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Preface

By Cllr Carl Rice, Chair of the Co-ordinating O&S Committee



Being a local councillor allows you to quickly get to know the problems faced by the people and communities you represent and your position as a public representative gives you a degree of power and influence in tackling those problems.

Councillors from across the City from all political parties were being contacted by local residents about the growing problem of Exempt Accommodation. People without any experience were acquiring properties and housing vulnerable people in need of support without needing City Council approval. As a result, particular areas and sometimes whole streets housed people with little or no stake in the communities they lived in. All the problems traditionally associated with a transient population were made worse by the fact that residents were vulnerable and not receiving the support required for them to move on with their lives.

This latest Scrutiny Report from Birmingham City Council is therefore a classic example of how local democracy works. Public concern and pressure about a problem combined with local councillors determined to do all they can to tackle that problem.

So, my heartfelt thanks go to all those residents and community groups – nearly 100 of them - who gave evidence to the Committee. In addition to the detailed accounts of what it was like living in areas blighted by Exempt Accommodation, some of the evidence was the result of painstaking research into how other towns and cities were coping with the problem and analysis of the company accounts of large providers in the City.

Thanks are also due to my Scrutiny colleagues who unanimously agreed to undertake this review and who spent many hours listening to evidence during what will become known as the Covid era. Not once did party politics rear its ugly head and blight what has been a completely united effort to tackle the problems caused by Exempt Accommodation.

I must also pay tribute to the Charities and local agencies who provide accommodation for vulnerable adults in a responsible and professional way in the City. They illustrate just what can be achieved when care and support for people, rather than financial gain, is the overriding motivation.

My final thanks go to officers from across all relevant City Council departments who have supported the Committee in its work.

Cllr Carl Rice

Chair, Co-ordinating Overview & Scrutiny Committee



Summary of Recommendations

Ref	Recommendation	Responsibility	Completion Date
R01	<p>Building on the Success of the Pilot (1)</p> <p>a) The multi-disciplined, cross-departmental, team that is dedicated to Exempt Accommodation should be continued beyond the pilot. Mainstream funding should be identified and included in the 2022/23 budget, to resource the team, including officers from housing, adult social care, community safety, housing benefits, waste management, environmental health and planning.</p> <p>b) The multi-agency pilot team should also work closely with the Regulator of Social Housing.</p> <p>c) There should be clear leadership and accountability with a senior officer and Cabinet Member responsible for this area of work.</p> <p>d) Resources to continue work to oversee and inspect over 20,000 units should also be identified.</p>	<p>Cabinet Member for Homes and Neighbourhoods</p> <p>Cabinet Member for Vulnerable Children & Families</p> <p>Cabinet Member for Finance & Resources</p> <p>Cabinet Member for Social Inclusion, Community Safety & Equalities</p>	February 2022
R02	<p>Building on the Success of the Pilot (2)</p> <p>a) There should also be a single, clear route for citizens (residents of both exempt accommodation and the local areas) to raise concerns and have them resolved and work on remedies for change.</p> <p>b) The option of local coordination groups and a charter for local areas where there are high concentrations of exempt accommodation should be explored.</p> <p>c) There should be a clear route for local councillors to deal with casework relating to exempt accommodation.</p> <p>d) The pilot should also continue to work with the local residents' groups who contributed to the Scrutiny Report.</p>	<p>Cabinet Member for Homes and Neighbourhoods</p>	February 2022



Ref	Recommendation	Responsibility	Completion Date
R03	<p>Ensuring Council-wide Practice is consistent with the aims of the Charter and Supported Housing Strategy</p> <p>a) Adopt a council wide approach to commissioning, placing conditions on use of exempt accommodation based on their adherence to the quality standard and Charter.</p> <p>b) A list of approved providers based upon the Standard and Charter should be drawn up and shared with other agencies.</p>	<p>Cabinet Member for Vulnerable Children & Families</p> <p>Cabinet Member for Homes and Neighbourhoods</p>	June 2022
R04	<p>Supporting the Housing Benefit Process</p> <p>a) As part of the process of reviewing housing benefit applications, Adult Social Care visits with other relevant staff should be undertaken where a provider has not signed up to the Quality Standard accreditation scheme, so that the evaluation of 'support' is informed by Adult Social Care expertise in care, support and safeguarding, whilst responsibility for the HB determination rests with the Housing Benefit Team.</p> <p>b) The Quality Standard should be used to help determine whether the appropriate level of support is being provided.</p> <p>c) Payment should be reviewed after two months or at least within six months (so as to ensure providers are not forewarned of when the review will take place) with Adult Social Care, Housing and Community Safety input where appropriate. Reviews should include a site visit, not just a desk exercise. A system of risk-based reviews should be developed targeting a proportion of each category of provider as well as those known to be at higher risk.</p>	<p>Deputy Leader</p> <p>Cabinet Member for Vulnerable Children & Families</p> <p>Cabinet Member for Health and Social Care</p> <p>Cabinet Member for Homes and Neighbourhoods</p>	March 2022
R05	<p>Strengthening Planning Controls</p> <p>There is a gap between Councillors' and residents' expectations of planning enforcement and the service delivered by the Planning Department.</p> <p>We ask the Leader and the relevant O&S Committee to review existing practices, enforcement policies and procedures.</p>	<p>Leader and relevant O&S Committee</p>	March 2022



<p>R06</p>	<p>Working with Regional Partners and other Local Authorities</p> <p>The Cabinet Member should work with the regulator and other local authorities to prevent/reduce “lifting and shifting” of vulnerable people from elsewhere in the country.</p> <p>This is a national issue, and the Leader should raise this with WM Leaders and Core City groups.</p>	<p>Leader</p> <p>Cabinet Member for Homes and Neighbourhoods</p> <p>Cabinet Member for Vulnerable Children and Families</p>	<p>March 2022</p>
<p>R07</p>	<p>Lobbying for Change</p> <p>The Council should work with government to address the issues set out in 2.5.2.</p> <p>It should also be made clear that the two year programme for legislative change is unacceptable and this should continue to be raised with the Department for Levelling Up, Housing and Communities (DLUHC) (formerly MHCLG).</p>	<p>Cabinet Member for Homes and Neighbourhoods</p>	<p>March 2022</p>
<p>R08</p>	<p>Progress towards achievement of these recommendations should be reported to the Co-ordinating Overview and Scrutiny Committee no later than March 2022. Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations are implemented.</p>	<p>Cabinet Member for Homes and Neighbourhoods</p>	<p>March 2022</p>

Full Council is asked to agree the following motion:

That recommendations R01 to R08 be approved, and that the Executive be requested to pursue their implementation.

It was agreed at Full Council on the 7th December 2021 to insert at the end of the motion:

This Council calls on Birmingham City Council to actively enforce all existing covenants on properties preventing the conversion of single dwelling family use to other uses.

Call on the Council’s legal team to draft a statutory instrument (referenced on page 26 of report) to present to Government.

The Council also calls on the Executive to bring forward a report to Cabinet looking at placing a covenant on all council properties, including right to buy sales, which would prevent single dwelling family homes from being converted to other uses.



1 Introduction

1.1 What is Exempt Accommodation?

- 1.1.1 'Exempt' accommodation is accommodation which is provided by a non-metropolitan county council, a housing association, a registered charity or a voluntary organisation where that body or person acting on its behalf also provides the claimant with care, support or supervision.
- 1.1.2 It was introduced into Housing Benefit regulations in January 1996, after the rules were tightened to limit the amount paid to claimants outside of the regulated social rented sector. This means that those rules normally limiting the amount of rent covered by benefits do not apply for this type of supported accommodation.
- 1.1.3 The tenant qualifies for the enhanced housing benefit payment, which is paid by the Department for Work and Pensions via the housing benefit system and is administered by the local council. It is important to understand that Housing Benefit (HB) funds housing costs only. In the case of supported accommodation these include 'intensive housing management costs' (such as additional wear and tear, higher replacement costs) etc. **Funding for the provision of support must be found from elsewhere.** Qualifying providers can therefore receive HB payments often far in excess of Local Housing Allowance Rates or social sector 'general needs' rents (additional wear and tear, higher replacement costs etc).
- 1.1.4 Any provider wishing to set up as "Exempt" must obtain supported exempt status. The two criteria that the provider must meet are:
1. 'not-for-profit' status¹;
 2. Evidence of the provision of care, support or supervision – the nature or level of 'care, support or supervision' required is not detailed in the regulations but case law has qualified it as 'more than minimal' or 'more than trifling'.
- 1.1.5 Housing Associations registered with the Regulator of Social Housing are called Registered Providers, but other housing associations are not registered with the Regulator of Social Housing. Registered Providers providing supported exempt accommodation are also exempt from mandatory, selective or additional licensing and Houses of Multiple Occupation (HMO) management regulations (including Article 4 planning restrictions).
- 1.1.6 This means that the Council has few regulatory powers or resources in respect of exempt accommodation, beyond benefit regulations, or where statutory nuisances exist. Regulatory standards for registered providers are overseen by the Regulator of Social Housing (RSH). The

¹ A broad term for all independent organisations whose purpose is something other than to make private profit for directors, members or shareholders



Council is however responsible for some standards such as Cat 1 and Cat 2 health and safety and enforcement.

- 1.1.7 Exempt supported accommodation is generally transitional in nature and occupied by a wide cross-section of vulnerable citizens; many with multiple or complex care and support needs and often with no other option to meet their housing need. The sector covers supported housing for older people and accommodation for people with learning disabilities, as well as hostels for those referred from a criminal justice route (from prison or probation) or after being a victim of crime (modern slavery, domestic abuse) or as a result of homelessness, drug and alcohol addiction or as refugees or migrants.
- 1.1.8 However, this type of support, unless commissioned, has no minimum standards set or monitoring systems required. This is in contrast to services commissioned under grants such as the former Supporting People Grant, or schemes that provide a high level of care (e.g. care homes) and are regulated by the Care Quality Commission.

1.2 Exempt Accommodation in Birmingham

The Numbers

- 1.2.1 In Birmingham, the growth in exempt accommodation has been increasing significantly since 2017. As reported to Cabinet in April 2021, “the last 12 months have seen the sharpest increase in the amount of supported exempt accommodation claimants, with over 20,000 in payment in February 2021 compared with 14,000 in November 2019”.² Nationally, FOI information published by Crisis in October 2021 shows that 153,701 households in Great Britain were housed in exempt accommodation as of May 2021. This represents a 62% increase from 2016 to 2021.³
- 1.2.2 A report published by Prospect Supported Housing on their decision to close exempt accommodation provision estimated “that at least £816m has been spent on exempt accommodation in the last financial year alone. This is based on the responses received and a conservative estimate for those who were unable to provide exact figures”. They went on to note: “Spend on exempt accommodation (and presumably demand) has continued to rise. Based on responses from 52 authorities, the spend on exempt accommodation has risen by over £110m between 2018-19 and 2020-21”.⁴
- 1.2.3 The Cabinet report further states that “the range and quality of this accommodation varies and at its worst, provides poor support to some of the most vulnerable people living in our city.” Many are living in accommodation that has “materialised over the last few years, with private landlords building

² Bid to Ministry of Housing Communities and Local Government (MHCLG) Supported Housing Oversight Pilots 2020/2021, Report to Cabinet, 20 April 2021

³ [Over 150,000 households in controversial exempt accommodation | Crisis | Together we will end homelessness](#); October 2021

⁴ Prospect housing report: Safe, Successful, Sustainable: A shared vision for better homes, support and opportunities, October 2021



up portfolios of leased and owned accommodation and then applying for registered provider status, exempting them from licensing regulations.”

