



Executive Summary

Exempt from Responsibility?

Ending Social Injustice in the Exempt Accommodation Sector



About Us

This is a partnership project led by Thea Raisbeck.

Spring Housing Association

Spring Housing Association is a West Midlands based housing charity. It was set up to go back the original ethos of the social housing movement to assist those most in housing need.

Tenants are supported by Spring to sustain their tenancies; this includes benefits and money management advice, and signposting into additional support services and employment and training schemes.

Spring are the lead organisation for this project.

Housing and Communities Research Group (HCRG)

Since 2010 HCRG has engaged in research to address policy and practice agendas to combat social injustice and build community participation in housing solutions. The HCRG became involved in exempt accommodation as a result of our work on the future of social housing for Webb Memorial Trust, social lettings agencies for the West Midlands Housing Officers Group and later for Joseph Rowntree Trust and Nationwide Foundation. We have been delighted to support Thea Raisbeck's pathbreaking work on exempt accommodation in Birmingham and to partner with Commonweal Housing for this important project.

Commonweal Housing

Established in 2006, Commonweal Housing is an independent award-winning charity working to investigate, pilot and champion housing-based solutions to social injustice. By using charitable resources Commonweal Housing provide experts and partner organisations the opportunity to trial and test new approaches designed to enhance housing equality and justice. Commonweal Housing has worked with partners such as Housing for Women, Praxis Community Projects, Thames Reach, St Mungo's and Stonewall Housing.

About the Author:

Thea Raisbeck is the Research and Best Practice Lead at Spring Housing Association and an Honorary Research Fellow within the Housing and Communities Research Group at the University of Birmingham.

Acknowledgements

Heartfelt thanks must go to all of the residents of exempt accommodation who gave up their time to attend focus groups and interviews, and who generously shared details of their, at times, difficult personal experiences, alongside their ideas for change.

Thank you also to all of the stakeholders who attended workshops, events and meetings, and have continually shown their passion and dedication to tackling and improving the exempt accommodation sub-sector in Birmingham and beyond. Special thanks to staff at Spring Housing Association, and to University of Birmingham students Olivia Craig and Ethan Rose, for their assistance with arranging interviews and engagement sessions, and for their additional information, case studies and insights for the Employment strand.

Finally, thank you to Commonweal Housing for commissioning and providing support for this important work, and for providing helpful comments on earlier drafts. Thanks also to Rashid Ikram of Birmingham City Council for invaluable advice and support with access to and analysis of data, and to Professor David Mullins for his input, guidance and help editing this report.

Background and Context

‘Exempt accommodation’, as defined within our research report, refers to shared accommodation that is not commissioned under local authority homelessness or social care funding, or under specialised supported housing (SSH) arrangements, and which utilises the ‘exempt’ provisions of current Housing Benefit and Universal Credit Regulations ¹.

In this accommodation, rental levels far in excess of private sector Local Housing Allowance Rates can be yielded, merely by such providers meeting a loose regulatory requirement to provide ‘care, support or supervision’ to claimants ². The nature or level of ‘care, support or supervision’ required is not detailed in Regulation. Case law has, over the years, qualified it to denote a ‘more than minimal’ or, ‘more than trifling’ level, and potentially dependent on an individual claimant’s circumstances, rather than on the form the accommodation itself. This report outlines the injustices in the exempt accommodation sector within our geographical area of focus, Birmingham. These injustices will also be in evidence in any local authority area that has a high proportion of non-commissioned exempt accommodation.

Aims and Methods

The project aimed to explore the nature of the social injustices involved in the exempt accommodation sector, and the potential for solutions to these injustices.

The field research took place between January and May 2019 and involved in-depth interviews, focus groups, round table events and workshops with over 100 individuals involved in the sector. This included interviews and focus groups with 25 current residents of non-commissioned exempt accommodation.

We have identified a range of smaller reforms, as well as systemic changes which are needed to truly address the injustices faced by those who live in this sector. Our recommendations reflect this committed but pragmatic approach that we share with the many practitioners who took part in this research.

