

# SUPPORTED HOUSING (REGULATORY OVERSIGHT) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Supported Housing (Regulatory Oversight) Bill as introduced in the House of Commons on 15 June 2022 (Bill 19).

These Explanatory Notes have been prepared by the Department for Levelling Up, Housing and Communities with the consent of Bob Blackman MP, the Member in charge of the Private Member's Bill in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.

These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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## Overview of the Bill

The Bill is intended to regulate accommodation services which are the subject of Housing Benefit (HB) legislation that has the effect of exempting residents from the Benefit Cap and maintains HB as the source of housing support for them in welfare benefits. This accommodation is known as ‘exempt accommodation’ or ‘specified accommodation’ or more generally as ‘supported housing’. This Bill introduces various measures that will enhance local authority oversight of supported housing.

The Bill contains the following provisions:

### *Advice, strategy and standards*

- 1 Supported Housing Advisory Panel
- 2 Local supported housing strategies
- 3 National Supported Housing Standards

### *Licensing*

- 4 Licensing regulations
- 5 Further provision about licensing regulations
- 6 Consultation
- 7 Local Housing Authority functions

### *Planning and homelessness*

- 8 Planning
- 9 Homelessness

### *Information*

- 10 Sharing of information relating to supported exempt accommodation
- 11 Use of information obtained for certain statutory purposes

### *Interpretation and final provisions*

- 12 Meaning of “supported exempt accommodation”
- 13 Other interpretation etc
- 14 Commencement, extent and short title

## Policy background

### **Supported housing**

In normal use the term “supported housing” is used to describe housing that has been made available in conjunction with housing-related support to groups who require help to live independently or to move towards living independently in mainstream housing. Supported housing may be purpose-designed, including adaptations appropriate for the groups it is intended for; or it may be designated as supported housing by a provider who intends to rent it to specific groups with the accommodation offer combined with support. Some supported housing will also feature communal space enabling residents to mix and partake in group activities.

‘Exempt accommodation’ broadly describes the accommodation types that are exempt from the Benefit Cap in welfare regulations. This term also takes on different meanings in different contexts, for instance it describes a sub-set of ‘Specified Accommodation’ in HB regulations and is increasingly used as shorthand for poor-quality supported housing.

Specified accommodation is defined in the Housing Benefit and Universal Credit (Supported Accommodation) Regulations 2014 and includes: exempt accommodation (as defined in paragraph

4(10) of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006); managed accommodation; accommodation provided to victims of domestic abuse; and hostels provided by a local authority.

### **Quality concerns**

Significant concerns about the quality of accommodation and support are being reported in parts of the supported housing sector, often in short-term accommodation with support services that have not been commissioned by the local authority, and which houses some of the most vulnerable. This poor-quality supported housing is leaving vulnerable people at significant risk – in unsafe accommodation with little to no support, and is often a blight on neighbourhoods because of increased rates of crime and anti-social behaviour.

Providers of this accommodation are exempt from the benefit cap and other restrictions in HB, enabling them to charge high rents that are met by HB. The exemption is intended to recognise the legitimately higher cost of running supported schemes. However, some providers are claiming the high rates of rent available through tenants' HB payments, and in return are providing poor, even dangerous, quality provision.

### **Government action**

Between October 2020 and September 2021, DLUHC invested £5.4m in year-long pilots in five local authorities to test interventions to drive up quality and value for money. The independent evaluation of the pilots found them to be successful but concluded that, in order to fully address quality concern, regulation would be required. These pilots have been built upon by a £20million Supported Housing Improvement Programme that will commence later in 2022/23.

On 17th March 2022, the Government announced its intention to regulate supported housing, including giving LAs powers to enforce quality standards. The Written Ministerial Statement on the package of measures is here:

<https://questions-statements.parliament.uk/written-statements/detail/2022-03-17/hcws696>.

### **The Supported Housing (Regulatory Oversight) Bill**

This Bill has been introduced by Bob Blackman MP to make provision about the regulation of supported exempt accommodation; to make provision about local authority oversight of, and enforcement powers relating to, the provision of supported exempt accommodation; and for connected purposes.

## **Legal background**

There is presently no legislation in respect of supported housing which directly regulates the standard of the support provided to residents or that provides enforcement powers to local authorities, meaning providers are able to claim high rates of HB but are not subject to any regulation in respect of the service provided.

## Territorial extent and application

Clause 14(1) sets out the territorial extent of the Bill, that is the jurisdictions of which the Bill forms part of the law. The extent of a bill can be different from its application. Application is about where a Bill produces a practical effect.

The Bill extends to England and Wales only. The Bill applies to England only. This reflects the fact that housing is a devolved matter for Scotland, Wales and Northern Ireland.

There is a convention that the United Kingdom Parliament will not normally legislate with regard to matter that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned.

If, following the introduction of the Bill, there are amendments relating to matters within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, the consent of the relevant devolved legislature(s) would be sought for the amendments.