1.2.4 At the inquiry session on 24th September 2021 officers presented the initial findings of the Needs Assessment work being undertaken by Adult Social Care officers (see Section 2 for more detail). It has found that there were 21,317 units of exempt accommodation and that 19,760 of these units (equating to 93%) are within the oversight of Regulator of Social Housing (RSH) regulation.

1.2.5 Figures provided by housing officers show the growth of exempt accommodation as reflected in the number of Exempt Accommodation Housing Benefit applications over the past five years:

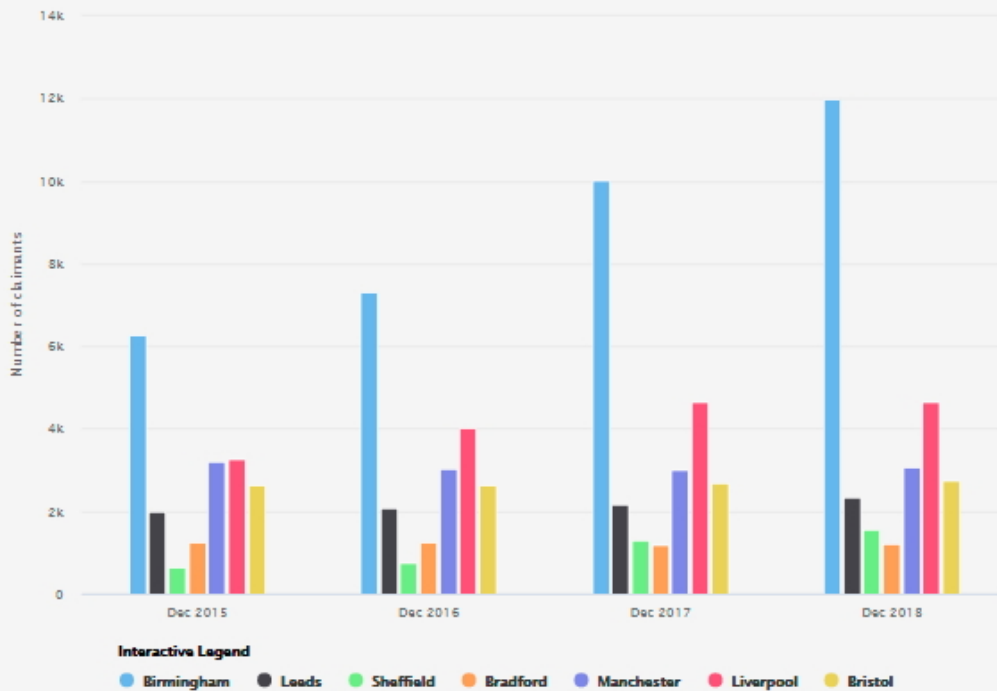
Year	Total
2016 - 2017	11,455
2017 - 2018	11,328
2018 - 2019	11,740
2019 - 2020	16,098
2020 - 2021	22,017

Birmingham Compared to Other English Cities

1.2.6 The Committee also looked at comparisons with other English cities. The results of a Freedom of Information (FoI) request by the Perry Barr Constituency Housing Action Group shows the numbers of housing benefit claimants for exempt accommodation for some comparative English cities. Whilst this data is now three years out of date, it does demonstrate that Birmingham's claims doubled between 2015 and 2018; only Sheffield showed a similar level of increase, albeit from a lower base.



HB claimants in specified accommodation (2015 to 2018 – 7 English cities)



Date	Birmingham	Leeds	Sheffield	Bradford	Manchester	Liverpool	Bristol
Dec 2015	6,250	1,990	630	1,250	3,210	3,250	2,620
Dec 2016	7,290	2,080	740	1,240	3,020	4,020	2,620
Dec 2017	10,030	2,160	1,310	1,180	3,000	4,640	2,680
Dec 2018	11,980	2,350	1,550	1,210	3,070	4,640	2,740

Source: DWP FOI 2019/03087 1 February 2019

1.2.7 Further evidence supplied by the Perry Barr Constituency Housing Action Group showed how the properties were concentrated in some 20 wards; and that within those wards there are concentrations in certain areas and roads. The wards with the highest concentrations were:

- Stockland Green (249 units, 6% of city's provision);
- Aston (216 units, 5.2%);
- Soho & Jewellery Quarter (207 units, 4.9%);
- North Edgbaston (194 units, 4.6%);



- Sparkbrook and Balsall Health East (175 units, 4.2%).

1.2.8 Other Wards have lower overall concentrations, but very high concentrations in some roads where the majority of the Ward's Exempt Accommodation is clustered. Ladywood (71 units, 1.7%, 21st in the city) and Handsworth Wood (105 units, 2.4%, 13th in the city) are examples of this. Other Wards with higher overall concentrations like Handsworth (159 units, 3.85%, 7th in the city) similarly have high concentrations at road level. The detrimental impact of this intensive clustering on individual roads, and its destabilising effect on the wider neighbourhood, can be significant.⁵

Why Birmingham?

1.2.9 At the evidence gathering session in September 2021, officers put forward views that the roots of the growth in Birmingham can be traced back to disinvestment and deregulation. This includes reduction in budgets for key vulnerable groups such as substance misuse, mental health, offenders and removal of the ring fence for the Supporting People programme⁶. Alongside that there has been a reduction in regulatory powers, resources and agencies which has led to other parts of the housing sector being left to explore how best to meet the demand that was still there and has grown. The lack of national guidance on current regulations has made it easy to enter the market and meet the minimum requirements.

1.2.10 In Birmingham there is a large private housing sector and the stock profile – large family-size houses – lends itself to house conversions to HMOs. There is also limited access to social housing, and the Local Housing Allowance Shared Accommodation Rates⁷ are low, rendering much of the private sector inaccessible to many on low incomes. Housing options for low-income single person households are therefore extremely limited, 'pushing' people into supported accommodation as their only option. The threshold for demonstrating a support need within HB regulations is low. The comments below, highlighted to the Committee, are recognised as a concern. However, it is understood that these types of issues will be picked up by the pilot and the developing supported housing strategy:

What we are seeing now is providers we have relied upon to provide housing closing down or suspending referrals into next year. This is very worrying as we will not be able to move residents on or meet the demand for good quality accommodation. If good and adequate providers cease trading, the ones who offered a lower standard, instead of upping their game will just move into the lucrative private rental sector leaving vulnerable people with no housing options at all.

1.2.11 Birmingham has been an outlier in growth to date, but there are now beginning to be increases in other authorities across the country and it is likely that this trend will continue. Apart from the other

⁵ Data from FOI by Perry Barr Constituency Housing Action Group

⁶ Supporting People is a UK government programme helping vulnerable people in England and Wales live independently and help them to remain in their home.

⁷ The local housing allowance (LHA) rate used to calculate universal credit housing element or housing benefit for most single private renters under 35. If you're under 35 and claiming as a single person, you can usually only get the shared accommodation rate even if you don't share your home with others.



national pilot areas, the West Midlands Combined Authority (WMCA) local authorities are reporting increasing concerns about the growing trend and interest in their areas. The Members Advisory Group to the Homelessness Taskforce have identified this as one of their key priorities. They are supportive of the action being taken by Birmingham and are keen to learn from the pilot.

1.3 The Inquiry

- 1.3.1 In December 2020, the Co-ordinating O&S Committee commenced a review into exempt accommodation following concerns raised by residents through their local councillors, and in response to a request from the then Cabinet Member for Homes and Neighbourhoods, Cllr Sharon Thompson.
- 1.3.2 Members had been receiving complaints in their casework about the impact of exempt accommodation on local areas. These included anti-social behaviour and rubbish accumulating in streets and within the curtilage of properties, generated by the concentrations of this accommodation in some areas.
- 1.3.3 Cllr Sharon Thompson asked the Committee to explore citizens' experiences of exempt accommodation with a view to developing recommendations around what the Council needs to be doing, and what it should be talking to Government about. There are concerns about inadequate legislation with regards to planning, benefits and regulation. It was emphasised that not all providers are bad providers, there are some very good ones in the city, but the intention is to drive out bad practice. The breadth of the issues concerned is why this work best sits with the Co-ordinating O&S Committee.
- 1.3.4 The Co-ordinating O&S Committee commenced its inquiry into exempt accommodation in December 2020 with a presentation from the former Cabinet Member for Homes and Neighbourhoods and officers. The terms of reference were finalised and a call for evidence issued on 26th January 2021. That call for evidence elicited over 90 responses, from both individuals and community groups.
- 1.3.5 Following that, Cllr Rice and other members of the Committee, met (online) with representatives of community groups across the city (Edgbaston, Handsworth, Handsworth Wood, Stockland Green and Selly Oak) who have been particularly active in this area. Meetings were also held with two providers in the city.
- 1.3.6 An evidence gathering session was held on 24th September 2021, with Cabinet Members and officers, to address the concerns raised by citizens. This report sets out the findings and recommendations. A list of contributors is set out in Appendix 1.
- 1.3.7 At that session, members of all parties emphasised their commitment to working together to resolve these issues as far as it was in the power of the Council to do, and to work with Government to strengthen regulation to support good quality exempt accommodation.



2 Key Issues

2.1 Summary of Issues

2.1.1 The call for evidence for this inquiry received an unprecedented number of responses, indicative of the strength of feeling generated by this issue. Many of the responses received came from active citizens, engaged in community or residents' associations, organising litter picks or neighbourhood/street watch, responding to planning consultations and engaging with police and local councillors. Others came from residents prompted by concerns about their local areas. All were feeling helpless in the face of the blight caused by the concentration of badly managed properties.

2.1.2 The experiences and views of those who responded are set out in Appendix 2, which attempts to capture the devastating effect on their homes, neighbourhoods and daily lives of high concentrations of low-quality exempt accommodation. This evidence is at the heart of this report and its recommendations. In summary, the issues raised were:

- The growth and disproportionate concentration of exempt accommodation in certain areas of the city as referred to above (Section 1.2). A number of reasons for this were put forward, including the apparent ease of obtaining housing benefit (see section 2.3); lax planning rules (see section 2.4); and evidence that some landlords market vacancies outside the city, bringing people with support needs to Birmingham where they are remote from their natural support networks and without the support infrastructure to cope;
- The impact of this growth and concentration on those local communities, described by one respondent as "blight" – including anti-social behaviour, crime and nuisances such as accumulating rubbish;
- Recognition of the need for good exempt accommodation for vulnerable people; many respondents expressed concern about the welfare of residents of exempt accommodation and the level of support received. As the April 2021 Cabinet report notes, it is also likely that accommodation is "trapping some of the most vulnerable people in some of the poorest accommodation with inadequate support, unable to take up employment or with any pathway to move on";
- Acknowledgement of the lack of regulation and checks, which has led to the poor quality of some of the exempt accommodation in the city and the poor competency of landlords, many of whom live outside of the city but nonetheless may generate significant income;
- Concerns about the cost of responding to these issues on the public purse – for example, one FoI request to West Midlands Ambulance Service revealed that just to exempt accommodation in just one area, the ambulance service has been called out over two hundred times in the last three years. Each call out costs £277 and an A&E admission £850 (see Section 4 of Appendix 2 for more information). The April Cabinet report noted in addition "there is also a concerning



prevalence of housing providers linked to Organised Crime Groups which in turn exacerbates the vulnerability of their tenants.”

