities: there is currently no reason why they need to understand the landlord's housing costs. The only reason these authorities could have for acquiring this understanding is if the Department assigns this new function to them.

In the case of adult social care many local authorities do have recent experience of owning, running, developing and refurbishing residential care homes but we believe this will be of no help to them in relation to specialist individual housing.

We recommend the Department adopts a different approach, which we set out in our answer to question 9.

8. Which tier of local government should have responsibility for deciding how extra help should be allocated? And, which department within a local authority do you think is best placed to manage the allocation of this funding?

Sitra believes there is no right answer to this question. Where two tiers exist in English local government, they have different statutory responsibilities and therefore are likely to have different priorities.

If the Department were to go ahead with this aspect of its initial proposals, we believe the results will be different according to the decision it takes in relation to this question; the results will not simply be better or worse.

We are surprised the Department should be considering instructing single-tier authorities in which department they should place this responsibility as this would appear to be something they might be best placed to decide for themselves.

We recommend the Department adopts a different approach, which we set out in our answer to question 9.

9. Should a different method be used? If so please explain.

Sitra believes the best and certainly the simplest approach to providing help within Universal Credit with the higher housing costs of tenants in supported and sheltered housing lies in applying the checks the Department proposes to apply to tenants of the

sheltered and supported housing of registered providers to all such tenants whoever their landlord.

These checks are the ones which local authorities currently apply to the general needs tenants of registered providers, namely checks as to whether:

- a service charge is ineligible
- an individual service charge is unreasonably high
- a rent is unreasonably high
- a tenant's accommodation is too large
- a rent increase is unreasonably high.

The Department's approach accepts that it is reasonable for the hundreds of thousands of claims of tenants of registered providers to continue to be handled using this existing approach. We agree.

We believe if these checks are going to be followed for these enormous numbers of claims, then the simplest approach is also to handle the small minority⁵, the claims of tenants of sheltered and supported housing of non-registered providers, in the same way – rather than create a whole new system for dealing with them.

Like the Department's initial proposals, our approach will require its staff to recognise at least three separate groups of claims from those they receive. Those of:

- all tenants of registered providers
- tenants of the sheltered and supported housing of non-registered providers
- all other tenants of non-registered providers.

But unlike the Department's initial proposals, our approach only requires the Department's staff to follow two different processes:

- one for all tenants of registered providers and for tenants of the sheltered and supported housing of non-registered providers
- the other for all tenants of mainstream housing of non-registered providers.

The subsidy framework

We do not believe the issue should be confused by approaching the subject with minds cluttered by the rules set up to determine the level of subsidy currently payable to local authorities in respect of benefit paid: these rules will be rendered obsolete when Universal Credit replaces Housing Benefit.

Under the exempt accommodation rule, the main function of the rent officer referral in sheltered and supported housing cases is currently to determine the subsidy payable to the authority, not the benefit payable to the claimant.

We see no reason to extend the role of rent officers in relation to tenants of sheltered and supported housing. On the contrary, with the disappearance of the Housing Benefit subsidy system, we believe their role can actually be reduced.

We recommend claims from tenants of sheltered and supported housing should only be referred to rent officers if either the rent or an individual service charge is unreasonably high – whether or not their landlord is a registered provider.

Benefits of our proposals

We acknowledge that even local authorities have found it difficult to restrict rents in sheltered and supported housing under the exempt accommodation rule because of the

⁵ 40,000 current claimants in non-registered providers' sheltered and supported housing in England on the Department's estimate compared with 400,000 units of such housing belonging to registered providers.

need to show – in cases where the claimant is old, incapable of work, or responsible for a child or young person – that:

- alternative accommodation exists which is in fact suitable
- suitable alternative accommodation exists which is actually available
- it is reasonable to expect the claimant (and, where relevant, certain other occupants) to move.

A number of Upper Tribunal cases have demonstrated that a small number of non-registered providers have exploited these problems to charge what appear to be excessive rents. We are confident there will be quickly be a reduction in spending if the rents of any such rogue providers cease to be met in full.

Our proposals meet all the objectives set out in paragraph 35 of the Department's paper but we believe under our proposals there will be less scope for confusion, error and disputes precisely because our proposals are much simpler.

Our proposed procedure would also ensure all tenants on low incomes receive an appropriate level of help with the housing costs of sheltered and supported housing, whereas lack of relevant information prevents the Department ensuring this in any other way if the exempt accommodation rule is abolished.

Unreasonably high rents

An important issue is how the Department's staff can successfully spot housing costs which are unreasonably high so they can refer them to rent officers.

The Department's proposals assume, rightly, that the rents of registered providers are unlikely to be unreasonably high as these are already regulated: the target rents for all registered providers in England can all be looked up and regulatory requirements limit registered providers to setting service charges merely to recover their costs.

