

# Specialised supported housing

Guidance for local government  
and NHS commissioners

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# Summary

Supported housing is typically defined as a housing service where housing, support and/or care services are provided to help people to live as independently as possible. Supported housing provides homes for a wide range of people including older people, people with a learning disability and autistic people, people with mental health related needs, vulnerable young people and people who have experienced homelessness.

This is guidance for local government and NHS commissioners about a category of supported housing referred to as ‘Specialised Supported Housing’ (SSH), particularly **lease-based** models of SSH. This follows guidance on specialised supported housing providers<sup>1</sup> issued to commissioners in 2019 by NHS England and NHS Improvement, the Local Government Association (LGA) and the Association of Directors of Adult Social Services (ADASS).

SSH is defined within the Government’s policy statement on rents for social housing (2020) as supported housing:

- a. which is designed, structurally altered, refurbished or designated for occupation by, and made available to, residents who require specialised services or support in order to enable them to live, or to adjust to living, independently within the community;
- b. which offers a high level of support, which approximates to the services or support which would be provided in a care home, for residents for whom the only acceptable alternative would be a care home;
- c. which is provided by a private registered provider under an agreement or arrangement with a local authority or a health service (within the meaning of the National Health Service Act 2006);
- d. for which the rent charged, or to be charged, complies with the agreement or arrangement mentioned in paragraph (c); and
- e. in respect of which at least one of the following conditions is satisfied:
  - i. there was no, or negligible, public assistance, or
  - ii. there was public assistance by means of a loan (secured by means of a charge or a mortgage against a property).

SSH is typically provided by registered providers of social housing. Most non-profit registered providers (RPs) are also known as housing associations. SSH is a sub-category of supported housing that is exempt from usual social rent setting requirements as set out in the Rent Standard (these are requirements for registered providers in England in relation to social rent setting) and the Government's Policy statement on rents for social housing. However, it is important to note that SSH rents must be below market rent in order to meet the definition of supported housing, which is defined in the Government's Policy statement on rents and in turn references low cost rental as defined in s.69 of the Housing and Regeneration Act 2008<sup>2</sup>.

This guidance is intended to assist commissioners to take informed, risk-based decisions about SSH, particularly lease-based SSH. This is in the context of the Regulator of Social Housing's (RSH) document Lease-based providers of specialised supported housing. Addendum to the Sector Risk Profile 2018<sup>3</sup> published in April 2019 which provides an overview of the lease-based model and the risks associated with it.

This guidance for commissioners covers:

- how best to ensure that SSH, including the current lease-based model of SSH, works well for the people living in such supported housing
- considerations about the **sustainability** of existing lease-based SSH schemes
- considerations about **entering into new** lease-based and other SSH arrangements.

# Glossary

## **Care Quality Commission**

The regulator of all health and social care services in England.

## **Exempt accommodation**

A category of supported housing created in 1996 to enable housing benefit to cover the additional costs of providing supported housing.

## **Housing benefit**

Financial support paid to tenants (or to landlords on their behalf) for people who are out of work or on low incomes to help pay their rent. The amount payable will depend on the level of rent charged and the claimant's circumstances and income.

## **Lease-based model of supported housing**

Where a housing provider enters into, typically, a long-term lease arrangement with investors or developers to deliver housing rather than acquire or own the housing stock directly.

## **Registered provider**

English providers of social housing (including supported housing) which are registered with the RSH.

## **Regulator of Social Housing**

The RSH regulates registered providers of social housing in England.

## **Rent standard**

Identifies categories of housing that are exempt from social rent setting requirements in England.

## **Service charge**

Service charges are paid by tenants to meet the cost of any services provided by their landlord that are not included within the rent.

## **Specified accommodation**

Categories of supported housing specifically recognised within housing benefit regulations. Individuals living in such accommodation are exempt from welfare reform provisions, such as the benefit cap, housing benefit no longer being paid direct to the landlord, and in some circumstances the removal of the spare room subsidy

## **Voids**

Vacant (un-let) housing units.

# Introduction

**This is an advice note for local government and NHS commissioners about specialised supported housing (SSH) from the LGA, supported by NHS England and Improvement (NHSE/I).**

It has been produced by the Housing Learning and Improvement Network<sup>4</sup> (Housing LIN) based on extensive discussions with a wide range of sector stakeholders, including housing providers and Government departments. It is intended to provide advice for local government and NHS commissioners specifically in relation to SSH, particularly lease-based models of SSH. It follows on from guidance issued to commissioners in 2019 by NHSE/I, the LGA and ADASS.<sup>5</sup>

The overarching purpose of this guidance is to support commissioners to protect and promote the best interests of people with a learning disability and autistic people, and other people with support needs, in the course of commissioning solutions with and for people who might otherwise not be able to live in housing which supports their health and wellbeing.

It should be noted that there is nothing inherently concerning about the leasing of property to be used as supported housing or the use of leased property within the specific definition of SSH contained in the policy statement on rents for social housing (2020).<sup>6</sup>

This advice is intended to assist commissioners to take informed decisions about SSH, particularly lease-based SSH, in the context of the RSH's regulatory judgements and notices about a relatively small number of registered providers operating this lease-based model of SSH.