- 2.1.3 The findings of this inquiry have been supplemented along the way by media reports by Birmingham Live which has featured a number of stories on poor quality exempt accommodation and the impact on residents and local areas. The national press also picked up on the issue; on 27th June 2021, the Observer published an article [“Hostels from Hell: the ‘supported housing’ that blights Birmingham”](#), particularly focusing on the experience in Stockland Green and Handsworth. As well as noting the dramatic increase in numbers, it reported that “Figures uncovered by the *Observer* reveal for the first time the 10 biggest independent providers in the country are on course to collect £184m in housing benefit this year – generating on average more than £11,600 every year for each of the nearly 16,000 bed spaces they supply.” Seven out of the ten are “either non-compliant or under investigation by the government’s social housing watchdog, the Regulator of Social Housing (RSH), for breaching governance and financial standards designed to prevent public money from being misused and protect tenants from harm. But only two providers are exiting the market following regulatory action, with the rest continuing to receive public money”.
- 2.1.4 It is worth noting that the issues raised also reflect the findings of a report commissioned by the Independent Chair of the Birmingham Adults Safeguarding Board back in 2017. This was in response to issues being raised by a number of agencies regarding the increasing numbers of vulnerable people being placed within the sector with little or no regulation or quality assurance and the risks in relation to the mix of vulnerable people being placed together. The recommendations of that report tally with the conclusions of this report and of the aims of the Council’s pilot scheme.⁸
- 2.1.5 Many of the submissions to the inquiry proposed solutions, many of which focused on improving the Council’s response and strengthening the use of existing powers, whilst also acknowledging the defects of the national framework and proposing areas for change. These issues, and the responses received from Cabinet Members and officers, are set out in the remainder of this report under the following headings:
- Response of the Council to date – the pilot and resulting actions;
 - The role of housing benefit in curtailing the growth of exempt accommodation;
 - The role of planning in curtailing the growth of exempt accommodation;
 - The need for change in regulatory framework and asks of Government.

⁸ Risk, Safety and Wellbeing in Shared ‘Exempt’ Accommodation in Birmingham, England, Thea Raisbeck, an Honorary Research Associate within the Housing and Communities Research Group at the University of Birmingham and an Associate of Spring Housing Association, a housing charity based in Birmingham, September 2018



2.2 Birmingham City Council – Supported Housing Pilot

2.2.1 In September 2020 the then Ministry for Housing Communities and Local Government (MHCLG) invited Birmingham along with four other Local Authorities (Blackburn, Blackpool, Bristol and Hull) to bid for a six month pilot aimed at improving standards in the supported Housing Exempt Sector. Overall funding comes to £1.804m.

2.2.2 Details of the findings and results of the pilot, as of September 2021, are set out in Appendix 3 (slides 16-22). Key findings relevant to this inquiry are set out below.

Needs Assessment

2.2.3 A strategic needs assessment was being undertaken at the time of writing this report, to provide the Council with some insight into the sector, to support the pilot and to inform the development of the supported housing policy. Initial findings include:

- Population projections suggest the need for this type of accommodation will grow. There are also a number of providers who are under regulatory intervention and some that have already been closed down.
- 93% of the provision is within the oversight of Regulator of Social Housing (RSH) regulation (see Section 1), making RSH the primary regulator of supported provision. However, the focus of this regulation is primarily on financial viability and governance matters. Other regulatory requirements include a 'Home Standard' home and 'Neighbourhood and Community Standard' providing for the proactive management of ASB and a positive impact on the area. That said, there has been no focus on the quality of support provision.
- Property, tenancy and support services are, in the main, not delivered by the registered providers directly, so there is no direct relationship between the citizen and the provider. This enables significant sums to be transferred to third parties that can be for profit or designated as non-social housing. The National Housing Federation (NHF) recently reported that "We believe that some of these providers of 'exempt accommodation' are operating 'for-profit', despite their official 'not-for-profit' status, which does not align with the NHF's values' and have taken steps to amend membership rules accordingly".

2.2.4 **The impact of the current situation for those people using exempt accommodation is that they are often left to pay for their own support** (as housing benefit only covers the rent) **without a means test around affordability** – this contrasts with other areas of social care support which is means tested. They are often placed in shared accommodation with no say or influence over who the other occupants are and, without the proper support, can find it difficult to exit the sector. Indeed, there are risks of pushing people into destitution or crime, as well as the potential for worsening health and wellbeing, which in turn leads to more costly state interventions.

2.2.5 For local authorities, the current framework means they can have little or no direct influence on standards of care, support provided or referral routes. They have limited capacity and resources to



monitor how this accommodation operates. There is no national funding to support work in this area outside of the pilot (see slide 12 of Appendix 3).

Responses to the Issues – the Pilot

2.2.6 The objectives for the pilot are set out below, along with a summary of progress made as of September 2021:

- Improving properties and standards through:
 - The rollout of a voluntary quality standard, including a comprehensive list of indicators and good practice. There is a rigorous assessment process informed by intelligence from background checks, inspection teams, Housing Benefit Team, the Housing Transition Team, onsite visits, interviews with staff and residents, website, and media reports. So far, 179 registered providers and managing agents overall with over 60 providers and managing agents have been engaged. Assessment for the standard involves visits and interviews.
 - A multi-disciplinary team undertake targeted inspections.
- Ensuring citizens are safeguarded and supported to effectively build their capability and autonomy through the Quality Standard and associated checks (see slide 17 of Appendix 3).
- Empowering citizens living in exempt accommodation through effective communication and roll out of the charter of rights developed by Spring Housing. The Charter has been co-designed with 50 residents from Birmingham and includes a self-assessment toolkit to support providers to meet the good practice standards and ascertain levels of need. The work has been picked up as national good practice. The rights set out in the Charter are:
 - A right to feel safe and protected
 - A right to decent living conditions
 - A right to clear information on your support entitlement
 - A right to security of property
 - A right to seek advice and assistance, and to challenge
- Conducting a strategic needs assessment (see above) and developing a Supported Housing Strategy with key stakeholder and public consultation. A Cabinet decision is expected in spring 2022. Importantly this will be accompanied by a toolkit for managed transition / provider exit, to support providers and residents when any provider withdraws from the market or closes accommodation.
- Investigating and prosecuting Organised Crime Groups that are involved in exempt accommodation – a key concern of local communities. The Council's Community Safety Team has increased capacity to target this and works with the police and the Fire Service to undertake multi-agency inspections and investigations.



- Undertaking an evaluation of effective interventions and initiatives to have a good evidence base that will inform and improve policy at government level as well as the local level. The Council has been working with the Government to raise awareness and the major providers, particularly in relation to the high density of growth within specific geographical areas. This had led to some of the major providers agreeing to curtail their portfolios of properties within certain areas or within the Birmingham region all together.

Recommendation

- 2.2.7 Local authority influence and control is crucial in managing exempt accommodation for the benefit of all in the city, but that is severely constrained by legislation. Section 2.5 sets out what the Committee wants to see changed at a national level, but change is likely to be a long time coming. Therefore, it is essential that the City Council uses the powers and influence that it does have to manage this issue.
- 2.2.8 The pilot has been a huge step forward in this and has clearly achieved much in the relatively short time it has been running, and those advantages need to be secured for the long term. The Committee therefore recommends that this resource is mainstreamed and maintained. The cross-departmental nature of the team is critical and was one of the most repeated asks from those who responded to the call for evidence. To have all relevant departments working together, sharing information and providing a single council response is critical in tackling this issue. Whilst this does have significant resource implications, the Committee believes that the reduction in the cost of reacting to all the issues set out in this report, as well as the benefits of improving the quality of life in some neighbourhoods and the reputation of the city, will be equal or greater in value to the city. (Recommendation 01)
- 2.2.9 The Committee, in its recommendation, suggests that waste management and environmental health also form part of this cross-departmental team, in recognition of the severe blight caused by rubbish, fly-tipping and other environmental nuisances; one of the worst effects of the concentration of exempt accommodation.⁹ (Recommendation 01)
- 2.2.10 Another of the worst effects is anti-social behaviour and crime, so continuing to work alongside other agencies, in particular the police, is vital. (Recommendation 01)
- 2.2.11 Communication and engagement with both those living in exempt accommodation and those living in areas of high concentrations of exempt accommodation is another important tool in tackling this issue. Members understand that the Council is mapping all exempt accommodation in the city, and this should be shared with residents. There should also be a single clear route for citizens to raise concerns and have them resolved, as well as share proposed solutions. And in areas where there are high concentrations of exempt accommodation there should be local coordination groups including relevant agencies, and providers, to maintain oversight and communication on the issues.

⁹ ["It makes us look bad" - 14 residents at exempt housing given just one bin - Birmingham Live \(birminghammail.co.uk\)](http://www.birminghammail.co.uk)



This could be assisted by the City Council setting out what support they can expect to receive from the council, perhaps in the form of a local charter. (Recommendation 02)

2.2.12 There should be a council-wide approach to referrals into non-commissioned provision and embed the Quality Charter and standards in its practice, by only placing people in exempt accommodation where providers have signed up to the quality standard and Charter. A list of approved providers based upon the Standard and Charter should be drawn up and shared with other agencies. It is acknowledged that this would be a significant piece of work given the range of agencies that refer into exempt accommodation and would be assisted by regulation in this area. (Recommendation 03)

Ref	Recommendation	Responsibility	Completion Date
R01	<p>Building on the Success of the Pilot (1)</p> <p>a) The multi-disciplined, cross-departmental, team that is dedicated to Exempt Accommodation should be continued beyond the pilot. Mainstream funding should be identified, and included in the 2022/23 budget, to resource the team, including officers from housing, adult social care, community safety, housing benefits, waste management, environmental health and planning.</p> <p>b) The multi-agency pilot team should also work closely with the Regulator of Social Housing.</p> <p>c) There should be clear leadership and accountability with a senior officer and Cabinet Member responsible for this area of work.</p> <p>d) Resources to continue work to oversee and inspect over 20,000 units should also be identified.</p>	<p>Cabinet Member for Homes and Neighbourhoods</p> <p>Cabinet Member for Vulnerable Children & Families</p> <p>Cabinet Member for Finance & Resources</p> <p>Cabinet Member for Social Inclusion, Community Safety & Equalities</p>	February 2022



Ref	Recommendation	Responsibility	Completion Date
R02	<p>Building on the Success of the Pilot (2)</p> <p>a) There should also be a single clear route for citizens (residents of both exempt accommodation and the local areas) to raise concerns and have them resolved and work on remedies for change.</p> <p>b) The option of local coordination groups and a charter for local areas where there are high concentrations of exempt accommodation should be explored.</p> <p>c) There should be a clear route for local councillors to deal with casework relating to exempt accommodation.</p> <p>d) The pilot should also continue to work with the local residents' groups who contributed to the Scrutiny Report.</p>	Cabinet Member for Homes and Neighbourhoods	February 2022
R03	<p>Ensuring Council-wide Practice is consistent with the aims of the Charter and Supported Housing Strategy</p> <p>a) Adopt a council-wide approach to commissioning, placing conditions on use of exempt accommodation based on their adherence to the quality standard and Charter</p> <p>b) A list of approved providers based upon the Standard and Charter should be drawn up and shared with other agencies</p>	<p>Cabinet Member for Vulnerable Children & Families</p> <p>Cabinet Member for Homes and Neighbourhoods</p>	June 2022

2.3 Housing Benefit

2.3.1 As noted above (see Section 1), exempt accommodation rent is paid for through Housing Benefit (HB) which is administered by the Council (though it is paid by the Department for Work and Pensions). This is the only area where there are regulations governing exempt accommodation. As the Deputy Leader noted at the September session, the HB service is the "front door" to providers coming to the city.