## Commentary on provisions of Bill

### Advice, strategy and standards

#### Supported Housing Advisory Panel

The Secretary of State must appoint a panel of persons that represent the interests of certain stakeholders specified in subclause 1(2) to the “Supported Housing Advisory Panel”. After consulting the existing members of the panel, the Secretary of State must also appoint a person to chair who will also become a member of the panel on appointment. Appointments to the panel may be for a term not exceeding five years with the possibility of one further reappointment. The Supported Housing Advisory Panel is to provide information and advice about or in connection with supported exempt accommodation, including information or advice about anything which the Panel views could have a significant impact on the provision or regulation of supported exempt accommodation, to the Secretary of State and other bodies in England.

#### Local supported housing strategies

Clause 2(1) places a duty on local housing authorities in England to carry out a review of the supported exempt accommodation in their districts and, in light of that review, publish a “supported housing strategy” for the provision of supported exempt accommodation. A supported housing strategy must include a local housing authority’s assessment of the current availability of supported exempt accommodation in its district, the likely need for supported exempt accommodation in its district and such other matters as may be specified by the Secretary of State in regulations. Local housing authorities must comply with this requirement by a date prescribed by the Secretary of State in regulations, and thereafter, periodically in accordance with subclause 2(2)(b). A social services authority in England must provide reasonable assistance to the local housing authority for its district (where that is a different authority) in connection with a local housing authority’s review of supported exempt accommodation and publication of a supported housing strategy. A local housing authority and a social services authority must have regard to the relevant supported housing strategy

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in the exercise of its functions. The Secretary of State may issue guidance which a local housing authority or social services authority must have regard to in relation to the exercise of their functions under this clause.

## National Supported Housing Standards

Clause 3 allows the Secretary of State to prepare and publish “National Supporting Housing Standards” for England, in relation to any aspect of the provision of supported exempt accommodation, but in particular, to set minimum standards in respect of the type or condition of premises used for the provision of supported exempt accommodation or the provision of care, support or supervision at supported exempt accommodation. Such standards must be kept under review and the Secretary of State may publish amended or replacement standards or withdraw standards, whenever it is considered appropriate by such means as is considered appropriate.

## Licensing

### Licensing regulations

Clause 4(1) provides the Secretary of State with a power to make licensing regulations in respect of supported exempt accommodation that is within clause 12(2) and located within a designated district. If, at the end of the period of one year beginning on the day the Bill is passed, the power under clause 4(1) has not been exercised, the Secretary of State must publish a report on progress.

Clause 4(3) provides the Secretary of State with a power to make licensing regulations in respect of supported exempt accommodation that is not within clause 12(2) and located in a designated district. The powers under clauses 4(1) and 4(3) are to be exercised with a view to securing that the National Supported Housing Standards of Clause 3 are met. The licensing regulations must include provisions under which a local housing authority may designate its district. The licensing regulations may include provisions requiring a local authority to designate its district for the purposes of the regulations if conditions specified in the regulations are met and may include provisions under which the Secretary of State may designate, or revoke a designation of, a local authority’s housing district for the purposes of the regulations.

### Further provisions about licensing regulations

Clause 5(1) lists matters which may be included in the licensing regulations.

Clause 5(2) provides that provision about how an application for a licence can be made and the circumstances in which a license may be granted, varied or revoked, includes requirement of a fit and proper person test and provision requiring a licence to be revoked if the licensing authority ceases to be so satisfied.

Clause 5(3) provides that conditions that may be attached to a licence include conditions relating to the standard of accommodation, conditions relating to the use of accommodation, conditions relating to the provision of care, support or supervision and conditions requiring compliance with National Supported Housing Standards (whenever published).

Clause 5(4) provides that enforcement of licensing regulations includes provision for an offence under the licensing regulations to be: a relevant housing offence for the purposes of section 249A of the

Housing Act 2004 (financial penalties for certain housing offences in England); a banning order offence for the purposes of Chapters 2 and 3 of Part 2 of the Housing and Planning Act 2016 (banning orders and database of rogue landlords etc); an offence to which Chapter 4 of that Part of that Act (rent repayment orders) applies.

Clause 5(5) provides that provisions that may be made under clause 5(1)(e) about other consequences of compliance or non-compliance with regulations or with conditions attached to licences includes provision disapplying any requirement relating to HMO licensing or selective licensing, limiting the housing benefit payable in respect of accommodation that is required to be licensed under licensing regulations by is not so licensed, or limiting the rent that may be determined under section 14 of the Housing Act 1988 (determination of rent by tribunal) in respect of such accommodation.

Clause 5(7)(a) provides that licensing regulations may amend, repeal or revoke any enactment. This clause is linked to clause 5(5) and 5(1)(e) which provide for other consequences of compliance or non-compliance with licensing regulations or with conditions attached to licenses.