It covers advice for commissioners regarding:

- how best to ensure the current SSH lease-based model works well for the people living there
- considerations about the sustainability of existing lease-based SSH schemes
- considerations about entering into new lease-based and other SSH arrangements.

The advice is predicated on the underlying principle that all housing solutions should be designed to ensure the best interests of the people who will be living in the housing. At the heart of this is a focus on ensuring the security of tenure and a sustainable housing solution for tenants, who in many cases will need a home for life, or at least for the long term.

# Background and context

## What is specialised supported housing?

Supported housing is typically defined as any housing service where housing, support and/or care services are provided to help people to live as independently as possible.

Within the supported housing sector there is enormous variation and diversity in the types of providers, scheme characteristics and 'models' of housing and support/care.

Supported housing is primarily provided by housing associations, local authorities, voluntary sector or charitable providers, ie not-for-profit organisations; many of these are registered providers of social housing. Some private sector 'for profit' organisations do provide supported housing, either as landlords and/or as support providers. Some of this supported housing falls within the definition of SSH (below).

The Rent Standard<sup>7</sup> (which sets out requirements for registered providers (RPs) of social housing in England in relation to rent setting) identifies categories of housing that are exempt from social rent setting requirements. These exemptions include a sub-category of supported housing defined as 'specialised supported housing'. A consequence of this exemption from the rent standard is that RPs can charge higher rents and have these eligible housing costs covered by housing benefit.

The Government's policy statement on rents for social housing (2020)<sup>8</sup>, defines supported housing as: the term 'supported housing' means low cost rental accommodation provided by a registered provider that:

- a. is made available only in conjunction with the supply of support;
- b. is made available exclusively to households including a person who has been identified as needing that support; and
- c. falls into one or both of the following categories
  - (i) accommodation that has been designed, structurally altered or refurbished in order to enable residents with support needs to live independently; and
  - (ii) accommodation that has been designated as being available only to individuals within an identified group with specific support needs.

For the purposes of this definition, 'support' includes:

- sheltered accommodation
- extra care housing
- domestic violence refuges
- hostels for the homeless
- support for people with drug or alcohol problems
- support for people with mental health problems
- support for people with learning disabilities
- support for people with disabilities
- support for offenders and people at risk of offending
- support for young people leaving care
- support for teenage parents
- support for refugees

SSH is defined within the policy statement on rents for social housing (2020)<sup>9</sup> as supported housing:

- a. which is designed, structurally altered, refurbished or designated for occupation by, and made available to, residents who require specialised services or support in order to enable them to live, or to adjust to living, independently within the community
- b. which offers a high level of support, which approximates to the services or support which would be provided in a care home, for residents for whom the only acceptable alternative would be a care home
- c. which is provided by a private registered provider under an agreement or arrangement with a council or a health service (within the meaning of the National Health Service Act 2006)
- d. for which the rent charged, or to be charged, complies with the agreement or arrangement mentioned in paragraph (c)
- e. in respect of which at least one of the following conditions is satisfied:
  - i. there was no, or negligible, public assistance, or
  - ii. there was public assistance by means of a loan (secured by means of a charge or a mortgage against a property).

This does not necessarily mean that it is 'specialised' in the everyday usage of that term; it can look like other supported housing that is not defined as SSH, although it may include supported housing that has adaptations to meet the specific social, behaviour-related and other needs of the tenants.



## Specialised Supported housing: capital funding

The typical capital funding sources for the development of SSH are summarised below.

- RPs that have both general needs housing and supported housing typically develop SSH using their lending facilities from mainstream banks or through a bond issue. This capital funding option tends to be used by larger RPs where SSH forms a small part of their overall housing stock.
- RPs that specialise in developing and managing supported housing, where SSH is just one part of their overall approach to developing supported housing, often use a mix of capital funding streams, eg through lending facilities from mainstream banks and social finance.
- Where RPs are managing SSH schemes, solely or predominantly through leasing arrangements with the developer/funder of the property, the capital funding is typically provided by investors such as Real Estate Investment Trusts (REITs). These RPs tend to vary in size but often have less than 1,000 units in management. **It is this model of SSH that has been highlighted in the recent regulatory notices and judgements of the RSH, and on which this advice note is primarily focused.**

## Specialised Supported housing: revenue funding

On 9 August 2018, the UK Government issued its response to the consultation on the funding for supported housing through which it committed to retaining the funding of housing costs of all supported housing within the welfare system.<sup>10</sup> In practice, this means that housing benefit will continue to meet the housing related costs of supported housing for the foreseeable future.

The amount of housing benefit payable to people living in supported housing (including SSH) is affected by how it is treated within housing benefit regulations. Housing benefit plays a significant role in meeting the cost of providing supported housing. It helps to meet the eligible housing-related costs, which might for example include: the costs of repairs, renewing furnishing and fittings and housing management costs.

Definitions of supported housing based on housing benefit regulations are complex and have changed over time. Most people living in supported housing, both people of working age and older people, are receiving housing benefit to help meet their eligible housing costs. See Annex A for more detail about supported housing and housing benefit.