2.3.2 Many citizens who contacted the Committee believed that it was the approach to HB in Birmingham which is one of the reasons that has led to the disproportionately high growth of exempt accommodation in the city. The concerns expressed to the Committee were that the speed of the



payments and the lack of checks around the support provided were key drivers. One community group researched practice at another authority and identified that they undertook more intensive work at the start of a claim in that they did joint visits. Therefore, it was considered that it has been easier for landlords to exploit the potential to receive higher income than they would from other rents. This was echoed in the report on Housing Need in Stockland Green:

“Anecdotal evidence suggests that Birmingham’s Housing benefit service takes a less confrontational and more trusting approach to the resolution of HB claims for exempt accommodation. Further, claims processing is amongst the most efficient in England. Exempt providers favour Birmingham as a place where claims are rapidly processed and HB income is relatively easily accessed, meaning their income stream is reasonably certain in a business where resident turnover can be very high.”¹⁰

2.3.3 The perceptions of residents were examined at the September 2021 inquiry session. In response, officers stated that the following rules must be applied:

- For a claim to be treated as an ‘exempt accommodation’ claim, the accommodation provider must provide care, support or supervision to the tenant, and the tenant must need the support.
- There is no legal definition of care, support or supervision, and there is no specification about how much care, support or supervision needs to be provided. It has been decided by the Upper Tribunal that it must be “more than minimal”.
- Housing Benefit is a benefit paid to the citizen not to the Landlord.
- Housing Benefit payments do not cover any of the cost of the care, support or supervision.

2.3.4 The Committee was informed that the Council must adhere to the regulations and refuse HB if applicants do not meet the criteria. There is a statutory requirement to make decisions within 14 days once all necessary documentation and evidence has been provided. They can also restrict payment if it is deemed to be overly expensive in comparison to other suitable alternative accommodation; and can stop HB payments if a review of the claim identifies that *minimum* care, support or supervision is not taking place. It was stated that whether the care, support or supervision *meets the needs* of the claimant cannot be taken into account as long as the support provided is in place, is needed and is evidenced as more than minimal; nor can the standard of the property, or reports of anti-social behaviour or substance use. However, these other issues will be reported to the appropriate departments or organisations, and the Committee recognised that ongoing substance abuse and ASB themselves indicate that support levels or management practices may be inadequate.

2.3.5 The significant increase in exempt accommodation applications was identified in 2019, and a Supported Exempt Accommodation Team (SEAT) was set up in April 2019. The team introduced

¹⁰ Housing Need in Stockland Green, researched and written by Dr Margaret O’Brien for Neil Morland & Co Housing Consultants. Commissioned by The Pioneer Group on behalf of Stockland Green Opportunity Housing & Training, Birmingham City Council, New Roots Ltd, & Spring Housing Association. Published September 2020. P.71



reviews of existing landlords/residents and of new applications for exempt accommodation after two months. The process adopted is set out in slide 28 of Appendix 3. When the pilot started in 2020, that meant there were additional resources to increase the capacity to strengthen and widen the reviews.

- 2.3.6 Officers shared the following numbers: between September 2020 and September 2021, there were 390 applications for **new providers**. Of those, 62 new units were granted exempt accommodation status and 211 were refused. 117 had their rents restricted.
- 2.3.7 Between November 2020 and September 2021, the team processed 26,012 **new claims** and rejected 132 new claims. 1,861 were reassessed, and 786 claims were reduced. 1,075 claims were cancelled due to insufficient care and support. 1,526 claims were cancelled because the resident had vacated the property.
- 2.3.8 Since the SEAT team was set up in 2019, overpayments to the value of £3.6m have been recovered. The overpayments were a result of inappropriate or fraudulent applications. Fraud claims are all referred to the DWP.
- 2.3.9 The team informed the Committee that they have benchmarked those processes with other local authorities, (Core Cities, West Midlands local authorities and the DWP Practitioners Operational Group). The DWP's Performance Development Team have undertaken a review and health check of the current process in Birmingham (at the time of writing the findings had not been shared with the Council), and Birmingham City Council's Internal Audit section were asked to review the process and have not made any recommendations for change.
- 2.3.10 Members considered evidence of differences in approaches between local authorities. Whilst the regulations are the same across the country, one of the differences is that some authorities undertake multi-disciplinary visits to potential providers when assessing the claim, including Adult Social Care staff so that the evaluation of 'support' is informed by their expertise in ensuring care and support needs are being met and to safeguard citizens. Responsibility for the HB determination rests with the Housing Benefit Team. As part of the pilot, these visits are now carried out later in the process in Birmingham.

Recommendation

- 2.3.11 The Committee believes that taking a proactive approach to HB claims at the start is essential, not just to ensure the payments are being made to the right people but to signal to providers that Birmingham takes this seriously and will pay close attention to those not meeting the standards. There is scope to do more here, and visits at the start of the process with adult social care and perhaps planning officers would make the sector less attractive to those who do not want to provide the proper support. HB claims must be settled within 14 days of receiving all the necessary information, and the Committee believes that the outcomes of these visits are part of the information that must be provided before a claim is considered.



- 2.3.12 The Committee recognises that this would demand significant extra resources, but also acknowledges that this cost must be balanced with the benefits of bringing the disproportionate growth in exempt accommodation under control. In the short term, a more targeted approach, focusing on the exempt accommodation that is known to be causing issues could be adopted and may be sufficient to send a strong signal to providers who see this as an easy way to generate income. A risk based approach, combined with visits to all new providers, would be targeted to manage resources; reviews at the two month stage should continue, though it could be considered (where a provider has been visited at the start of the claim) to move to within six months so that providers do not know when to expect the visit.
- 2.3.13 The Quality Standard should be used to help determine whether the appropriate level of support is being provided. It is accepted that the Quality Standard is voluntary, not statutory, however it provides an important marker of what support should look like that can help in assessing “more than minimal” and would be used to give guidance to providers.
- 2.3.14 Whilst this report was being written, it was reported that two more of the city’s biggest providers of exempt accommodation, Reliance and 3CH, were issued with regulatory notices by the Regulator of Social Housing (RSH) for breaches of standards in finance and governance. As part of the findings, the regulator said that the providers had failed to ensure that the arrangements it entered into did not inappropriately advance the interests of third parties and there were insufficient controls in place with its managing agents.¹¹ Now approximately 75% of exempt accommodation in the city is provided by providers with a regulatory judgement.
- 2.3.15 There are clearly gaps in the regulations that enable poor providers to flourish and these need to be addressed at a national level. Section 2.5 sets out the Committee’s proposals for change.

¹¹ [Probe uncovers failings at city's biggest exempt supported housing provider - Birmingham Live \(birminghammail.co.uk\)](https://www.birminghammail.co.uk/news/local-news/probe-uncovers-failings-at-citys-biggest-exempt-supported-housing-provider-15848811)



Ref	Recommendation	Responsibility	Completion Date
R04	<p>Supporting the Housing Benefit Process</p> <p>a) As part of the process of reviewing housing benefit applications, Adult Social Care visits with other relevant staff should be undertaken where a provider has not signed up to the Quality Standard accreditation scheme, so that the evaluation of 'support' is informed by Adult Social Care expertise in care, support and safeguarding, whilst responsibility for the HB determination rests with the Housing Benefit Team.</p> <p>b) The Quality Standard should be used to help determine whether the appropriate level of support is being provided.</p> <p>c) Payment should be reviewed after two months or at least within six months (so as to ensure providers are not forewarned of when the review will take place) with Adult Social Care, Housing and Community Safety input where appropriate. Reviews should include a site visit, not just a desk exercise. A system of risk-based reviews should be developed, targeting a proportion of each category of provider as well as those known to be at higher risk.</p>	<p>Deputy Leader</p> <p>Cabinet Member for Vulnerable Children & Families</p> <p>Cabinet Member for Health and Social Care</p> <p>Cabinet Member for Homes and Neighbourhoods</p>	March 2022

2.4 Planning

- 2.4.1 Planning issues were a common theme in the responses received as a result of the call for evidence, both in terms of the lack of planning controls to limit the growth of exempt accommodation and in enforcing planning restrictions where owners had breached rules or conditions.
- 2.4.2 Whilst it was accepted the current planning regulatory regime was not adequate in respect of exempt accommodation, and reform is a key ask of Government (see below), it was also felt that the Council could be using its existing powers more robustly.
- 2.4.3 The main limiting factor is that exempt accommodation managed or controlled by a Registered Provider cannot be classed as a house of multiple occupation (HMO) as it is excluded by Schedule 14 of the Housing Act 2004 law from counting as an HMO. This means that exempt accommodation is unaffected by the City Wide Article 4 Direction which seeks to manage the growth of HMOs.¹² This is picked up in section 2.5.

¹² <https://www.legislation.gov.uk/ukpga/2004/34/schedule/14>



- 2.4.4 Conversion of a house to exempt accommodation only requires planning permission in certain circumstances. A property owned by a private landlord intending to later lease it to a Registered Provider is still subject to planning controls until the Registered Provider takes over. If there is an intention to effect a change of use from single household occupancy to occupancy by more than one household then planning permission is required.
- 2.4.5 Officers from the Planning team explained to Members the test they use, and this is summarised in slide 36 in Appendix 3. There is no legal definition of what constitutes a single household, and it will always be a matter to be determined on a case by case basis as a matter of fact and degree. In essence however, Members were informed that the view taken in Birmingham is that where there are six or fewer people living together, the more likely they are to be deemed to constitute a single household. This is one area where some believe Birmingham could take a more robust stance; for example, considering other factors including whether the residents arrived in a single group or were independently recruited by the landlord; the extent to which facilities are shared; whether the occupants were responsible for the whole house, whether they lock their doors, the landlord or tenants are responsible for filling vacancies, and allocating rooms, the size of the establishment; stability of the group; and how communally or independently the tenants live. These derive from existing caselaw¹³ and are not single tests that must all be passed but are a way of building a truer picture.
- 2.4.6 Where planning permission is required, then elements of Birmingham's local planning policy (the Development Management in Birmingham Plan) will apply. Policy 12: Residential conversions and Specialist accommodation¹⁴ will apply where planning permission is required for exempt accommodation, and states that such developments "will not lead to an unacceptable adverse impact on the amenity, character, appearance, parking, public and highway safety of the area, taking into account the cumulative effects of similar uses in the area" (see slide 37 in Appendix 3). A specific threshold for the concentration of such properties has not been set, and so will be considered on a case by case basis. Additionally, Policy 11 on HMOs sets a maximum 10% threshold for the numbers of HMOs within a 100m radius. Whilst decisions on HMOs and exempt accommodation must be considered separately, the Planning Department have committed that the concentration of exempt accommodation in the vicinity will be taken into account when assessing planning applications for HMO. Further details regarding what does and does not require planning permission can be found at <https://www.birmingham.gov.uk/hmoarticle4>.
- 2.4.7 Members particularly noted that the rise in HMOs and exempt accommodation results in a loss of existing use and affordable family housing and this should be protected through local policy.
- 2.4.8 There was also a feeling amongst some that communities were not sufficiently engaged by the Council in the long-term strategic planning of an area. Some reported frustrations with their Ward

<https://www.legislation.gov.uk/ukxi/1987/764/schedule/made>

¹³ Hassock v Kettering Borough Council 2002 <https://www.casemine.com/judgement/uk/5a8ff72360d03e7f57ea857d>

¹⁴ www.birmingham.gov.uk/DMB



Forum, where matters were reported but seemingly not acted on. More widely there was a perceived disconnect between residents and strategic planning. It was suggested that real progress could be made with a partnership with local communities, contributing at a local level, to build trust and a space to grow a sense of community, including improving formats for residential involvement and influence in areas other than those served by a Neighbourhood Plan.

