Response

Housing Benefit Reform – Supported Housing

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The National Housing Federation represents 1,200 independent, not-for-profit housing associations in England and is the voice of affordable housing. Our members provide two and a half million affordable homes for five million people. The Federation welcomes the opportunity to respond to the Department of Work and Pensions proposals for change in the way that Housing Benefit assists those living in supported and sheltered housing with their rent.

Introduction and overarching comments

Supported and sheltered housing is a vital resource which successive Governments have invested in, in order to deliver greater independence and better outcomes for older and vulnerable people. Public investment in capital and revenue support has allowed Housing associations to develop and manage a wide range of different types of supported and sheltered housing which helps support people to live independently, move out of institutional care or provide emergency housing in a crisis. An independent analysis by Frontier Economics concluded that this specialist housing delivers a net benefit to the exchequer of £639m a year; including £219m a year from older people’s housing, £199m a year from specialist housing for adults with learning disabilities and £187m a year from specialist housing for people with mental health problems.¹

We do not believe the proposals to be workable or desirable. Taken as a whole, the proposals in the consultation present a serious risk to many existing supported and sheltered housing schemes and jeopardises future supply. The Government has made commitments to supporting vulnerable and older people. Supported and sheltered housing projects are integral to this. Key policies in health and social care have recognised the importance of providing vulnerable people with the right level of support to help them live as independently as possible in the community as this has been shown to deliver better outcomes and lower costs than institutional care. The work of Graham Allen MP has also highlighted the importance of early intervention across a range of policy areas and drawn attention to the need to support and sustain services that prevent crises arising and avoid the need for more expensive and acute interventions later on.²

The Federation understands the need for a simplified, robust and transparent system that is compatible with the arrival of the universal credit. However, simplifying Housing Benefit for ‘exempt’ accommodation in the context of wide


scale welfare reform and cuts to services brings additional risks to vulnerable tenants and the not-for-profit providers of housing to vulnerable people.

To agree a proportionate and workable way forward there needs to be a robust assessment of existing schemes and current costs. There are a number of sources for this.

- Registered Providers in England with stock over 1,000 units must complete a statistical return giving rent and service charge levels for supported and general needs housing. The RSR of 31st March 2011 reports 424,053 units of accommodation for supported housing or older people owned by registered housing associations, of which 402,459 were occupied.
- The Supporting People Local Systems Data last collected in 2010 shows that across all SP providers, there were 469,459 funded units of accommodation, out of a total of 1,114,074 contracted units.
- Included as appendix A to this submission is a table with data built up from Supported Housing CORE lettings data April 2010-March 2011, showing average rents and HB eligible service charges broken down by client groups and regions.
- Also attached as appendix B to this submission is a table of CORE lettings data April 2010-March 2011 showing total number of supported and older people’s housing schemes and units by region.

The Federation welcomes the recognition in the consultation that supported housing houses some of the most vulnerable people in society and that there are additional housing costs associated with the provision of adequate specialist housing. We are also reassured to see the Government’s commitment to cost neutrality given spending constraints on the Department.

The National Housing Federation represents the main, registered providers and the first section provides a response to questions 13, 14 and 15 which specifically concern the proposals for registered providers. The Federation has also responded to the other parts of the consultation in the light of the Government’s intention to introduce the Universal Credit and possible reforms to the payment of housing costs beyond the ‘short to medium term’ intentions set out in *Universal Credit: Welfare that Works.*

3 Universal Credit: welfare that works DWP November 2011

After the sections that specifically relate to registered providers, we group our responses questions together to cover different elements of the proposals: the two other groups proposed and the issue of local discretion over payment for additional needs.
Q 13 Should the supported housing of registered providers and social landlords be treated in the same way, for housing benefit purposes, as their mainstream housing?

The Federation welcomes the recognition that registered providers charge controlled rents which are generally lower than other sectors. We believe the most sensible approach is to operate the same system for supported housing as for general needs housing, where the landlord is a registered provider. This approach will provide a degree of security for the large number of existing tenants including the large number of older people living in sheltered housing. Approximately 5% of older people in the UK live in sheltered housing.\(^4\)

Social rents in most housing association properties are reviewed on an annual basis and increases are limited to the level of the Retail Price Index (RPI) + 0.5\(^5\). The Government has confirmed that this system will remain in place for social rented properties until at least March 2015. In recognition of the particular additional costs of supported housing compared to general needs, there is a 10% flexibility to set rents higher or lower than target social rents.\(^6\)