Access to funding through the housing benefit system is an essential component of making SSH a financially viable and potentially attractive housing development and management option for investors and landlords. This is because the restrictions of the rent standard that apply to most social housing does not apply to SSH, however, it is important to note that SSH rents must be below market rent in order to meet the definition of supported housing, which is defined in the Government's Policy statement

on rents and in turn references low cost rental as defined in s.69 of the Housing and Regeneration Act 2008. All the residents living in SSH will be, in almost all cases, eligible to have their housing costs met by the welfare system, through housing benefit.

This means that rents in SSH are likely to be met by housing benefit providing they can be demonstrated to be 'reasonable' (ie in comparison with similar types of supported housing, which may not exist in any given council area) and 'justifiable' (ie the housing costs can be shown to be genuinely incurred by the landlord in relation to the provision of SSH). With often lengthy, index-linked lease terms (typically 20-25 years), investment in these types of models can appear to be an attractive long term proposition for some private investors.

## Regulation of supported housing

Registered providers of social housing, which includes supported housing, are regulated by the RSH. The Regulatory Standards of the RSH<sup>11</sup> are:

Economic standards covering:

- Governance and Financial Viability Standard
- Value for Money Standard
- Rent Standard
- Consumer standards covering:
  - Home Standard
  - Tenancy Standard
  - Neighbourhood and Community Standard
  - Tenant Involvement and Empowerment Standard

The RSH does not have the powers/remit to proactively regulate the consumer standards and can only use its regulatory and enforcement powers where there is/risk of serious detriment. More information can be found in Annex B of Regulating the Standards.<sup>12</sup>

RPs which have fewer than 1,000 social housing units collectively account for less than five per cent of the social housing sector's total assets, turnover and debt. They are subject to a different level of regulatory engagement. The RSH reviews the annual accounts of all providers in this category, as well as analysing information submitted via the Statistical Data Return and any notifications about disposals or constitutional changes. This is intended to be a proportionate approach to the regulation of smaller RPs. Many, but not all, RPs that provide SSH have less than 1,000 housing units. The RSH has been engaging with smaller RPs operating lease-based SSH given the risks associated with this model.

## Regulation of personal care

Personal care is regulated by the Care Quality Commission. As set out in the guidance, *Housing with care – Guidance on regulated activities for providers of supported living and extra care housing*,<sup>13</sup> the regulated activity ‘personal care’ covers the provision of personal care for people who need it because of old age, illness or disability, where the care is provided in the place they are living at the time it is provided.

In the guidance, the CQC defines supported living as a housing setting within which there is separation between a person’s care and their accommodation, and where separate legal agreements are in place for the provision of care and accommodation. All SSH provision would be expected to comply with this guidance. For all tenants living in SSH, a contract should be in place for the delivery of personal care (given the definition of SSH provided above, ie which includes the criterion that SSH ‘approximates to the services or support which would be provided in a care home, for residents for whom the only acceptable alternative would be a care home’). As with all providers of personal care, therefore, those supporting tenants in SSH must register with the CQC for carrying out this regulated activity.

## Regulatory issues identified by the RSH

Over the last few years there has been an increase in the number of small landlords that have become RPs, including landlords that provide lease-based SSH. Research by Mencap *Funded supported housing for all*<sup>14</sup> estimated there to be between 22,000 and 30,000 SSH units in England. This is two to three times the size of an earlier estimate of the size of the SSH sector.

Over recent months the long lease-based model of SSH has come under scrutiny by the RSH, particularly the governance and financial arrangements of some RPs that lease all or most of their housing stock from other organisations, typically private investors:

‘Since the near failure of First Priority Housing Association in early 2018, the RSH has been engaging with providers of this type of accommodation whose business model is predicated on taking long-term leases from property funds, to establish whether the issues at First Priority are replicated elsewhere. As a result of this work, the RSH has published *Lease-based providers of specialised supported housing. Addendum to the Sector Risk Profile 2018. April 2019. Regulator of Social Housing*<sup>15</sup> – a number of regulatory judgements and notices where it has identified concerns about the governance or financial viability of these providers.’

There are key considerations for investors and RPs developing and managing SSH, and for council commissioners using or planning to use SSH, arising from the RSH's regulatory judgements and notices linked to lease-based models of SSH. In summary, the RSH has identified the following recurring themes with this model of SSH:

- the concentration of risk that comes from having long-term, low-margin inflation-linked leases as a single source of finance
- the thin capitalisation of some of the RPs undertaking this model
- poor risk management and contingency planning undertaken by some of the RPs
- some inappropriate governance practices that have led to poor decision making
- a lack of transparency about whether appropriate rents are being charged.

More detail can be found in the RSH's document lease-based providers of specialised supported housing. Addendum to the Sector Risk Profile 2018 published in April 2019.

# Advice for commissioners

This section consists of ‘checklist’ style questions and prompts to assist commissioners to be fully aware of issues associated with lease-based SSH in their areas and actions they may need to consider or take:

- **Checklist 1:** for commissioners about ensuring the current model of lease-based SSH works well for the people living in such supported housing.
- **Checklist 2:** for commissioners about how best to ensure the sustainability of existing lease-based SSH schemes in the context of the issues highlighted by the RSH about this model of SSH.
- **Checklist 3:** for commissioners considering entering into new arrangements whether this is lease-based SSH or other models of SSH.