- 2.4.9 In terms of planning enforcement, the pilot has allowed this to be stepped up and over 200 properties were investigated this year. Some enforcement activity has taken place to improve property layout, e.g. bedrooms and communal space. There has been support to one closure order (appealed by the landlord but denied in court).
- 2.4.10 However, the majority of exempt accommodation conversions were found not to require planning permission, so no enforcement action can be taken. The Committee was also informed that breaching planning control and operating without planning consent is not a criminal offence, and developers can apply for permission retrospectively by law.

Recommendation

- 2.4.11 Whilst there are significant constraints in legislation on the extent to which planning controls can be used to limit the growth of exempt accommodation, Members believe a more challenging planning environment for exempt accommodation could be created in Birmingham.
- 2.4.12 Members noted that Planning have adopted a pro-active approach to the investigation of exempt accommodation following the introduction of the Pilot. This collaborative approach facilitated by the Pilot includes regular tasking group meetings that ensure the properties generating the greatest impact are always prioritised.
- 2.4.13 However, Members believe that whilst the council must operate within the law, opportunities to take more robust enforcement action can be explored. This could include issuing enforcement notices (rather than waiting for work to complete and tenants move in). It is accepted that this is a different approach, and the council is reviewing best practice as part of the national pilot and may have to take some test cases to see what is possible within existing regulations.
- 2.4.14 Another area that has been questioned is the approach to determining whether a household is a single household or not. The Committee therefore proposes that independent external advice is taken on the application of the single household test and should be picked up when undertaking recommendation 5.
- 2.4.15 As this report was being written, the Planning Inspector upheld an enforcement notice and agreed the permanent closure of Saif Lodge, which had been operating as exempt accommodation. It was determined that planning controls had been breached by it changing from a hotel to exempt accommodation and noted that the Development Management in the Birmingham Plan meant that the cumulative impact of exempt accommodation in the area had to be considered. In the judgement, the "fears of the local community that the supported accommodation leads to a greater number of incidents of crime and disorder in the local area" were seen to be a material consideration



and concluded “that the development has a harmful effect on the living conditions of the occupants of nearby residential properties with particular reference to the fear of crime and disorder and noise and disturbance”. As this conflicted with a number of policies in the Development Plan, the hostel was forced to close. This will be seen as an important case in strengthening local authorities’ hands in this area. This case came about as a result of pressure from local residents.

2.4.16 In terms of planning enforcement generally, Members shared their concerns about the robustness of current practice and noted how apparent failure to act frustrated councillors and citizens alike. It is therefore proposed that scrutiny take on an in-depth inquiry into planning practice and enforcement. This could have implications for other areas beyond exempt accommodation, for example, the effectiveness of the Council’s practice in containing the growth of HMOs. More generally, sharing information on the requirements and law would assist residents and providers alike, making it clear what the Council’s approach would be. Also, this could include:

- A re-evaluation of the council’s risk appetite in relation to preventing further growth of this model, including taking test cases where necessary;
- An independent review of the single household test;
- A pro-active approach to Exempt Accommodation conversions so developers are aware that BCC is taking a close look. A small number of investigations and enforcement action would send a clear message to providers.

2.4.17 Further proposals to ask Government to amend existing law are set out in section 2.5.

Ref	Recommendation	Responsibility	Completion Date
R05	<p>Strengthening Planning Controls</p> <p>There is a gap between Councillors’ and residents’ expectations of planning enforcement and the service delivered by the Planning Department.</p> <p>We ask the Leader and the relevant O&S Committee to review existing practices, enforcement policies and procedures.</p>	Leader and relevant O&S Committee	June 2022

2.5 Regulation

2.5.1 Supported housing reforms were proposed in 2018 (the regulations were written in 1996) but have been shelved by the Government, and the situation has been seriously exacerbated since then. It is therefore very difficult for councils to respond as they have limited powers and influence.

2.5.2 Having considered all the evidence, the Committee therefore recommends that the Council asks Government to consider the following changes to legislation and the regulatory framework:



- To review the current funding model for locally delivered supported housing (currently based around old and not fit for purpose HB regulations) – incorporating proper means-tested support for vulnerable tenants.
- To consider a government national accreditation requirement for providers supported with additional regulation to enforce this.
- For local authorities to have greater tools, power, and ability to control provision and growth based on needs assessments. Currently, councils cannot stop or restrict growth based on market saturation or oversupply. There are two key aspects to this:
 - **Alignment of existing planning and HMO licencing powers to capture supported housing provision – currently exempt from licencing, Article 4 etc. to assist in managing supply.** Exempt accommodation should come under the planning regime for HMOs; this would mean amendments to the definition of an HMO in Schedule 14 of the Housing Act 2004 so that Exempt Accommodation controlled or managed by a non-profit registered provider of social housing can count as HMO. This may require a change to primary legislation, but the Government should consider whether this can be changed by statutory instrument, such as via the Town & Country Planning (Use Classes) Order 1987, which would be quicker.
 - **Strengthened definitions within current regulations relating to the level of provision of care, support and supervision.** The definition of support – “more than minimal” - is deeply unhelpful. The standard of care, support and supervision should be tightened with powers to remove HB where the standards are not met. The Council is making some inroads here with the Quality Standards, but strengthening the law and hand of the regulator, along with mandatory monitoring, would make the expectations to providers clear, and provide a means of ending unsuitable and disruptive provision
- Closing gaps in the regulations that allow not-for-profit providers to contract with for profit agents/organisations. There is a clear gap in the regulations that allows profits to be made from exempt accommodation HB payments. The HB team can only review the landlord applying for exempt accommodation; however, that landlord may have a relationship with a provider who is for profit. The regulator is aware of this gap in the regulations and closing these gaps will prevent unscrupulous companies and individuals profiting from vulnerable people and will ensure there can be no link between exempt accommodation and organised crime. Attention should also be paid to other avenues for evading regulation – the Prospect report notes that some agents are now seeking to register as Community Interest Companies (CIC). This effectively makes them charitable providers and means agents do not need to use Registered Providers to operate exempt accommodation. This loophole should also be closed.
- Regulator of Social Housing role and ability to effectively monitor compliance against consumer standards for RPs in this sector should be strengthened.



- Protocols should be put in place for statutory agencies referring into exempt accommodation to create greater consistency and accountability to include protocols for out of city placements.
- Greater enforcement powers to tackle providers who do not effectively manage ASB, including additional Community Safety powers needed, as Community Protection Orders are effective but take too long to process and by then tenants have often moved on.

- 2.5.3 Whilst the Housing Minister, Eddie Hughes, MP for Walsall North, has said in Parliament that he would work with the council's Cabinet Member responsible for housing, to deal with problems in the city's exempt accommodation,¹⁵ it appears unlikely that legislative change will come in the next two years. Therefore, it is important that the Council addresses what it can do in the meantime, both with active dialogue with government and close working with the regulator (as is happening through the pilot).
- 2.5.4 One element of this is for the Council to work with other local authorities – through the Combined Authority and with other core cities¹⁶ - to strengthen standards and to reduce collectively the number of people coming from outside the city to take up places in exempt accommodation without adequate support. This will need agreement with other referral agencies (e.g. probation) as well.
- 2.5.5 There is already work going on. The Cabinet Member for Vulnerable Children and Families, Cllr Sharon Thompson, and the Mayor of the West Midlands, Andy Street, have written to Clive Betts MP, Chair of the Housing, Communities and Local Government Select Committee asking the Committee to consider launching an inquiry into this issue. The Committee endorses that call.
- 2.5.6 Work with providers has also been an important feature of the Pilot. The supported housing needs assessment is likely to provide evidence that there is a significant over supply of exempt supported accommodation in the city to meet local need for people at risk of homelessness. To address this, the Council has developed the decommissioning toolkit to assist with this but there will need to be some significant voluntary actions by lease based registered providers to make any dent in overall unit reduction in the city. This will mean direct dialogue with providers.
- 2.5.7 There are two further related but important issues. Firstly, the demand for exempt accommodation is partly fuelled by the lack of supply of truly affordable rented housing, particularly for single people. A national housing strategy which crosses parliamentary timescales is required to address this over a longer period.
- 2.5.8 Secondly, during the course of this inquiry, all seven of the Registered Providers in the city, and who provide 75% of the city's exempt accommodation, have been deemed to be non-compliant with regulations. Whilst it is necessary to drive out poor practice, there is now concern about the numbers of providers leaving the sector. As it becomes less attractive, and more providers close, it is not clear what will happen to those vulnerable people who need supported accommodation. The Housing

¹⁵ [Government will work with Birmingham to 'come up with a solution' to exempt accommodation scandal - Birmingham Live \(birminghammail.co.uk\)](https://www.birminghammail.co.uk/news/local-news/government-will-work-with-birmingham-to-come-up-with-a-solution-to-exempt-accommodation-scandal-14111111)

¹⁶ Belfast, Bristol, Cardiff, Glasgow, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield



Strategy Section needs to work closely with existing providers and other agencies on an Exit Strategy.

2.5.9 Finally, it was noted in the evidence gathering sessions that most of this focuses on the problem from the perspective of the property and the local area/local residents. It is equally important to take the perspective of the vulnerable client and ask why there is no oversight of people in this position – as there is for example with people who are discharged from hospital. There should be a body with responsibility and authority to support vulnerable people who require supported housing. Ultimately, a well-planned and managed exempt accommodation sector is in the mutual interest of Exempt Accommodation occupants, their neighbours and the local areas they live in.

Ref	Recommendation	Responsibility	Completion Date
R06	<p>Working with Regional Partners and other Local Authorities</p> <p>The Cabinet Member should work with the regulator and other local authorities to prevent/reduce “lifting and shifting” of vulnerable people from elsewhere in the country.</p> <p>This is a national issue, and the Leader should raise this with WM Leaders and Core City groups.</p>	<p>Leader</p> <p>Cabinet Member for Homes and Neighbourhoods</p> <p>Cabinet Member for Vulnerable Children and Families</p>	March 2022
R07	<p>Lobbying for Change</p> <p>The Council should work with government to address the issues set out in 2.5.2.</p> <p>It should also be made clear that the two year programme for legislative change is unacceptable and this should continue to be raised with the Department for Levelling Up, Housing and Communities (DLUHC) (formerly MHCLG).</p>	<p>Cabinet Member for Homes and Neighbourhoods</p>	March 2022



3 Next Steps

3.1 On-Going Scrutiny

- 3.1.1 In line with Scrutiny procedure, the Co-ordinating O&S Committee will continue to keep this matter under review using the “tracking” process whereby Cabinet Members report back to scrutiny on progress in implementing the recommendations.
- 3.1.2 It is crucial that matters do not “fall between the cracks” and so it is important that overall responsibility sits with one Cabinet Member. The Committee proposes that this is the Cabinet Member for Homes and Neighbourhoods, who would be responsible for providing the tracking report and coordinating responses.
- 3.1.3 The Committee also proposes to keep in touch with those residents in areas of high concentrations of exempt accommodation in the city and involve them in the tracking. Their input into the report has been invaluable and the Committee would not have the evidence it has seen without their input. Members were very pleased to hear that these residents “feel heard” after years of feeling side-lined and want to ensure that is continued.

Ref	Recommendation	Responsibility	Completion Date
R08	Progress towards achievement of these recommendations should be reported to the Co-ordinating Overview and Scrutiny Committee no later than March 2022. Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations are implemented.	Cabinet Member for Homes and Neighbourhoods	March 2022

- 3.1.4 Full Council is asked to agree the following motion:

That recommendations R01 to R08 be approved, and that the Executive be requested to pursue their implementation.

- 3.1.5 It was agreed at Full Council on the 7th December 2021 to insert at the end of the motion:

This Council calls on Birmingham City Council to actively enforce all existing covenants on properties preventing the conversion of single dwelling family use to other uses.