Service charges are excluded from this formula as they reflect actual costs. A service charge can be defined as ‘a payment made by a tenant or a leaseholder towards the cost of providing and maintaining services and benefits to them beyond the benefit of enjoying occupation of the tenant’s or leaseholder’s own home.’\(^7\) Service charges are governed by legislation: Section 18 of the Landlord and Tenant Act 1985 provides a definition of a service charge where the tenancy agreement or lease allows for a variable service charge to operate. A list of service charge costs is set out in the Rent Officers Handbook – Services – Included items.\(^8\)

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5 It is therefore a regulatory requirement that private registered providers keep their annual (net) rent changes to no more than the set limit specified by the TSA (TSA Notice ‘Rents, rent differentials and service charges for private registered providers 2011/2012). Included within this Notice (on page 2) is a sentence that states: ‘Registered providers should endeavour to keep increases in Housing Benefit-eligible service charges to no more than the guideline limit of RPI plus 0.5%’

6 This flexibility only applies when rents are set for new schemes.

7 Derek Rawson, Service Charges A Guide for Housing Associations (NHF, 2010)

8 www.voa.gov.uk/corporate/Publications/Manuals/RentOfficerA-Z/s-roh-services-included-items.html#P76_762
The other source of legislation that is important in establishing whether costs can be included in a service charge is s11 Landlord and Tenant Act 1985. This section sets out the Landlords Statutory Obligations to repair the exterior and structure of the dwelling house together with its services for gas, water and electricity and the provision of space heating and heating water. These costs should therefore be included in the core rent.

Section 19 Landlord and Tenant Act 1985 states that service charge costs can only be recovered from the tenant if they are reasonably incurred, and when they are incurred on the provision of services or works, only if the services or works are of a reasonable standard. Adequate safeguards are already contained in this legislation since if a tenant considers the service charge is either unreasonable, or services or works are not provided to a reasonable standard, the tenant can appeal to the Leasehold Valuation Tribunal.

Paragraph 73 of the consultation paper covers ‘the level of service charges in this sector’ and paragraph 74 sets out the intention to ‘review how these rules work’. It is important that any review acknowledges the existing regulatory and legislative controls on service charges for social landlords as set out above. The Federation believes that there are already a number of mechanisms that put a check on the amount that a landlord can recover through a service charge and that there is no need to introduce new checks through the benefits system. While the legal framework for service charges is a separate issue from eligibility for benefit it should be recognised that one has a significant impact on containing the costs recovered through the other.

The table in appendix C sets out the level of service charges for housing association supported and sheltered housing over the last five years. These show that while charges have risen they have not risen significantly. They have risen across supported, sheltered and general needs housing because of factors common to all. Major reasons for this increase are:

- With the reduction in grant for major repairs and renewals, housing associations must now fund replacement costs through service charge previously funded through capital grant. Past service charges were therefore held at artificially low levels.
- The capital grant procedures of the former Housing Corporation and HCA have ensured that RSLs estimated service charges as part of the grant procedures; this has meant that the calculations were more likely to be correct on the completion of new developments.
- The EU procurement regulations on contracts over a certain size have meant that housing associations are often unable to employ local trades people (often with lower costs) in preference for larger organisations that may not always be cheaper on service charge costs.
- New regulations and requirements, including on safety checks
- Labour costs rising above rate of inflation (e.g. minimum wage for cleaning staff for communal areas)
Variable service charges must accurately reflect real costs. Therefore they are an accurate way of reflecting some of the additional costs associated with the provision of supported and sheltered housing. The consultation makes a number of points that recognise that there are additional costs to providing specialist housing. Given the very wide variation in real costs the Federation believes that the system should retain the existing eligibility rules as these result in a system that is sensitive to the legitimate variation in costs.

For example a city centre hostel housing 80 people will be able to achieve certain economies of scale on security or cleaning charges that would be impossible for a project housing 8 people providing community based resettlement for offenders to achieve. The service charge levied on tenants is based on two different elements: the actual cost of providing the services (which can be substantiated by invoices) and the number of properties with which the service charge is shared.

The Federation and housing associations are keen to work with the DWP on ways in which the administration could be streamlined as we move into Universal Credit and housing costs paid through Pension Credit. We support a system that requires landlords to be transparent about costs. However any major reform to the existing system of eligibility has the potential to either make current specialist housing schemes unviable because benefit is no longer covering the cost of provision or to cost more: any move to flatter rate payments for registered providers would result in the some schemes receiving more than then actual cost of the service charge.