The Birmingham Context

Our research in Birmingham specifically focused on non-commissioned exempt accommodation operating an ostensibly short-term or transitional function. Much of this provision is currently operated by, or under the governance of, Registered Providers of Social Housing who lease units from the private rented sector. Our research has found that the exempt accommodation sector in Birmingham incorporates:

- **Small, shared units of accommodation**, often with six or fewer individuals;
- **Direct access**: access is governed by low referral, assessment, and selection criteria;
- **Transitional in nature**: mainly license agreements, with some Assured Shorthold Tenancies;
- **Functioning largely on a ‘crisis’ level**, with most placements time-sensitive, emergency, and ‘on the day’;
- **Accessed by individuals with limited alternative housing options**, often due to social and economic exclusion, the urgency of need, or a lack of alternative options;
- **Little transparency about what providers are offering residents**: many providers do not have websites, and show little evidence of accommodation that specialises in catering for the needs of particular groups;
- **A wide, geographically disparate and untracked range of client referral routes and ‘points of origin’**: there is no central referral portal or register and no formalised monitoring arrangements for referral and access across the exempt accommodation sector.

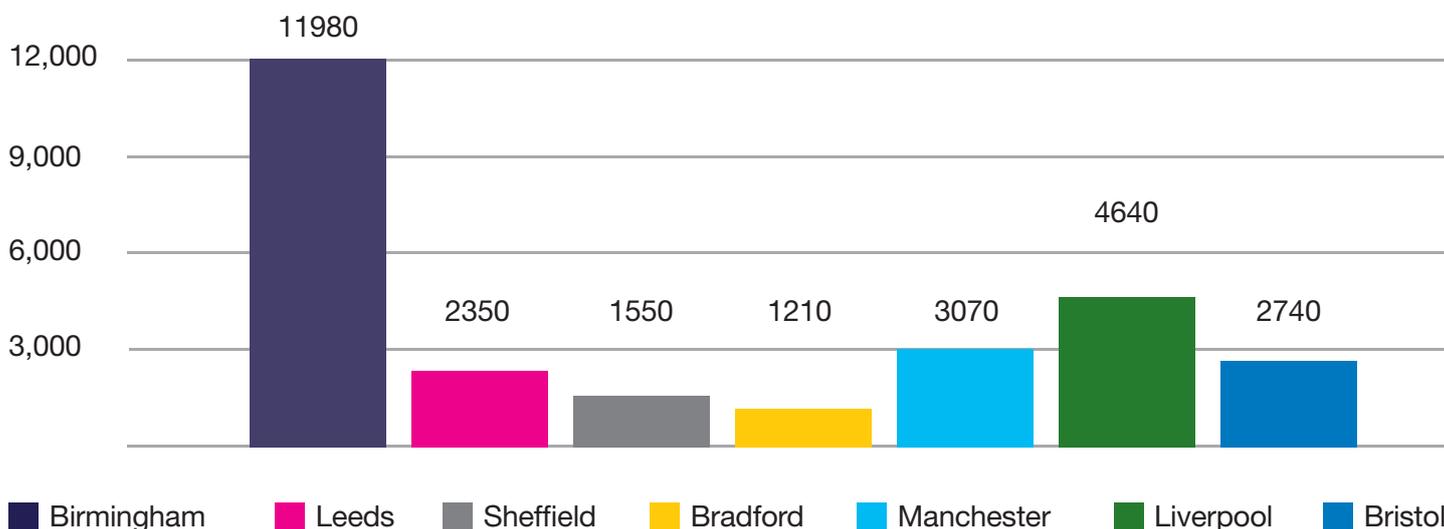
¹ Defined as ‘Specified Accommodation’ under The Housing Benefit and Universal Credit (Supported Accommodation) (Amendment) Regulations 2014

² The higher rental yields achieved by those providing ‘exempt’ accommodation are not intended to cover the cost of providing the ‘care, support or supervision’, with support costs removed from Housing Benefit altogether in 2003, after the introduction of the Supporting People funding programme. ‘Support’ costs should be funded through external sources, such as additional grant funding, or from revenue generated through charitable activity.

The gaps and variation in national and local data recording mean it is not possible to say exactly how many individuals are living within exempt accommodation in Birmingham at any one time. Analysis of a recent Freedom of Information request suggests that Birmingham has the highest total claims for specified accommodation among 7 major cities in England. Within this, our research has revealed that there are an estimated 11,000 ‘units’ or bedspaces under our definition of non-commissioned exempt accommodation ³.

HB Claims for Specified Accommodation:

7 Major Cities | December 2018



[Figure 1 data source: DWP FOI 2019/03087 1 February 2019, www.uksupportedhousing.com]

Key Findings:

There are an estimated 11,000 individuals living in the exempt accommodation sector in Birmingham. These 11,000 individuals are subject to a range of housing-related social injustices, enabled by an ‘accountability deficit’, whereby national and local government have left the sector largely unmonitored and unregulated.

Who is affected by the injustices?