It should be noted that there will be some ‘cross over’ of issues and considerations between these checklists.

Annex B provides brief ‘case studies’ from commissioners of examples of positive practice in relation to some aspects of the ‘checklists’ below.

## Checklist one: for commissioners about ensuring that SSH, including the lease-based model of SSH, works well for the people living in such supported housing

| Key questions/ issues   | Why this matters   | Considerations/actions   |
|---|--|--|
| <b>Identify SSH schemes in council area</b>                                   | To be aware of the scale of SSH provision  | Contact the RPs that are operating in a council area to identify: <ul style="list-style-type: none"> <li>• how many RPs are operating SSH schemes</li> <li>• identify the number of SSH schemes</li> <li>• identify the RPs managing each SSH scheme</li> <li>• identify from these RPs, which are using a lease-based model of SSH.</li> </ul>  |
| <b>Does each SSH scheme meet all of the criteria in the SSH definition?</b>   | To ensure that each SSH scheme genuinely falls within the definition                                     | Meet with RPs providing lease-based SSH to review each scheme to ensure they fully meet the key SSH criteria: <ul style="list-style-type: none"> <li>• no, or negligible, public subsidy has been received, whether in the form of grant or free land</li> <li>• the scheme offers an appropriate level of care/support for clients, for whom the only acceptable alternative option is a placement in a care home</li> <li>• the scheme has been commissioned in line with local health or council adult services strategies and priorities.</li> </ul> |
| <b>Is it clear what has been commissioned in relation to each SSH scheme?</b> | To be aware of how each SSH scheme has been commissioned and what housing and care has been commissioned | Identify: <ul style="list-style-type: none"> <li>• how the housing has been specified and the arrangements or agreements that are in place.</li> <li>• how the care and support services have been commissioned</li> <li>• whether the housing and care/support services are meeting the person's assessed needs</li> </ul> <p>Consider what changes, if any, are required to the care/support and housing arrangements to best meet the person's assessed needs.</p>  |

| Key questions/<br>issues               | Why this matters   | Considerations/actions   |
|--|--|--|
| <p><b>Rent and service charges</b></p> | <p>To understand the rent and service charges being levied for SSH schemes</p> | <p>From meeting with RPs providing lease-based SSH schemes and with housing benefit teams within the council:</p> <ul style="list-style-type: none"> <li>• Establish the rent and service charges being levied by the RP for each lease-based SSH scheme.</li> <li>• Determine what the rent and service charges are paying for and assess the extent to which the service charges levied reflect the actual services being provided to tenants. Housing benefit teams should be able to advise commissioners about this.</li> <li>• Consider benchmarking the rent/service charges in lease-based SSH schemes with other supported housing schemes in the council area (where these are housing tenants/service users with similar needs). Establish whether the rents/service charges levied offer value for money to tenants compared with other supported housing schemes. Commissioners may want to undertake this type of benchmarking with other local authorities that have SSH schemes where they have no or limited comparator supported housing schemes.</li> <li>• Commissioners should use this range of evidence to ensure that they are in agreement with rent and service charges being levied.</li> </ul> |

| Key questions/<br>issues                  | Why this matters  | Considerations/actions  |
|---|---|---|
| <p><b>Housing benefit eligibility</b></p> | <p>To be aware of how rents and service charges being levied for SSH schemes are eligible and treated under housing benefit regulations</p> | <ul style="list-style-type: none"> <li>• From meeting with RPs providing lease-based SSH schemes in the council area: establish from the RPs for each lease-based SSH scheme the extent to which their rents and service charges are eligible for housing benefit</li> <li>• establish from the RPs for each lease-based SSH scheme whether their rents and service charges have been accepted by the council housing benefit team</li> <li>• establish whether the rent/service charges are being treated as falling under the Specified Accommodation Housing Benefit regulations (Annex A) and if so, whether as 'Exempt Accommodation' or as 'Managed Properties'.</li> </ul> <p>Meet with housing benefit team colleagues:</p> <ul style="list-style-type: none"> <li>• to corroborate the information and evidence provided by the RPs</li> <li>• identify whether there are any concerns from the council housing benefit team regarding rent and service charges levels and eligibility.</li> </ul> <p>Where applicable, meet with RPs managing lease-based SSH with housing benefit officers to address and resolve any issues regarding rent/service charges and housing benefit eligibility.</p> |