Q2. 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?

Q4. 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.

The consultation proposals for a fixed sum of housing benefit for some projects and the opportunity to apply to a locally capped pot for others risks the introduction of an entirely new kind of system for payment of additional housing costs for older and vulnerable people. The proposals indicated in the consultation risks ending the system based on individual entitlement to one based on discretion. In order for the changes to be cost neutral, the local pot of funding available to clients in Group 2 will be a capped sum which may not be ring fenced for the purpose of meeting additional housing costs. Given the tough financial settlement facing local authorities and the kind of cuts to support and restrictions on social care seen locally so far, providers and local authorities are concerned this pot would be diverted towards spending on other local priorities.

We welcome the DWP’s commitment that the proposals are cost neutral. However, this principle of cost-neutrality means any shifts in payment for housing costs must be funded from existing spending. The scale of reform proposed and the limited evidence about where the high costs are at present
could lead to particular client groups or areas losing out. This could be particularly severe if there is no protection for existing tenants. For instance, if additional amounts are paid on top of LHA for some groups and projects judged to be in Group 1, it is not clear how or where these additional costs will be recovered within the system.

Nor is it clear what would happen to Group 2 clients if there were additional demands on the capped local pot, either because of an unusually high proportion of high need schemes locally, or from increased demands from clients moving from residential care or hospital into independent living.

Under these proposals landlords, including private landlords, will be entitled to claim the LHA plus a fixed sum for some projects. Within a cost neutral proposal we question the consequences of an open ended commitment to pay higher levels of benefit without any opportunity to scrutinise actual costs or the level of service or quality of housing provided.

Q14. 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?

The Federation believes that there are very strong arguments for maintaining the current system to determine levels of benefit paid to tenants in supported housing where the landlord is a registered provider. We have set out these arguments in our answer to Q 13.

The two groups put forward in the consultation are neither coherent nor distinctive. Group one is divided broadly by type of accommodation, group two by level of need. The logic of gathering together hostels, refuges and some sheltered accommodation in group one is that their costs are broadly stable. In fact, given the diversity of supported and sheltered housing projects and the range of needs they meet, providers could easily make the case that clients in group one accommodation require the variable levels of support with costs allocated to group two.

The split between groups one and two does not provide the subtly and individualised approach required. One of the strengths of the existing system has been its capacity for local flexibility to respond to the real costs of rent and services of individual projects. This recognises that all schemes, including the hostels and refuges are built, remodelled and provided specifically for their purpose and to deliver specific outcomes and changes for their residents. Groups one and two cover a huge variety of different schemes, which meet diverse needs through different types of accommodation. There can be big differentials in costs between schemes which defy simplistic categorisation. There is no neat read across from broad type of accommodation or its geographical location. Rent levels vary for providers due to a complex web of factors. This includes:

- historical property costs
- location
For unregistered providers, the consultation puts forward a model based on two broadly defined groups of people in need. The main benefit of adopting this approach would be greater transparency and simplicity for processing claims. We acknowledge the process through which rents are arrived at needs to be transparent. Indeed, we believe there is scope for transparency within the existing framework. Throughout our discussion of these proposals with our members, registered providers have highlighted their keenness to share their analysis of rents and services charges with the DWP to aid this transparency and understanding.

The whole system change proposed in the consultation, however, could have seriously damaging unintended consequences on the long-term market of provision for specialist housing. For example capping a fixed sum for the management of hostels may force providers into running larger schemes to achieve economies of scale in order to reach an artificial flat-rate of Housing Benefit not based on the real costs of managing housing for vulnerable people. This is at odds with the Government’s social care vision Capable Communities and Active Citizens which has personalised services and a plurality of provision as key principles to deliver better social care to all who need it. The cross-sector agreement for taking forward personalisation, Think Local Act Personal, states that good practice means the provision of a ‘broad range of choice in the local care and support market, including housing options’.

The proposals extend to the private sector the opportunity to receive the LHA plus a fixed sum. This raises the potential for unregulated providers setting up schemes able to take advantage of higher levels of LHA but with less focus on quality of services or accommodation. Such a proposal seems to militate against the kind of increased transparency and scrutiny expected of any reformed system. The Federation recommends that, instead, Government works with the provider sector to use existing tools for scrutiny and control to provide the necessary transparency to how rents and eligible service charges are set.