Call on the Council’s legal team to draft a statutory instrument (referenced on page 26 of report) to present to Government.

The Council also calls on the Executive to bring forward a report to Cabinet looking at placing a covenant on all council properties, including right to buy sales, which would prevent single dwelling family homes from being converted to other uses.



Appendix 1: List of Contributors

Cllr Shabrana Hussain, Cabinet Member for Homes and Neighbourhoods

Cllr Brigid Jones, Deputy Leader

Cllr Sharon Thompson, then Cabinet Member for Homes and Neighbourhoods

Dominic Bradley, Group Chief Executive, Spring Housing Association

Guy Chaundy, Housing Partnership Manager and Pilot Lead

Joy Doal MBE, Chief Executive Officer, Anawim

James Fox, Principal Planning Enforcement Officer, Inclusive Growth Directorate

Chief Superintendent Steve Graham, West Midlands Police

Julie Griffin, Managing Director, City Housing

Uyen-Phan Han, Planning Policy Manager

Shazia Hanif, Head of Service, Operations and Partnerships, Adult Social Care

David Kinnair, Head of Benefits, Revenues and Benefits

Kalvinder Kohli, Programme Director, Prevention and Early Intervention, Adult Social Care

Amelia Murray, Safer Neighbourhood Officer

Deputy PCC Waheed Saleem, West Midlands Police

Tim Savill, AD, Revenues, Benefits and Rents

Jean Templeton, Chief Executive, St Basils

And many thanks to the nearly 100 people who responded to our call for evidence – the biggest response we have seen to a scrutiny inquiry. In particular, the Committee would like to thank the following for meeting with us to discuss these issues, and for their invaluable feedback on the report:

- Alison Adkins
- Denise Forsyth
- Frances Heywood
- Danielle John
- Devinder Kumar
- John O'Meara
- Mike Meese
- Ronnie Palmer
- Naomi Paul
- Ann Richardson
- Jon Stevens
- Barry Toon
- Ann Wackett



Appendix 2: Call for Evidence Response

1 Introduction

- 1.1 The Co-ordinating O&S Committee commenced its inquiry into exempt accommodation in December 2020 with a presentation from the former Cabinet Member for Homes and Neighbourhoods and officers. Following that, the terms of reference were finalised and a call for evidence issued on 26th January 2021. That call for evidence elicited over 80 responses, from both individuals and community groups.
- 1.2 Following that, Cllr Rice and other members of the committee, met (online) with representatives from community groups across the city (Edgbaston, Perry Barr, Handsworth, Stockland Green and Selly Oak) who have been particularly active in this area. Meetings were also held with two providers in the city.
- 1.3 This report summarises both the written and verbal evidence received. As was predicted at the start of this inquiry, it has not always been possible to distinguish between comments on exempt accommodation and House in Multiple Occupation (HMOs) more widely. Submissions clearly relating only to HMOs have not been included but a number referred to both; indeed one told us “for the purpose of this statement, exempt accommodation and HMOs are in effect synonymous, creating similar issues for residents and other agencies such as the police, social and ambulance services.”

2 Summary of Responses

- 2.1 Many of the responses received came from active citizens, who were engaging in community or residents’ associations, organising litter picks or neighbourhood/street watches, responding to planning consultations and engaging with police and local councillors. Others came from residents prompted by concerns about their local areas. All were feeling helpless in the face of the blight caused by the concentration of badly managed properties.
- 2.2 The starting point for many was the growth and concentration of exempt accommodation properties in Birmingham. Evidence was provided from multiple sources that Birmingham has a disproportionately high number of these properties, and that these tend to be concentrated in certain areas of the city. This is explored in more depth below (section 3).
- 2.3 The impact of this growth and concentration was felt in those local communities and was described by one respondent as a “blight” – referring to anti-social behaviour, crime and nuisances such as accumulating rubbish (section 4).



- 2.4 However, it should be emphasised that most respondents did not reject the need for exempt accommodation, and indeed expressed concern about the welfare of residents of exempt accommodation as well as concerns about the local area (section 5).
- 2.5 Many of the responses offered explanations for the poor quality of some exempt accommodation in the city, including a lack of regulation and checks and the poor competency of landlords, many of whom live elsewhere (section 6).
- 2.6 Finally, many of the submissions to the inquiry proposed solutions which focused on improving the Council's response and strengthening the use of existing powers, whilst also acknowledging the defects of the national framework (section 7).
- 2.7 The weight of evidence in a very complicated area has led to a fresh set of questions for council officers, which are summarised in section 8.

3 The Growth of Exempt Accommodation in Birmingham

- 3.1 There was common agreement that there has been huge, rapid and uncontrolled growth in exempt accommodation in Birmingham. One respondent reported:

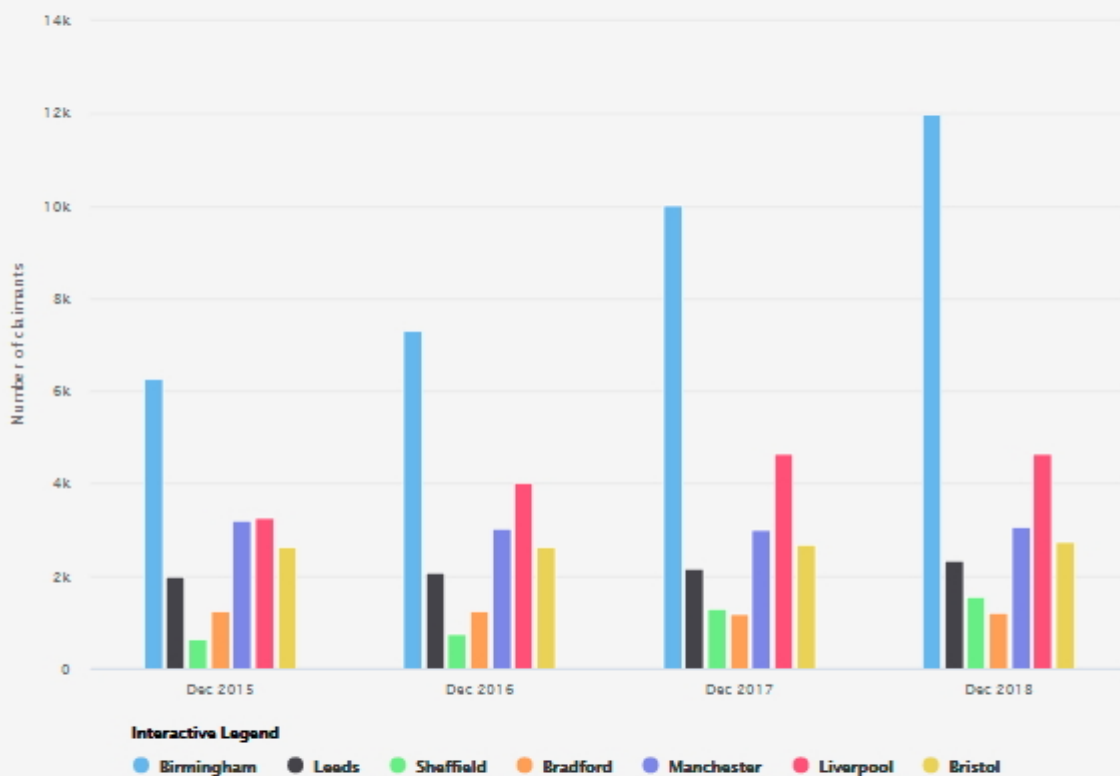
Towards the end of last year (October 2020), Birmingham had approved 20,000 claims for Exempt Accommodation. This is an astonishing figure, and it is much higher than in other comparable towns and cities. For example, Sandwell, immediately adjoining the city, only has around 500 current claims - this is equivalent to about 1,750 claims in Birmingham (on a pro-rata basis). And the sector is growing exponentially. Three years ago, Birmingham had less than 10,000 claims, (which was already excessive) but, while claims in other towns and cities have grown slowly or not at all in this period, in Birmingham the number of claims has doubled, and they are reportedly now running at an extraordinary 1,000 per month. [HMO Action Group]

- 3.2 The results of a freedom of information request by the Perry Barr Constituency Housing Action Group shows the numbers of housing benefit claimants for exempt accommodation for some comparative English cities. Birmingham's claims doubled between 2015 and 2018; only Sheffield showed a similar increase, albeit from a lower base. In [June 2021](#), *The Observer* further reported that: "Birmingham has seen the number of bed spaces in these hostels and shared houses double from 11,000 in early 2018 to 22,000 in March this year."¹⁷

¹⁷ 27th June 2021, ["Hostels from Hell: the 'supported housing' that blights Birmingham"](#)



HB claimants in specified accommodation (2015 to 2018 – 7 English cities)



Date	Birmingham	Leeds	Sheffield	Bradford	Manchester	Liverpool	Bristol
Dec 2015	6,250	1,990	630	1,250	3,210	3,250	2,620
Dec 2016	7,290	2,080	740	1,240	3,020	4,020	2,620
Dec 2017	10,030	2,160	1,310	1,180	3,000	4,640	2,680
Dec 2018	11,980	2,350	1,550	1,210	3,070	4,640	2,740

Source: DWP FOI 2019/03087 1 February 2019

- 3.3 Evidence also shows that the market locally is dominated by six providers who account for 70% of the sector in the city.
- 3.4 Further evidence supplied by the Perry Barr group showed how the properties were concentrated in some 20 Wards; and that within those wards there are concentrations in certain areas and roads.



Below is one example. Density figures depend in part on the length of the road with density up to 10% in some Wards.

Ward	# exempt accommodation	Percentage of the total addresses?
1 Stockland Green	249	6.0%
2 Aston	216	5.2%
3 Soho & Jewellery Quarter	207	4.9%
4 North Edgbaston	194	4.6%
5 Sparkbrook & Balsall Heath East	175	4.2%
6 Sparkhill	168	4.0%
7 Handsworth *	159	3.8%
8 Holyhead *	136	3.3%
9 Gravelly Hill *	133	3.2%
10 Other 60 wards in Birmingham	2547	60.9%

* Relatively smaller wards represented by a sole Councillor: Exempt Accommodation will make up a proportionally greater percentage of the housing stock.

Road name	No Properties	% of Sparkbrook & Balsall Heath East total
Stratford Road	11	6%
Warwick Road	9	5%
Walford Road	8	5%
Anderton Road	6	3%
Golden Hillock Road	6	3%
Runcorn Road	6	3%
Gladstone Road	5	3%
Hickman Road	4	2%
Ladypool Road	4	2%
Long Street	4	2%
Top 10 roads	63	36%
The other 68 roads	112	64%

3.5 This was echoed by the evidence of many contributors:

From my research there are 4 main registered providers and one community interest company that are placing clients in nearby properties ... It is worth noting that two of the registered providers have had official recent judgements made against them by their Regulator for major mismanagement issues. The Largest Landlord in our immediate locality ... [has] 11 properties in the immediate area, including two large hotels and the rest are made up of large Victorian villa type properties. We estimate they can and do accommodate up to two hundred people at any time. All these properties are within 100 metres of each other. [Edgbaston]

It is the unbalanced and chaotic nature of this growth that means young families are priced out, and exempt accommodation residents struggle to sustain their independence without appropriate levels of support. [Housing Need in Stockland Green report]

This is an area of older housing - many Victorian terraces interspersed with roads of mature semi-detached and detached properties - family housing, both rented and privately owned. There also have always been flats, hostels, care homes and boarding houses. Over the years there has been a gradual shift towards property conversions into rental units, many claiming to provide care and support for their tenants. This process is now accelerating rapidly. There do not appear to be any limitations on the social or environmental impact of these changes. Family dwellings designed for one family are being lived in by twice, three times that number of people. The properties are extended, frequently poorly and take up whatever scrap of green space there may be. Any concept of 'planning' appears mythical.... All neighbourhoods need a diversity, and balance, of residential provision to cater for all of us, families, single people, vulnerable, young, old, etc. It should not fall onto certain areas of the city, or the country, to house more than their share. [Handsworth]

We estimate that there are between 20 and 25 HMOs on our road, with a mixture between exempt, licensed and potentially illegal. [Edgbaston]



In Birmingham, nearly 19,000 exempt accommodation units exist in the sector. This is a nearly two-fold increase in the last 18 months. The vast majority of these units are provided by Housing Association accommodation, with private landlords building up portfolios of leased and owned accommodation and then applying for registered provider status, exempting them from licensing regulations. The rapid growth of this type of accommodation has led to a situation where there are now large and concentrated numbers of vulnerable individuals living in shared properties, many of whom have competing levels of support. The individuals living in such units also have no recourse to challenge the level of support they receive from their providers. [Shabrana Mahmood, MP]

- 3.6 The Council has recognised that there is an 'oversupply' of exempt accommodation in the city and that 'it is...our priority to curtail any further expansion.' (Report to Cabinet 13th October 2020, Bid to Ministry of housing Communities and Local Government (MHCLG) regarding Supported Housing Pilots 2020/2021).