So the problem lies primarily with the unregulated rents of non-registered providers.

One option is clearly to seek to create a vetting process that enables the Department to be satisfied some other public body has scrutinised rents of non-registered providers of sheltered and supported housing, relieving the Department of grounds for concern in much the same way as already happens with the social housing regulators.

Sitra is aware some organisations think this could be a role for housing or social services authorities in England⁶ or for the devolved administrations in Scotland, Wales and Northern Ireland.

We believe the two greatest mistakes would be to:

- use ordinary private rented sector market data to cap benefit for tenants of the sheltered and supported housing of non-registered providers
- create a situation where in future sheltered or supported housing tenants with the same rent in the same area had benefit paid in full or restricted solely according to whether their landlord was or was not a registered provider.

The Department's own research found the volume of such housing is very small in any one Broad Rental Market Area and we believe little of it would pass the tests to be used for Local Housing Allowance rates as so many of the tenants receive Housing Benefit.

Two alternative ways for the Department's staff to check the reasonableness of rents have been put forward to us which we suggest the Department considers:

⁶ A parallel could perhaps be drawn with the short form Community Care Assessment which the Transitional Housing Benefit system (2000-03) required from a social services authority before housing-related support costs could be eligible for Housing Benefit if a tenant had a private landlord.

- Extensive data is available which the Department's staff could use to decide if the rent of a tenant of sheltered or supported housing of a registered provider is unreasonably high. In the absence of any other body of relevant data, the Department's staff could use this data as a guide for all cases.⁷
- We are advised that some disability organisations have developed a template which they have shared with the Department which shows the likely cost of providing supported housing and this provides a way of evaluating whether a rent is unreasonably high. This approach would, for example, take account of the costs of providing such housing without capital subsidy from public funds.

Whatever approach the Department adopts, it is essential claimants have a means of challenging any decision that may cost them their home.

The future

Once the Department has a means of flagging these cases and examining the data relating to them, it may then consider whether it is practicable to move towards a degree of standardisation.

10. How can funding be made sufficiently flexible to changing caseloads and demands without being unlimited or increasing unit costs compared to the existing system?

Sitra believes this problem arises from the nature of the Department's proposals and in particular the danger that if flat rate amounts are used, non-registered providers whose rents are currently lower than any new ceilings will raise their rents to obtain the "spare" benefit available.

We do not believe this is an issue with our proposal, described in our answer to question 9, because checks will be made on all the rents of non-registered providers while regulators will limit the rents registered providers charge.

Since the vast majority of claimants will be tenants of registered providers, regulators' decisions regarding core rents will be a major factor in whether spending increases.

We believe under our proposals spending would probably fall initially for the reasons we stated in our answer to question 9: that seemingly excessive rents charged by a small minority of non-registered providers would no longer be met in full by Housing Benefit.

Wider reform

11. Is there a case for considering housing costs more fundamentally within a wider context by having the additional costs associated with supported housing taken out of Housing Benefit altogether and administered locally in the same way as Personal Budgets?

Sitra believes very few upper-tier authorities in England are currently in a position to take on this responsibility. Progress in rolling out personal budgets for adult social care clients is uneven and it is not clear if it will be complete even by April 2013.

We do not believe it is appropriate for the Department to place such a responsibility on English, Scottish and Welsh social services authorities by a set of benefit regulations.

We believe there is a case for the promised reform of English social care legislation to include a requirement for upper-tier local authorities to conduct a holistic assessment of a person's health, housing, care and support needs.

But without such a requirement we do not see how local authority staff could be expected to develop the skills and experience for the role here suggested.

⁷ In England there are two relevant data sets currently gathered via the Tenant Services Authority: the Regulatory & Statistical Return (RSR) and the Continuous Recording system for New Lettings (CORE)

12. Would this sort of approach only be appropriate for those that live in more specialised or adapted properties?

Sitra does not believe this approach would currently be appropriate at all for the reasons we gave in answer to question 11.

Supported housing of registered providers and social landlords

13. Should the supported housing of registered providers be treated in the same way, for Housing Benefit purposes, as their mainstream housing?

If Housing Benefit is abolished and help with the cost of rented housing transfers to the Department's proposed Universal Credit, Sitra accepts the Department will not be able to administer the current exempt accommodation rule as it will probably not have staff on the ground who can gather the evidence necessary to make the decisions currently required as to whether:

- alternative accommodation exists which is in fact suitable
- suitable alternative accommodation exists which is actually available
- it is reasonable to expect the claimant (and, where relevant, certain other occupants) to move.

In these circumstances, we agree the best alternative is for all tenants of registered providers to have their claims administered in the same way which we believe means the Department's staff will typically check whether:

- a service charge is ineligible
- an individual service charge is unreasonably high
- a rent is unreasonably high
- a tenant's accommodation is too large
- a rent increase is unreasonably high.