9 A vision for Social Care: Capable Communities and Active Citizens (2010)

10 Think Local, Act Personal,
www.thinklocalactpersonal.org.uk/_library/Resources/Personalisation/TLAP/THINK_LOCAL_ACT_PERSONAL_5_4_11.pdf
**Q8.** 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?

We understand that the system of paying housing benefit in supported housing will need to be compatible with the simplified and centralised administration of the universal credit. Currently, expertise in ‘exempt’ accommodation is held by district and unitary authorities and within many authorities there are effective partnerships across benefit administration, housing and social care. It is important that this expertise is transferred to any new system but this does not necessarily have to sit at a local level. We are concerned that the proposals for local decision making will remove nationally determined entitlements to benefit for housing costs from some disabled people. Local decision making may result in funds being focussed on housing for particular groups for whom the local authority has statutory responsibility.

**Q11.** 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?

It is not clear why such a change to the treatment of housing payments would help improve choice and control for vulnerable people. Choice over housing options and support packages are an integral part of personalising services for vulnerable people. However, the focus of any approach should be on giving genuine choice, control and power over decisions to the people affected by them. As this response has emphasised, the controlled rents and scrutinised service charges of housing reflect the real costs of services and housing. Far from increasing choice and control taking a personalised budget approach to housing benefit could put tenants in a complex and compromised position of negotiating with their landlord, managing agent, support provider as well as care agency.

**Q15.** 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?

The Federation believes that the current system for social landlords provides adequate protection to ensure that only ‘reasonable’ costs are recovered from tenants regardless of whether they pay these costs themselves or rely on housing benefit. A significant number of sheltered housing tenants do pay the full cost of rent and service charge as their income or savings are too high to be eligible for housing benefit. At the time of the introduction of the Supporting People programme in 2003 this figure was estimated to be about 25% of all sheltered housing tenants.

The consultation paper states that registered provider rents are rarely referred. This statement needs further investigation. Registered provider tenancies are
‘excluded tenancies’ therefore rents can only be referred if the authority thinks that they are unreasonably high or the property is unreasonably large for the household. Does the DWP intend to continue these same rules while abolishing the definition of ‘exempt accommodation’? How will rent officers define ‘unreasonably high’ with reference to the locality, type of accommodation or client group housed? As housing costs are transferred over to be met through Universal Credit and Pension Credit, who makes the decision to refer and on what basis? How will rent officers determine ‘reasonableness’ given the proposed reform of ‘exempt accommodation’ and how does this relate to the accepted higher costs for the provision of specialist housing? What will be the administration costs if the system that has few checks on the number of rents referred?

Many projects with higher rents have been developed or re-configured with the support and involvement of local authorities to ensure a supported or specialist project meets local needs. There are numerous examples of, for instance, hostels being remodelled as places of change, and registered providers working with statutory agencies to develop extra-care projects to provide attractive packages of housing and support to meet the needs of an ageing population. However, we understand that there have been instances of individuals in 2-bed extra care properties being referred to the rent officer on the grounds they are under-occupying. This is in spite of the specification for accommodation being developed in partnership with a local authority and the absence of reasonable alternative accommodation in the area. Government is committed to delivering new affordable, supported and specialist homes. And this is dependent on higher, near-market, rents. Registered Providers need reassurances that higher rents will not, as a matter of course be referred to the rent officer.

Given the pressures of developing new supported and specialist accommodation, statutory agencies should seek opportunities to facilitate the development of new projects to meet identified local needs. Any reformed system should give registered providers assurances that their rents will not be referred to the rent officer, or that, should they be, the rent referral rules will allow for a specific higher cap for reasonable rents that is more meaningful for the costs of supported housing than the local reference rent.

The Federation believes that the problems that the DWP are trying to address lie within a small number of very expensive properties where there is no effective cap on the amount of benefit paid. The problem does not lie within the registered provider sector. There is a danger that increased referrals of registered provider rents to the rent officer and arbitrary application of a test of ‘reasonableness’ will result in specialist housing schemes no longer being able to recover the housing costs associated with running that scheme. The provider is then left with the choice of reducing costs by reducing standards (shared rooms for example), taking clients with much lower needs (reducing management and security costs, less wear and tear) or closing the scheme.
Appendix A and B

Appendix A and B have been submitted as separate excel spreadsheets
Appendix C

### Service charge increases

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### Rents excluding service charges

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