| Key questions/<br>issues  | Why this matters   | Considerations/actions   |
|---------------------------|--|--|
| <b>Safeguarding</b>       | To be aware of any safeguarding issues that appear to be specific to a SSH scheme  | <p>From council adult social care safeguarding leads:</p> <ul style="list-style-type: none"> <li>• identify whether there have been any safeguarding alerts regarding people living in lease-based SSH schemes in the council area</li> <li>• identify whether there are any safeguarding issues that appear to be specific to lease-based SSH schemes.</li> <li>• Meet with RPs managing lease-based SSH schemes to address any safeguarding issues and concerns as appropriate where these relate to the provision of the housing.</li> <li>• It is noted in the Care Act 2014, section 42<sup>16</sup> that a council’s safeguarding responsibilities apply to any adult in its area who has a need for care and support, and who is experiencing, or at risk of abuse and neglect, whether or not that adult is ‘ordinarily resident’ in their area. This could therefore include responding to safeguarding concerns in connection with lease-based SSH schemes occupied by tenants ‘placed’ from other local authority areas.</li> </ul> |
| <b>Tenancy agreements</b> | To be aware of the types of tenancy agreements being used. To ensure that tenants’ rights and best interests are protected | <p>From meeting with RPs providing lease-based SSH schemes in the council area:</p> <ul style="list-style-type: none"> <li>• establish what type/s of tenancy agreements have been issued to tenants</li> <li>• determine whether tenants are being offered the greatest degree of security of tenure</li> <li>• identify whether the RP is using appropriate ‘easy read’ style tenancy agreements matched to the needs of tenants.</li> </ul> <p>Where there are any concerns, meet with RPs managing lease-based SSH to agree actions to be taken to ensure tenants’ rights are maximised and protected.</p>   |

| Key questions/<br>issues                             | Why this matters  | Considerations/actions   |
|--|---|--|
| <p><b>Housing and care provider arrangements</b></p> | <p>To identify whether the housing and care services are provided by separate organisations</p> | <p>From meeting with RPs providing lease-based SSH schemes in the council area:</p> <ul style="list-style-type: none"> <li>• establish the operating relationship between the RP and the care provider eg is the tenant/service user expected to receive care from a care provider linked to the housing provider</li> <li>• establish what agreement is in place between the RP and the care provider and whether this is in the interests of the tenants, eg is a tenant able to choose a care provider without it affecting their security of tenure, ie they can stay in their home if they change care provider</li> <li>• establish the contractual arrangements between the council and the care provider and how/whether this arrangement affects the business relationship between the RP and the care provider.</li> </ul> <p>Put in place any changes to the care/support commissioning arrangements and any applicable arrangements between the RP and care provider to ensure that the needs and best interests of the tenants/service users are being met.</p> |

| Key questions/<br>issues                       | Why this matters  | Considerations/actions  |
|--|---|---|
| <p><b>Ordinarily resident arrangements</b></p> | <p>To identify where lease-based SSH tenants have been placed out of borough, and ensure appropriate risk mitigation is undertaken by the appropriate authority in relation to such schemes</p> | <p>Some SSH schemes<sup>17</sup> may provide tenancies for people who come from other council areas (ie are 'ordinarily resident' in a different council area), and whose care has been arranged by other councils. Identifying these RPs may be more challenging, and will involve collaboration with local housing benefit teams, who will necessarily be aware of such RPs and their tenants, due to their role in assessing housing benefit claims. In these cases, commissioners should notify the councils where the tenants are ordinarily resident, to enable them to take steps to protect the tenants for whose care arrangements they are responsible.</p> <p>Equally, commissioners may be aware of people for whom they are commissioning the care, who have been 'placed' in SSH schemes in other council areas. In these cases, commissioners should notify commissioners in the 'host' areas, to reassure them that risk management and contingency planning will be undertaken (as outlined in the guidance above). Conversely, it may be that the placing commissioner is acting on behalf of the CCG,<sup>18</sup> not the council. In this case, different rules apply and the Who pays? Determining responsibility for payments to providers should be consulted.<sup>19</sup></p> |

## Checklist 2: for commissioners about how best to ensure the sustainability of existing lease-based SSH schemes in the context of the issues highlighted by the Regulator of Social Housing about this model of SSH

| Key questions/ issues  | Why this matters   | Considerations/actions  |
|--|--|---|
| <p><b>RP’s approach to managing any risks identified through RSH regulatory judgements and notices</b></p> | <p>To understand the level of risk posed by non-compliant RPs providing SSH.</p>   | <p>If applicable, meet with RPs providing lease-based SSH that are subject to RSH regulatory judgements<sup>20</sup> and notices to establish:</p> <ul style="list-style-type: none"> <li>• What actions are RPs taking to achieve compliance with the governance and financial viability standards, the Rent Standard and consumer standards, as applicable?</li> <li>• Over what timescales are these RPs are expecting to achieve compliance with the governance and financial viability standards and consumer standards, as applicable?</li> </ul>   |
| <p><b>RP and private investor leasing arrangements</b></p>   | <p>To identify any risks associated with leasing arrangements for SSH schemes.</p> | <p>Establish from the RPs that are providing lease-based SSH schemes:</p> <ul style="list-style-type: none"> <li>• The detail and length of the leasing arrangement and agreements between these parties.</li> <li>• Whether the lease agreements have break clauses and if so at what point.</li> <li>• The level of financial returns that investors are requiring from RPs.</li> <li>• The terms of an increase in the lease cost levied by the investor on the RP and how the RP will meet these increased costs.</li> <li>• What actions the investor/s will take if a RP defaults on a lease payments.</li> </ul> |