## Consultation

This clause places a duty on the Secretary of State to consult statutory consultees before exercising the power to make licensing regulations under clause 4 (1) and clause 4 (3).

These consultations must set out how Secretary of State plans to approach matters listed in clause 5 (a) to (j) when making licensing regulations and ask statutory consultees for their views on those proposals. The Secretary of State must also ask statutory consultees for views on the licensing regulations being an effective means of securing that National Supported Housing Standards are met and any additional mechanisms for securing compliance with such Standards. The statutory consultees are the Local Government Association, the National Housing Federation and the Regulator for Social Housing.

## Local housing authority functions

Clause 7 places a duty on local housing authorities, in the exercise of their functions under licensing regulations, to have regard to National Supported Housing Standards and any guidance issued by the Secretary of State for the purposes of clause 4 subsections (1) and (3).

## Planning and homelessness

### Planning

Clause 8 requires the Secretary of State to carry out a review, after a specified period of time, of the effect of the first licensing regulations on the type and condition of premises used for the provision of accommodation within section 12(2) and the provision of care, support and supervision at such accommodation. In light of that review, the Secretary of State must then consider whether to exercise the power under section 55(2)(f) of the Town and Country Planning Act 1990 to specify such accommodation as a use class.

### Homelessness

Clause 9 provides that in relation to a person leaving supported exempt accommodation, such person will not be treated as intentionally homeless for the purposes of section 191 of the Housing Act 1996, where the reason for leaving related to the standard of the accommodation or care, support or

supervision provided, and the accommodation does not meet the National Supported Housing Standards.

## Information

### Sharing of information relating to supported exempt accommodation

Clause 10 allows the Secretary of State to make regulations requiring or authorising specified persons to share information relating to supported exempt accommodation.

### Use of information obtained for certain statutory purposes

Clause 11 provides that a local housing authority in England may use information obtained by the exercise of its functions, under the specified legislation relating to housing benefit or council tax, for any purpose connected with the exercise of any of the authority's functions under the Bill, or otherwise relating to specified exempt accommodation, or for the purposes of investigating whether any offence has been committed by virtue of the Bill.

## Interpretation and final provisions

### Meaning of “supported exempt accommodation”

Clause 12 contains the definition of “supported exempt accommodation”.

### Other interpretation etc.

Clause 13(1) contains a list of relevant definitions that appear in the Bill. Clause 13 (2) provides that regulations under the Bill are to be made by statutory instrument.

### Commencement, extent and short title

Clause 14(1) provides that the territorial extent of measures in the Bill is England and Wales.

Clauses 14(2) makes provision for the commencement of the Bill.

Clauses 14(3) and 14(4) allow the Secretary of State to make transitional etc. regulations.

Clause 14 (4) sets the short title which would apply to this Bill if enacted.

## Commencement

Clause 14(2) provides that the Bill comes into force at the end of the period of two months beginning with the day on which it is passed.



## Financial Implications of the Bill

The Bill will have financial implications for the public sector, including local government. These include:

- i. The requirement for local housing authorities in England to carry out a review of the supported exempt accommodation in its district and in light of that review publish a strategy for the provision of supported exempt accommodation in its district. There will be further costs for subsequent reviews and strategies required periodically.
- ii. Costs related to the Supported Housing Advisory Panel.
- iii. There will be financial costs for local housing authorities that have opted to run and enforce a licensing scheme, or once a decision has been made to designate a district as subject to licensing, whether compliance is required in relation to a licence granted by a local housing authority or granted by the Secretary of State.
- iv. There will also be new costs associated with any licensing regulations with respect to additional claims made to the relevant tribunal as a result of the legislation including, in particular, the appeals process.

## Parliamentary approval for financial costs or for charges imposed

Any proposal in a bill which creates a charge upon public funds (i.e., that may involve central government expenditure) must be authorised by a money resolution.

A money resolution is required to authorise clause 4 which deals with licensing regulations. The licensing regime will result in increased expenditure by local housing authorities for districts to which the regulations apply. This expenditure may be met out of central funds by way of revenue support grant. The expenditure involved is dependent on the number of local housing authority districts that are designated under the regulations.

## Compatibility with the European Convention on Human Rights

Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions of the bill with the Convention rights (as defined in section 1 of the Act). However, it is not necessary for ministers to sign a statement under section 19 Human Rights Act 1998 in respect of compatibility with the ECHR if the bill is a private member's bill.

## Compatibility with Section 20 of the Environment Act

The Secretary of State for Levelling Up, Housing and Communities is of the view that this Private Member's Bill as introduced into the House of Commons does not include provisions which would be incompatible with environmental law.

### Related documents

The following document is relevant to the Bill and can be read at the stated location:

- Housing Update, Statement made on 17 March 2022 by Eddie Hughes, Parliamentary Under Secretary for Rough Sleeping and Housing, Statement UIN HCWS696  
[Written statements - Written questions, answers and statements - UK Parliament](#)

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