It is impossible, due to limited available evidence, to closely estimate and compare the concentrations of certain groups within the sector but our research suggests that, broadly, those frequently accessing the sector are:

- Women who have experienced trauma, exploitation, violence and abuse
- Refugee and migrant groups, often directly after leaving asylum accommodation
- Those experiencing substance or addiction issues
- Individuals with mental health problems in varying degrees of severity
- Those rough sleeping immediately prior to access
- Care leavers
- People in contact with the criminal justice system: both newly released from prison and those with offending histories
- Individuals leaving a range of other institutional settings such as hospitals, care homes, and addiction treatment centres
- Other individuals who have a housing need and are financially, systemically or socially excluded from accessing other forms of more suitable - or more desired - housing provision.

³ See also Mullins and Ikram (forthcoming) for a more detailed analysis of the issues with data recording of Housing Benefit exempt claims in Birmingham

Within these groups, our research suggests that the most salient characteristics are:

- An urgent need for accommodation
- Perceived by housing providers as 'risky', 'complex' or 'high need'
- A reduced ability to assimilate the cultures, practices and systems of homelessness and housing provision

What are the Injustices?

The policy and regulatory environment within which the exempt accommodation sector operates has a series of gaps that inhibit sufficient transparency, control, recourse and redress for both residents and other stakeholders. We have termed this the '**accountability deficit**', which both contributes to and compounds housing disadvantage and social injustice. This accountability deficit includes:

- The **Housing Benefit system**, which does not require any evidence or assurance around the location or condition of the property, the 'legitimacy' and services of landlord or provider, or any safeguarding and risk assessments
- **The subsidy rules of Housing Benefit Regulation**, which can disincentivise local authorities from challenging or scrutinising exempt claims from Registered Providers, as they in most cases receive 100% of rents paid out back from the DWP
- **Housing Law**, which exempts Registered Providers from regulation around Houses in Multiple Occupation (HMOs)
- **Planning Regulation**, which in most areas allows residential units to be converted into small HMOs without planning permission
- **The Regulatory Framework for Social Housing**, which currently does not allow Consumer Standards - including safety issues, and resident involvement and satisfaction - to be proactively monitored.

Underpinning this policy and regulatory environment is a broader system of housing exclusion and the depletion of funding for housing and services for 'single homeless' and other more vulnerable groups.

Within these overarching contexts **we have identified three main areas of social injustice** which most impact upon residents of exempt accommodation:

1. Social Harm

Our research has found that placements are often inappropriate or poorly considered, which poses a risk of harm to both residents and staff. The key factors contributing to this injustice are:

- **The lack of assurances and monitoring of safeguarding procedures, staffing capacity, project aims and outcomes**, due to a lack of requirements placed on this sector from the local authority and Housing Benefit Regulations.
- **The lack of knowledge and transparency around service provision**, which leads to an absence of formalised or standardised assessments of adequacy and suitability for individual resident need
- **Those with the highest presenting 'risk factors' are often given the least choice**, and are often living in accommodation run by the least reputable, discerning or ethical providers, because more trusted providers do not have the capacity or expertise to accept them.
- **Funding for rental costs within this sector is not based on any strategic assessment of local area need.** This can mean providers seek out disparate and unsuitable avenues to fill bed spaces, and can lead to an absence of more specialist or appropriate accommodation for certain vulnerable groups.

2. User Voice

The overall frameworks governing exempt accommodation are currently marked by an absence of opportunities for residents to have any input, control or say over their accommodation. The key factors contributing to this injustice are:

- **The use of licence agreements**; perceived by residents to preclude the assertion of rights, and risk eviction at short notice.
- **Residents' lack of knowledge of their rights**, and what to expect within their particular type of accommodation setting.

- **The funding system for ‘exempt’ accommodation itself can create a false impression of what is ‘on offer’ from accommodation providers.**
- **Residents rarely if ever have a say or control over who else lives in the property with them.**

3. Employment and Social Integration

High, ‘flat rate’, exempt rents act as a barrier, or disincentive, to residents gaining employment, and can preclude those already in employment from being able to access the sector. The key factors contributing to this injustice are:

- **A lack of understanding or consideration of the taper rates, or rates of withdrawal, for state benefit provision upon entering employment**
- **An ensuing notion that, if you enter employment, you cannot afford supported housing and must leave**
- **Provider concerns about the ability or willingness of employed residents to pay their own rent**
- **The prevalence of zero hours contracts and seasonal work, leaving landlords reluctant to take on the administrative burden of monitoring income levels and benefit claims, and the higher likelihood of rent arrears**
- **The inflexibility and lack of incentives for exempt providers to tailor or adapt their services, management and support models to those who are in employment.**

Spring Housing have developed a housing and support model to address these injustices. This model adopts ‘one third of take-home pay’ as a bespoke measure of ‘affordable’ rent, and provides integrated housing management and optional mentoring support to employed individuals at risk of homelessness – details are included in Chapter 5.3 of the full report.