| Key questions/<br>issues   | Why this matters  | Considerations/actions   |
|--|---|--|
| <b>RP provision of housing management and maintenance services</b> | Understand whether RPs are providing a good housing management and maintenance service to tenants.        | Identify from the RPs providing lease-based SSH: <ul style="list-style-type: none"> <li>• Whether the housing maintenance service is provided direct by the RP or subcontracted; if the latter, with what organisation and identify whether this is effective.</li> <li>• Whether the RPs are able to demonstrate that they have the systems in place which mean they are able to satisfy commissioners they are providing a housing management and maintenance service that will meet the needs of the tenants. This may require a visit(s) to their SSH scheme/s to check that the property(ies) are maintained to a good standards.<sup>21</sup></li> </ul> |
| <b>Nomination, referral and void arrangements</b>                  | To be aware of the nature of void and nomination agreements in place and the risks associated with these. | Identify from RPs operating lease-based SSH schemes: <ul style="list-style-type: none"> <li>• What nomination and void arrangements and agreements are in place in relation to each SSH scheme?</li> <li>• Which organisation is liable for the risk of voids?</li> <li>• How is the RP mitigating the void risk and how effective this is/is likely to be?</li> <li>• Establish whether the nomination and referral arrangements are effective in identifying potential tenants for a SSH scheme when vacancies arise such that the scheme is still compliant with the criteria in the SSH definition (section 2).</li> </ul>                                 |

| Key questions/<br>issues                            | Why this matters   | Considerations/actions  |
|---|--|---|
| <p><b>Council risk and contingency planning</b></p> | <p>To ensure local authorities have necessary contingency plans in place to mitigate identified risks.</p> | <p>Based on an assessment of the risks associated with the RSH's regulatory judgments and notices (if applicable) and other local evidence (from undertaking the above actions), develop a risk mitigation and contingency plan if necessary for each lease-based SSH scheme covering:</p> <ul style="list-style-type: none"> <li>• The actions the council will take to work with the RP/s to ensure, as far as possible, risks to the sustainability are mitigated effectively.</li> <li>• The actions to be taken in the event of a RP managing a SSH scheme/s no longer being able to operate including: <ul style="list-style-type: none"> <li>• Working with the RSH to manage such a scenario.</li> <li>• Identifying alternative housing options for people in the short term in the event of a RP ceasing to operate or a lease-based SSH scheme no longer being available, eg. potentially sourcing emergency/short term accommodation.</li> <li>• Identifying potential medium-long term housing options for people eg. working with RPs that manage a wide range of supported housing to identify alternative housing options and timescales for delivery.</li> </ul> </li> </ul> |

## Checklist 3: for commissioners considering entering into new arrangements whether this is lease-based SSH or other models of SSH

| Key questions/ issues   | Why this matters   | Considerations/actions   |
|---|--|--|
| Establish expertise about supported housing and SSH within the council/ commissioning team (a team or individual, depending on resources) | To ensure the council has the necessary inhouse expertise in relation to SSH                         | <p>Develop in-house expertise in relation to:</p> <ul style="list-style-type: none"> <li>• understanding SSH, particularly lease-based models</li> <li>• understanding the wider supported housing market</li> <li>• keeping up to date with the RSH's regulatory judgements/notices as necessary.</li> </ul> <p>This expert team/individual ('champion') would lead engagement with housing providers and housing benefit teams and on development/active management of the local supported housing market.</p>   |
| Develop a joint strategic plan for supported housing across housing, health and social care   | To promote the development of supported housing using the widest range of sources of capital funding | <p>Collaborate with housing colleagues (housing team within a unitary council, or in district/ borough councils in two-tier areas) to ensure that market position statements / strategic commissioning plans and housing strategies have a shared plan for the development of supported housing.</p> <p>Use this shared approach to maximise access to a wide range of capital funding options as well as private investment eg Homes England's Affordable Homes Programme and Care &amp; Support Specialised Housing Fund, NHS capital and use of council Housing Revenue Account funding (where the council has its own housing stock) to develop supported housing.</p> |

| Key questions/ issues   | Why this matters  | Considerations/actions   |
|---|---|--|
| Develop a comprehensive understanding of local need for supported housing | To inform the market of the specific requirements for supported housing   | <p>Establish a shared understanding (between adult social care, health and housing) of the level and range of local needs for supported housing.</p> <p>Inform this data with qualitative engagement with people and carers (ie the people who need the housing).</p> <p>Ensure that, embedded into this analysis, is a good understanding of the data in terms of equalities characteristics, to ensure that the housing needs of people from diverse communities are understood and built into commissioning plans.</p> <p>Publish a comprehensive statement of local housing need and expectations, enabling housing providers to respond with proposals and to discourage speculative approaches to supported housing development.</p>   |
| Proactive management of local supported housing provider market.          | To stimulate a wide range of providers of supported housing and to work with housing providers that are compliant with RSH regulatory standards | <p>It is suggested that this activity is led by the individual or team with expertise in supported housing including SSH (see above):</p> <ul style="list-style-type: none"> <li>• develop detailed understanding of / familiarity with the supported housing provider market, building strong relationships with providers, both RPs operating the lease-based funding model and those using other funding and operating models</li> <li>• consider a 'blended approach' to market management. Some selective guarantees on rents (to manage void risk) could encourage a wider mix of housing providers and offer better overall value for money</li> <li>• consider introducing a framework or dynamic purchasing system for RPs that develop supported housing as a mechanism for managing the market, for example by specifying full compliance with RSH regulatory standards as a prerequisite.</li> </ul> |