14. What do you think of the proposed categorisation of supported housing; is there a sound basis for treating these three types of supported housing differently? (registered providers, those who can be identified by their accommodation type and those with more intense, individual needs)

Sitra believes it is possible but undesirable to treat the claims of tenants of sheltered and supported housing differently according to whether their landlord is a registered provider.

We believe it will be very difficult for the Department to construct a satisfactory modification to Local Housing Allowance for tenants of sheltered and supported housing whose landlord is not a registered provider so we feel it would be better to use not three approaches but just one for all sheltered and supported housing claims.

We recommend the Department adopts a different approach, which we set out in our answer to question 9. We believe our approach will avoid the new scope for confusion, error and appeals which we fear would follow from the Department's initial proposals.

15. Is the process of rent-officer referral sufficient to ensure that only 'reasonable' supported accommodation costs are met in the registered provider sector? Are there ways in which the rent referral process could be improved?

Sitra agrees that a power for the Department's staff to refer unreasonable costs to a rent officer is sufficient to ensure that only reasonable housing costs are met in sheltered and supported housing, whether or not the landlord is a registered provider.

We welcome the suggestion we have heard made by civil servants that protocols will be written to assist staff in considering the reasonableness of housing costs and ensure consistency in referral decisions, and believe it is important the Department consults widely on the drafting of whatever guidance it eventually provides to its staff.

Transitional arrangements

16. How do you think the new rules should be introduced?

Sitra believes the first step in dealing properly with any change to the handling of any sheltered and supported housing claims such as will result from the abolition of the exempt accommodation or the introduction of Universal Credit will be to ensure local authorities can identify these claims in advance of the change.

If the Department proceeds with its initial proposals, we believe it is essential local authorities begin to flag all affected cases from October 2013 so there is a full year's data before the Department begins to handle claims.

Without such information the Department would find it impossible to identify how much money any local authority would require to carry out the functions it envisages in cases of specialist individual housing.

Many people in the supported housing sector would be very concerned if local authorities were not provided with the full amount needed in the form of a specific grant since they are currently under great financial pressure.

We also believe there must be a form of transitional protection for claimants which reflects the fact the Department's proposals would represent from their point of view a major, retrospective change in their situation.

The great majority of tenants of sheltered and supported housing have moved into their homes on an indefinite basis: they generally intend it to be their home for the rest of their life and they made a decision to move some time ago on the basis that Housing Benefit would cover their housing costs.

Traditionally, in these situations, the government might have offered transitional protection for an indefinite period and we would be interested to hear the reasons if on this occasion less protection or none at all is offered.

Where vulnerable tenants lose their homes as a result of loss of benefit, there may be a cost to local authorities under either their homelessness or social care duties and transitional protection could avoid this happening and prevent what might be seen as a cost shunt from the Department to those local authorities – the exact opposite of the joined up approach which we feel the government owes these vulnerable people.

Sitra would be happy to provide further information on any of the issues discussed above.
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Appendix 1: Variation in situation for registered providers in two boroughs

Sitra examined the evidence available from the Regulatory & Statistical Return (RSR) on the gross rents charged by registered providers (RPs) for sheltered and supported housing in two boroughs.

We chose the boroughs as ones of which we have particular knowledge from our work:

- Lambeth happens also to be the borough where our head office is sited
- Rotherham is a borough where we recently conducted a study of the impact of changes to Local Housing Allowance (LHA).

The RSR shows an average for each local authority for every registered provider. The RSR does not show separate averages for supported housing and housing for older people. We have shown below figures taken from the 2011 RSR and further below we have shown for comparison relevant Local Housing Allowance and Local Reference Rent (LRR) rates.⁸

We believe these tables demonstrate how difficult it would be to adopt a flat-rate approach even at the level of an individual local authority or Broad Rental Market Area, let alone regionally or nationally, if anything like this degree of variation exists in the rents of non-registered providers' sheltered and supported housing.

Local authority	Lambeth		Rotherham	
	Bedspace	Bedsit	Bedspace	Bedsit
RP with highest average	£199.60	£155.95	£194.12	£163.68
RP with lowest average	£85.52	£91.06	£98.49	£72.02
RP average for local authority	£146.64	£125.88	£114.41	£110.89

Broad Rental Market Area	Inner South East London ⁹	Rotherham ¹⁰
LHA: shared room rate	£85.00	£58.50
LHA: one bedroom rate	£184.62	£78.46
LRR: one room (shared facilities)	£98.08	£61.20
LRR: one room (self contained)	£144.43	£63.46

⁸ We have used LHA rates for October 2011 and LRR figures for end September 2011, obtained in both cases from the Valuation Office Agency website.

⁹ Part of the borough falls within the Inner South West London Broad Rental Market Area.

¹⁰ A very small part of the borough falls within the Sheffield Broad Rental Market Area.