4 Impact on Local Communities

- 4.1 Residents told us how the quality and density of exempt accommodation can have real impact in local areas. There were two key areas of concern, firstly: poor maintenance of properties and gardens, leading to nuisances such as rubbish, fly-tipping and pest control:

The garden remains filled with rubbish, brambles, collapsed buildings and abandoned cars and is a haven for rats. [Aston]

Whenever people with complex and diverse needs are housed in unsuitable properties with minimal supervision or support, there is the potential for various forms of local nuisance. This runs from front gardens and streets strewn with rubbish to serious and repeated incidents of anti-social and violent criminal incidents. [HMO Action Group]

I must stress that throughout the Covid period the ordinary bin-men have done a heroic job, risking infection to empty the bins week in week out. The rubbish I am talking about is the dumping of furniture and the use and dumping of black bags. [Handsworth]

The bins are usually left on the pavement for several days after collection. The bins are often overflowing leading to a health hazard. In my view the landlords are taking advantage of the council's residential bin collection service whereas they should be paying for a commercial collection. This is because the accommodation is institutional accommodation. [Handsworth]

Some tenants play loud music constantly throughout the day and night having no consideration for other residents. This has caused friction and animosity between the tenants as they do not like to be told to turn the music down, which causes further friction between neighbours. It is upsetting as management of these types of properties do not help the tenants or residents to help overcome these problems. [Handsworth]



A significant amount of used tissues/baby wipes thrown out of windows littering the pavements. The rats, cats and birds then scatter the rubbish throughout. [Edgbaston]

No x had a serious problem with rubbish in the rear garden which caught light when neighbours held a party. The fire brigade had to be called. The council has taken action and successfully made enforcements to clear rubbish and deal with overgrown trees and hedges covering the adjacent public sideway. [Handsworth]

- 4.2 Secondly, community safety issues also featured repeatedly, encompassing fighting, begging, anti-social behaviour at all times, prostitution, drug use, drug dealing, alcohol abuse, harassment, intimidation, theft, damage to property including fire, swearing, abuse including racist abuse, and threatening behaviour.

... this market attracts a transient population, with support needs that are often not met in a sector with variable management modules, and an equally inconsistent approach to providing care. The result is exceptionally high levels of crime and anti-social behaviour, and a deteriorating street scene. [Housing Need in Stockland Green report]

In summary recently we have witnessed numerous drug dealing incidents, prostitution activity, domestic violence, vehicle thefts, attempted burglaries and general low level anti- social behaviour. [Edgbaston]

We have anti-social behaviour from people living in this type of accommodation, noise levels are raised. We have parking issues, we are verbally abused by residents to the point we fear for our safety when we go out on our own road. Rubbish issues and bins overflow. There are the emergency services in attendance most of the time. The houses are in disrepair.

- 4.3 It is not always clear that the perpetrators are linked to exempt accommodation, but what residents do note is the increase in problems correlates to the concentration of these types of property in an area.

- 4.4 Some of our contributors have done their own research into the impact on emergency services, noting an increase in the emergency services (police and ambulances) being regularly called to the properties concerned:

As a result of a freedom of information request to West Midlands Ambulance Service, I have discovered that just to the [Hotels], the ambulance service has been called out over two hundred times in the last three years. Each call out costs £277.00 and an A&E admission £850.00. [Edgbaston]

West Midlands Police selected a random group of 20 HMO properties in the vicinity of Slade Road, and analysed call-outs and crimes over a one month period. These were HMOs of any type and any landlord, so included RP managed exempt provision and private regulated HMOS and exempt provision. The results demonstrate the extraordinary impact of a concentration of HMO properties on crime. WMP report that a total of 215 calls for service were received from just 20 HMO



properties, equating to around 18 calls a month. They were most frequently: Anti-Social Behaviour (36), missing persons (12) and self-harm or other mental health crisis (18). In these twenty properties, recorded crimes were around 3 per month, mostly assault (20) and burglary (14). In the same timeframe there were 29 arrest attempts, 4 repeat offenders and 2 standard licence recalls. [Housing Need in Stockland Green report].

4.5 Other contributors told us:

There has been a large increase in burglaries in the area and we know this because as part of our Letting Agency we manage hundreds of Student Properties (as we are a point of contact for our student tenants they notify our office so we can attend to make the property secure in conjunction with the Police. This is at any time of day or night) The Students are young and vulnerable, are away from home so naturally they are frightened and distressed when they have been broken into and seek reassurance from us. We have had quite a few burglaries taken place in our properties while tenants have been inside their properties asleep in their beds. [Selly Oak]

The police raided the property 2 years ago as there was cannabis being grown there. I had complained repeatedly to [the agency] regarding the strong smell of cannabis and a loud humming noise of water hammering during the day and night, in retrospect likely to have been caused by the tenants messing around with the supply and boiler. After the tenants were removed, [the agency] were quite amused when they informed me the 'water hammering' will probably stop now. [Edgbaston]

4.6 Residents report that all this has an impact not just on ability to live in an area but ability to move out of it, and is perhaps irreversibly affecting the character of some areas:

Our neighbours were lucky, they were able to move. We are much less fortunate because we live directly next door to both of these supported houses, and the state of the properties and tenants mean that we'd struggle to sell to anyone other than a landlord, which is something we would never do... HMOs mean families and young couples can't move into the area- this will have long term effects on services such as nurseries, schools, churches etc. [Selly Park]

Many lovely neighbours have had enough of the continual anxiety and have moved away, if the trend continues and the number of properties converted to exempt accommodation continues to increase, I feel we will sadly have to consider our position too ... Properties that were designed to accommodate family living are being irreversibly destroyed and are no longer fit for purpose; terraced houses were never designed to be carved into shoeboxes or have heavy fire-proof doors along the shared walls. [Aston]

My street and the neighbouring roads have seen a significant change over these years. Nearly all properties were previously owner occupied and there was a real sense of safety and community. There are now a high number of homes being converted into exempt housing and HMO's. [Handsworth]



4.7 In Selly Oak there is a particular issue in relation to student accommodation:

The potential to destroy the University housing market is also now a real possibility. With less student demand landlords are under pressure to find new income sources to service their loans. By housing those with high social needs next to student housing it makes it harder to let to students. This then leads to a cycle of student flight and replacement with more Exempt housing. If this happens its impact on the social and physical economy of the local area and the University of Birmingham will be hugely significant. With more consequent cost and demand on public services. [Community Partnership for Selly Oak]

4.8 Many told us that they were afraid to complain:

Fear of complaining is understandable because enforcement and supervision are so poor. There are specific examples in our area of single women living in their own property but fearful of complaining about noise or drugs, condoms, drink bottles strewn in their gardens and entries because past experience has taught them, a complaint brings more trouble. [Handsworth]

4.9 However, none of the above conveys the depths of distress and hopelessness felt by some residents at having to live with this day after day. The Committee received numerous and detailed stories of people in distress and fear, unable to prevent what was happening to their neighbours and neighbourhoods, and witnessing vulnerable people not getting the support they need.

I have lived here for over 30 years and have always been happy, but my wellbeing has been adversely affected the past 4 years and I am at a loss as to how we can bring the community back to even a glimmer of what it used to be. [Edgbaston]

5 Concerns about Welfare of Exempt Accommodation Tenants

5.1 Whilst there were a minority of contributors who wanted no exempt accommodation or HMOs in their area, many were keen to emphasise that they were not against well-run exempt accommodation. They recognised the vulnerability of tenants, who often have complex needs, such as mental health issues or drug abuse. However, bad providers of exempt accommodation leave them unsupported and vulnerable to antisocial behaviour, criminal activity or exploitation.

We strongly agree that access to high quality accommodation with excellent pastoral support is an essential prerequisite to helping vulnerable people get on their feet. We would have welcomed the property being leased to a reputable organisation which invested profit in improving the quality and safety of the accommodation, whilst working with the community to respect the wellbeing of all stakeholders. Unfortunately, this is not what has happened; instead, only a lucrative opportunity for unscrupulous individuals and organisations exists, sustained by the council.



The local residents are not opposed to supported housing when they are run in the interest of the tenants, as, with the exception of the poor upkeep of the garden (which has attracted rats), one of these properties seems to offer a decent standard of accommodation and is relatively well run, this has resulted in it letting to long-term, well supported renters who mostly work and have integrated well into the community. Unfortunately, this reflects the minority. [Selly Park]

They too are victims of a system designed to hide them away rather than adequately house them and provide them with necessary support [Handsworth]

It is apparent that there is very little to no support being provided. I have personally reported one of the Landlords for taking financial advantage of a particularly vulnerable resident, who was feeling suicidal. Having become more acquainted with some of these residents during lockdown, a number of them are extremely frustrated at the lack of support and the lack of any bonafide safety inspection. [Selly Oak]

There is also little to no regulation of the support provided; which is often inadequate. The combination of occupants can range from 18-year-olds leaving care, those with learning difficulties, mental health difficulties, drug and alcohol addiction, and those on probation: often all mixed in together. The result is a dysfunctional, poorly supported household, which is damaging to its own members as well as to immediate neighbours and the neighbourhood. [Selly Oak]

Exempted properties can offer great rewards to landlords and management agencies, it is meant to provide a very badly needed service of caring and assisting the most vulnerable in society, but unfortunately this is not happening and leaving these tenants to fend for themselves. [Handsworth]

I sincerely believe that everyone should have a second chance and a peaceful, safe place to live within the community but this isn't happening and the help these people need is evidently not there. [Edgbaston]

It is difficult to underestimate the effect that living in these conditions with strangers, also vulnerable and often troubled, can have on people who are really struggling under the weight of difficult, traumatic lives. ..We would prefer people to be in more stable accommodation and better be able to address issues like their mental health, addiction issues and so on. We think it is desperately difficult to do that when exempt housing conditions are so often so poor as detailed above. People are not going to move forward, begin to recover, and start leading better lives. [Selly Park]

- 5.2 Some residents reported that the support they observed tenants receiving – which is the basis for the exemption from the housing benefit cap – was poor or non-existent:

There is a maintenance man/cleaner who comes on a weekly basis to do a basic clean and test the fire alarms (given that we live in a terraced house and are in lockdown working from home, this adds to our frustration with the property.) His unprofessional manner with us, identifies that he is clearly not a trained support worker because although there were obvious signs of drug use at the



property, he did nothing to address this and is persistently rude to the residents on the street. [Selly Park]

The level of 'support' provided to the tenants is vanishingly little. Without appropriate support how can tenants hope to break the cycle of whatever circumstances have brought them to need this type of accommodation. [Selly Oak]

I know from my own experience of the accommodation next door to me is that the support consists of a quick visit by a worker about twice a week. [Handsworth]

No-one's helping them, no-one's teaching them any life skills... people don't understand how these places are being run. There is one case... her drug use has got worse and she's asking for £1 or £2 because she's hungry. [HMO Action Group]

- 5.3 Local people were also concerned that exempt accommodation residents are vulnerable to exploitation by organised criminal gangs, a view backed up by evidence we received from the Police.
- 5.4 These concerns are backed by a report in September 2018, submitted to the Birmingham Adult Safeguarding Board from Spring Housing, which highlighted the plight of thousands of people with a wide variety of support needs, who were effectively being 'warehoused' in appalling housing conditions, with minimal care and support and with no security of tenure.