| Key questions/<br>issues   | Why this matters   | Considerations/actions  |
|--|--|---|
| Joint approach between commissioners and housing benefit teams.                      | To ensure that housing benefit teams are an integral part of the commissioning of supported housing      | <p>Involve housing benefit teams at the beginning of the commissioning process for any supported housing scheme.</p> <p>Collaborate with housing benefit teams to develop a joint approach regarding appropriate rent levels for different types of supported housing based on local/regional benchmarking.</p>   |
| Information and support for people (tenants / potential tenants) and their families. | To provide clear and accessible information to tenants and family carers about supported housing options | <p>Develop clear and accessible information for potential tenants and families/carers to support them to make decisions for themselves about their housing options.</p> <p>This should help potential tenants and families/carers to fully understand different funding and operating models of supported housing so that they can make informed choices.</p> <p>Information should also support families to raise concerns, informing commissioners' proactive management of the local market.</p> |

| Key questions/<br>issues | Why this matters  | Considerations/actions  |
|--------------------------|---|---|
| Tenants and families     | <p>To ensure that housing solutions are designed in the best interests of tenants from diverse communities and are centred around their wishes and needs. These considerations may include cultural, faith and dietary needs</p> <p>To plan any relevant communications with tenants and families</p> | <p>Ensure that tenants and their families are fully engaged in the process of identifying the most suitable housing solution for them. If a lease based SSH scheme has been identified as a potential home for an individual, tenants and / or their families should be helped to understand how the housing scheme is funded and sustained, and what this means for their everyday life and for the security and safety of their home.</p> <p>Ensure that person-centred contingency planning is undertaken so that should a lease based SSH scheme fail, as a result of any of the risks identified by the RSH (or any other reason), a co-designed series of agreed actions will be undertaken to minimise any negative impacts on the tenant.</p> <p>Equalities monitoring data should be reviewed to ensure that there are no unwarranted variations in the equality characteristics of the people who are living in lease based funded schemes (as opposed to other supported housing arrangements in the area), and also to ensure that all person centred contingency planning takes into account the diverse needs that people may have, arising from their equalities characteristics.</p> <p>Create a set of plain English, easy read communication materials to help tenants and families understand who to contact should they have any queries or concerns about their housing if they live in a lease-based SSH scheme.</p> <p>Carry out a carefully planned engagement exercise with (at least a representative sample of) tenants and their families, to understand how well lease-based SSH works for them and meets their needs.</p> |

# Annex A

## Supported housing and housing benefit

NB this annex draws on content about supported housing and housing benefit from the Supported Accommodation Review (2016).<sup>22</sup>

Definitions of supported housing based on housing benefit regulations are complex and have changed over time. The majority of people living in supported housing, both working age and older people, are receiving housing benefit to help meet their eligible housing costs.

By way of explanation it is helpful to consider the type of landlord and how they are treated within the housing benefit regulations, specifically:

- private sector landlords
- social housing landlords, including private registered providers (in England)
- a category of supported housing referred to within housing benefit regulations as exempt accommodation and subsequently specified accommodation.

### Private sector landlords

For people renting from private landlords, housing benefit is based on a flat-rate 'local housing allowance' (LHA) which is based on the average of local market rents, covering areas known as broad rental market areas. Service charges are included as an item of 'gross' rent and subject to the maximum appropriate LHA for the relevant type of accommodation. Any housing, including supported housing, provided by a private sector landlord, will be limited to LHA rates.

### Social housing landlords

For people renting from a social landlord, housing benefit is not restricted to LHA rates. In the housing benefit regulations 2006 Schedule 2 Regulation 14<sup>23</sup> the council housing benefit teams would typically only refer a housing benefit application related to a tenancy provided by a social landlord (a Registered Provider in England) to the Rent Officer where:

- The accommodation is larger than reasonably required by the claimant and any others who occupy that dwelling; or
- Rent payable for the property is unreasonably high.

Supported housing provided by a social landlord is subject to these less restrictive Housing Benefit rules.

## Specified accommodation, including exempt accommodation

In 1996, a category of supported housing, referred to as ‘exempt accommodation’, was created within the regulations to enable housing benefit to meet the additional costs of providing supported housing. In relation to rent and service charge levels, ‘exempt’ means that such accommodation is exempt from the rules that require the council to restrict the maximum rent to a rent officer determination level.

Exempt accommodation is defined within housing benefit regulations 19 as either:

- a a resettlement place (as defined by section 30 of the Jobseekers Act 1995(4) – that is which had previously been in receipt of a central government ‘resettlement grant’); or
- b provided by a non-metropolitan (upper tier) county council (applicable in England only), a housing association, a registered charity or voluntary organisation where that body or a person acting on its behalf also provides the claimant with care, support or supervision.