Conclusions

Shared accommodation with housing management or other support can undoubtedly provide a suitable, safe and successful shorter-term housing option for many individuals. However, due to the ‘accountability deficit’ within the overall regulatory environments, and the exclusionary mechanisms within other forms of more secure housing provision, there are many thousands of individuals - up to 11,000 in Birmingham alone - currently living in non-commissioned exempt accommodation environments which are potentially unsafe, unsuitable or un conducive to progression or growth.

The system creates a strong potential for residents to end up paying for high cost supported housing that they do not, or no longer, need or result in residents deprived of the level of support and supervision they actually require.

The financial costs of this current regulatory and funding system are great and are often the focus of any suggestions around policy change. However, the human costs of living within accommodation funded by a set of Regulations that remain largely unaltered since 1996 is, clearly, too high.

The common refrain that non-commissioned exempt accommodation ‘provides a roof’ or houses people ‘no one else will’ is insufficient to allow for acceptance of the status quo. A ‘roof’ – especially a costly, potentially risky, damaging and under-regulated roof – is not enough.

This report has identified 3 key areas of social injustice that can stem from the non-commissioned exempt accommodation sector, and the impact these can have on vulnerable individuals, and has put forward one potential pilot project which could address one of those key injustices.

While this report has identified the ways in which unsuitable providers of exempt accommodation are allowed to operate, it is worth noting that there are a number of good providers in this sector delivering appropriate services and support. These examples of good provision should be highlighted, and any improved regulation of this sector should enable these providers to grow.

We hope this report has drawn attention to some of the issues that are often dwarfed by larger scale policy reviews. In the meantime, we have set out a series of key asks and recommendations that we hope will encourage better practice and oversight and continue to stimulate much-needed attention to this problematic, but likely enduring, area of housing policy and practice.

Recommendations

Housing-based Solutions:

At a minimum, within every English region, there should be a proportion of supported and transitional accommodation available for low-waged earners at risk of homelessness that adopts ‘one third of take-home pay’ as a bespoke measure of affordable rent, drawing on the model developed for this report by Spring Housing.

The DWP and MHCLG should ensure the ongoing development of a ‘sound and robust oversight regime’ for supported housing includes mechanisms to address the ‘accountability deficit’ in the exempt accommodation sector. In particular:

- The **DWP**, in the longer term, should strengthen the criteria and definitions of ‘care, support and supervision’ in exempt Housing Benefit and Universal Credit Regulations. This will help to ensure organisations and landlords are appropriately funded for the accommodation services they provide to clients and will help to ensure residents can be more appropriately placed according to their level of need
- In the shorter term, the **DWP** should develop guidelines on assessing ‘exempt’ claims to allow for greater consistency across all local authorities and greater transparency for residents and providers
- The **MHCLG** should ensure that client feedback is incorporated long-term into monitoring procedures for all supported and exempt accommodation, and in a robust way
- The **DWP** and **MHCLG** should implement mandatory requirements to check and monitor the backgrounds of landlords and staff members, as well as standardised safeguarding proficiency requirements for providers
- The **MHCLG** should implement requirements on local authorities to record and monitor the geographical spread of units.

MHCLG to mandate the Regulator of Social Housing to develop a stronger framework for its Consumer Standards and protection across the exempt accommodation sector, including:

- Guidance specifically for lease-based Specialist Supported Housing and exempt Registered Providers around embedding a resident feedback regime. Providers should be monitored annually around implementation and client feedback ratings
- Proactive monitoring and earlier reactive involvement around resident safety; particularly in shared, supported living contexts. The current trigger of ‘serious detriment’ is too high.

Every local authority area with non-commissioned, exempt or transitional accommodation should:

- Invest in a process of comprehensively mapping this sector; creating and disseminating transparent information to aid more appropriate referrals, enhance resident choice and respond more effectively to resident concerns
- Develop an independent action group for ‘exempt’ residents to air their issues, feelings and ideas around their accommodation, and work on remedies for change
- Encourage and promote the development of good practice in their local area.

Researchers and charities working in the areas of housing, homelessness or safeguarding adults should:

- Investigate and publish work on the living conditions and lived experiences of people residing in shared, non-commissioned exempt and supported accommodation.

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