For a housing benefit claim to be treated as an exempt accommodation claim, care, support or supervision has to be provided to the tenants by or on behalf of the landlord. There is no clear definition of care, support or supervision, and there is no specification about how much care, support or supervision needs to be provided, other than that it must be more than ‘minimal’.

Once a claim is accepted as an exempt accommodation claim, rent increases may be higher than for mainstream accommodation, however all landlords of supported housing need to be able to demonstrate to council housing benefit teams that both rents and service charges are reasonable and justifiable. The council can restrict the level of the increase to those for similar accommodation in the area if it can identify similar accommodation.

Housing Benefit Circular A8/2014<sup>24</sup> extended the categories of supported housing to be excluded from Universal Credit. This created the new and wider definition of ‘specified accommodation’ which includes four categories. These are:

- Exempt accommodation (as defined previously)
- Managed properties
- Refuges (not meeting the exempt accommodation definition)
- Hostels (not meeting the exempt accommodation definition).

Table 1 sets out how these four categories are defined in relation to housing benefit in terms of the type of landlord that can provide these types of supported housing and whether or not care, support or supervision needs to be provided to the tenants by or on behalf of the landlord.

**Table 1 Categories of specified accommodation**

|                                  | <b>Landlord type</b>   | <b>Care, support or supervision provision</b>                          |
|----------------------------------|--|--|
| <b>Exempt accommodation</b>      | Housing association, county council, charity or voluntary organisation | Provided by or on behalf of the landlord                               |
| <b>Managed properties</b>        | Housing association, charity or voluntary organisation                 | Provided by anyone and not necessarily by or on behalf of the landlord |
| <b>Refuges</b>                   |  |  |
| <b>(Not meeting EA criteria)</b> | Housing association, charity, voluntary organisation or council        | No care, support or supervision requirement                            |
| <b>Hostels</b>                   |  |  |
| <b>(Shared accommodation)</b>    | Housing association, charity, voluntary organisation or council        | Provided by anyone and not necessarily by or on behalf of the landlord |

The category of 'managed properties' responded to the common practice of local authorities commissioning the housing and the care/ support separately, often to maintain a clearer separation between housing management and support.

In essence, specified accommodation covers the categories of supported housing that are exempt from welfare reform provisions, such as the benefit cap, housing benefit no longer being paid direct to the landlord, and in some circumstances the removal of the spare room subsidy. This ensures that individuals living in such supported housing receive their full benefit entitlements and continue to have their housing costs covered by housing benefit, rather than through Universal Credit.

# Annex B

## Commissioning supported housing

### **Developing a mixed supported housing market: Worcestershire County Council**

Worcestershire County Council has taken a mixed market approach to encouraging the development of supported housing, including for people with a learning disability and autistic people. The council has developed partnerships with a mix of long-established stock owning registered providers whilst at the same time working a small number of lease-based registered providers providing specialised supported housing to develop a wide mix housing options. This approach has enabled commissioners to support more than 200 people to move into a wider range of housing options over the last three to four years.

### **Engaging with SSH providers/providing information for tenants and families: Kirklees Council**

Kirklees Council has produced a clearly written guide to help families understand and navigate the housing options available for people with a learning disability and autistic people. This type of plain language guidance for families about housing options, how they work, and the provenance of each option, enables people to be conversant with the financial implications and advantages/disadvantages of different housing options.

### **An investment prospectus for supported accommodation: Leicestershire County Council**

Leicestershire County Council has undertaken extensive analysis of the future need for different types of supported accommodation based on quantitative and demographic data as well as engagement with local people. As a consequence, the council has produced an 'investment prospectus'<sup>25</sup> as a way to shape and manage the local supported accommodation market to provide the types of homes that local people with disabilities and older people want and need.

## Managing SSH proposals and the wider supported housing market: Leeds City Council and Leeds Clinical Commissioning Group

Leeds City Council and Leeds CCG have developed a questionnaire for housing providers seeking to develop SSH in Leeds. It provides commissioners with detailed information about a housing provider's approach to SSH including proposed rents/ service charges, lease arrangements and length, return rates provided to investors and details about partner RPs and their regulatory ratings.

In addition, commissioners are developing improved links with the more traditional place-based RPs in their area. The local integrated care system has established a housing and health workstream (with input from NHSE/I), which provides a forum for commissioners for learning disability, autism and mental health services to discuss, in the first instance, unmet housing needs to explore whether there are any available solutions before going to the specialist supported housing market. This is creating strategic links to a greater range of RPs than otherwise would be case for individual commissioners.

## **About the Housing Learning and Improvement Network (Housing LIN)**

This report has been produced by Clare Skidmore and Ian Copeman from the Housing LIN.

The Housing LIN is the leading 'learning lab' for a growing network of housing, health and social care professionals in England, Wales and Scotland involved in planning, commissioning, designing, funding, building and managing housing, care and support services for older people and adults with long-term care and support needs.

Previously responsible for managing the UK Government Department of Health's Extra Care Housing Fund, the Housing LIN is called upon by a wide range of statutory and other organisations to provide expert advice and support regarding the implementation of policy and good practice in the field of housing, care and support services.

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## Endnotes

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