6 The Providers

- 6.1 When talking about the contributing factors to the problems outlined above, many respondents, whilst acknowledging that there are good providers of exempt accommodation, spoke about absentee landlords, with residents believing that landlords are using exempt accommodation as a "get rich quick option" but taking no responsibility for tenants or the impact on the wider community. Many are sub-contracted or leased to other providers.

The two properties are owned by absentee landlords who have agency leased their properties and live outside the area (and even the country). They have no clue of what is going on in the community; they are ruining our lives and making massive profits from our taxes. [Selly Park]

We have tried contacting the agency that manages the property, but they are conspicuous in their absence and fail to answer the "emergency phone number" that we have been given. We have contacted the owner/landlord, who was brought up in the house. He promises much and delivers nothing and is patently profiteering along with the agency at the expense of the residents who are supposed to be in supported accommodation all funded by those of us that work hard and pay our taxes. [Aston]

Often the accommodation is sub-contracted and the landlords have little regard beyond taking in their profits. [Handsworth]



Exempt accommodation, therefore, is a hugely profitable public endeavour that falls outside of any direct regulatory regime. [Housing Need in Stockland Green report]

I believe that landlords are entering into providing exempt accommodation because of the potential to receive higher income from housing benefit than would be the case under social housing. There appears to be no strict supervision of these properties or their tenants. I believe that landlords are exploiting this situation for their own gain at the expense of their own tenants and the local community. [Handsworth]

We are at the same time increasingly seeing properties for sale advertised as ideal HMO investment properties', and are concerned that many properties are being purchased by absentee landlords who convert these once family homes into multiple-occupancy dwellings and are cramming them full of people to maximise profits, we have heard this described at community meetings as 'a wealth-extraction area'. [Handsworth]

The drivers are mixed for landlords to enter the exempt property sector. There are some who want to provide support, decent housing, and help people move on, while also gaining from it financially, but these are few and far between. When we make contact as a team to landlords, we are often taken to quite plush surroundings, see senior people - it really feels like a business transaction. It is not how we operate so we are not taken in by this, but how our clients are treated is the beginning and end of whether we'll refer to a housing provider again... [Selly Park]

6.2 It appears some are advertising the accommodation as a business proposition; others have been accused of falsely advertising charitable links:

Some providers talk openly of "investors" - it clearly is a business proposition - and one in which if corners are cut (repairs not done and inadequate support) bigger margins can be made. We have spoken to a provider about the costs, incomes and bottom lines, and came away with that conclusion. This is not how this system should be set up. [Selly Park E47]

Take the aptly named Umbrella Housing Ltd for example, Go to its website page for Landlords and you will find it promises, 'Our property maintenance teams can transform your properties into licensed HMO's which can significantly increase income and value.'¹⁸ The incentive here seems obvious enough and it isn't altruism.

[The company] were flying under the banner of "charitable endeavour" and their website quite clearly stated they worked with such charitable organisations as St Basil's and others. [The company] were NOT the license holder for the property, neither was the owner, they circumvented the need by having the charity being the licence holder. A meeting between the property owner, [the company], the Charity involved, myself and another immediate property resulted in us providing photographic, audio and written evidence. The police brought their evidence of the

¹⁸ <http://www.umbrellagroupuk.com/landlords> . Checked 16/09/21



distress the tenants themselves were experiencing. The upshot was the Charity had no idea of how poorly the "supported living" was being conducted and [The company] offered no defence.¹⁹

On at least one occasion through our casework, we have seen potential landlords advertising for such tenants on websites such as Gumtree. The upshot being, if you're vulnerable then get in touch with us, we'll manage your accommodation (in substandard premises that don't meet the expected standard) and reap the reward via enhanced housing benefit. [Shabrana Mahmood MP]

The agent, Smart Move UK continue to state on their website that they formally partner with the Council / West Midlands Police / St Basil's / DWP to name but a few. The logos are all posted on the website which gives an aura of legitimacy to the agent. Our office has flagged this regularly with the Council EAT who have contacted Smart Move but who appear to be refusing to engage with the Council.²⁰

We then discovered that rooms in the property had been advertised on spareroom.com, a national letting platform and could be applied for without references. This advertisement has now been taken down.

6.3 There is evidence of action being taken against some exempt accommodation properties in Birmingham, by the Charity Commission and by the Police and the Council.²¹ In one Charity Commission regulatory compliance case, auditors found "alleged unpaid tax contributions and an overpayment of housing benefit to managing agents it used" and "serious financial management issues" over a period of time at the provider.²²

6.4 Also, the point was made that not all providers provide a poor service:

Please note that people like St Basils, YMCA, Salvation Army etc are also exempt providers and the difference lies in the commissioning of support services which allows them to manage their residents more effectively. The sector needs an overhaul but there is a real danger that the good will be damaged whilst the bad may not necessarily be weeded out. More engagement with the frontline providers is required as decisions seem to be made without the requisite knowledge.

¹⁹ Website has now been removed 2/7/21

²⁰ Website checked 2/7/21

²¹ https://www.birminghammail.co.uk/news/midlands-news/edgbaston-hostel-shut-down-after-20446662?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

²² <https://www.insidehousing.co.uk/news/news/charity-commission-investigates-exempt-provider-as-auditor-raises-serious-financial-management-issues-70235>



7 Mounting Local and National Concern

7.1 Reports of problems associated with exempt accommodation have mounted over the months since this inquiry started with articles on *Birmingham Live* and in the national press. A selection of links is set out below:

<https://www.birminghammail.co.uk/news/midlands-news/weve-enough-birmingham-unites-demand-19430708>

https://www.birminghammail.co.uk/news/midlands-news/chief-constable-calls-urgent-review-19465165#ICID=Android_BMNewsApp_AppShare

<https://www.birminghammail.co.uk/news/midlands-news/kings-heath-family-living-next-19251585>

[Supported housing system 'a living nightmare' - BBC News](#)

7.2 On 27th June 2021, *The Observer* published an article "[Hostels from Hell: the 'supported housing' that blights Birmingham](#)", particularly focusing on the experience in Stockland Green and Handsworth. As well as noting the dramatic increase in numbers, it reported that: "Figures uncovered by *The Observer* reveal for the first time the 10 biggest independent providers in the country are on course to collect £184m in housing benefit this year – generating on average more than £11,600 every year for each of the nearly 16,000 bed spaces they supply." Seven out of the 10 are "either non-compliant or under investigation by the government's social housing watchdog, the Regulator of Social Housing (RSH), for breaching governance and financial standards designed to prevent public money from being misused and protect tenants from harm. But only two providers are exiting the market following regulatory action, with the rest continuing to receive public money".

7.3 The article also notes the introduction of the charter and the fact that some disruptive hostels have been closed.

8 Proposed Solutions

8.1 The evidence gathering yielded a range of solutions and recommendations for the Committee to explore with Cabinet Members and officers. These broadly fall into two categories:

- Actions/recommendations for the City Council;
- Proposals to improve the regulatory and planning framework.



9 Actions for the City Council

- 9.1 The view of many of the contributors was that the City Council could do more, as summarised below:
- Our top line message is that other Councils are using existing powers to control the quality and supply of Exempt Accommodation in a way which Birmingham is not. They are also managing the environmental and neighbourhood impact more proactively and comprehensively. We think these may well represent opportunities Birmingham City Council is missing and would encourage the Review to visit (virtually) or talk to these authorities to establish what they are doing and why they are able to do it.*
- 9.2 Proposed actions for the City Council fall into the following areas:
- Actions to curtail and manage growth;
 - Responding to residents' issues – the need for a multi-disciplinary team to ensure co-ordinated and sustained responses;
 - Working with communities.
- 9.3 In short, it is believed that acting on these areas would give residents assurance of a sustained and co-ordinated approach to exempt accommodation.

Proposals to curtail and manage growth – Potential Areas for Change

- 9.4 To a large extent, power to restrict growth of exempt accommodation relies on the national framework for planning and regulation, which is discussed in the next section. However, there were ideas for the Council to consider now, including:
- **Use of Local Planning Policy** – to explore whether there is scope to restrict exempt accommodation under the Birmingham Development Plan Policy 12: Residential conversions and Specialist accommodation²³. The policy states
 - The Council will resist proposals where it would result in an over concentration of similar uses in the immediate area.' (4.29) – use of exempt accommodation could be specified?
 - There is a requirement to consider 'the cumulative effects of similar uses in the area, if it is considered that the proposal would cause demonstrable harm to the character and function of an area, and/or local amenity.' (4.29) – again, specific reference to exempt accommodation could be considered here;

²³ https://www.birmingham.gov.uk/download/downloads/id/16775/csd3_dmb_publication_version_regulation_19.pdf



- 'Specialist accommodation is normally most appropriately located in large detached properties set in their own grounds. The development of such uses in smaller detached or large semi-detached or terraced houses *will not be acceptable unless the amenity of adjoining occupiers can be safeguarded.*'. (4.30) – greater enforcement in relation to this provision.
- However, it appears that this can only be used when planning permission is required. Clarification of when planning permission is required would therefore be useful for local residents, particularly with regards to change of use.
- **Planning enforcement** was also reported as a concern – one contributor gave a detailed example of a property where changes were made post application, and subsequently agreed by the Planning department. The contributor saw that as evidence of poor planning and construction, seemingly unchallenged by any enforcement action and as a “clear failing of the planning system”. Concerns were also raised that the Council’s database for HMOs is incomplete particularly with regard to small HMOs, which weakens to impact of the Council’s Article 4 Direction. Other authorities – e.g. Nottingham City Council and Hull City Council - use definitions of what is an HMO which bring more properties under planning control.
- **Ensure planning and housing strategy are joined up** to ensure growth and density issues are captured.
- Other local actions to give assurance to residents could include:
 - **Increased transparency** – a register of exempt accommodation and which provider is responsible will help residents monitor the growth in their own areas and allows providers to be held to account if their properties are below standard.
 - Several contributors noted that applicants’ names are currently redacted from planning paperwork available on the planning portal; conversely when submitting an objection to a planning application on the Birmingham City Council portal, the wording makes it clear that the individual must submit personal details, some of which will be publicly available. This imbalance should be corrected.
- **Housing benefits:** one apparent driver of growth in exempt accommodation is the granting of housing benefit, which is seen to be easier than elsewhere. Contributors compared this to other local authorities, where they believed more stringent conditions were used. Therefore, the Council should ensure a robust pro-active verification/compliance system to ensure that all providers comply with the Housing Benefit regulations and case law on ‘care, support, and supervision’ (and all other requirements of the Housing Benefit Regulations).
- **On-going checks:** stringent and regular monitoring to ensure that providers are providing an adequate service with the withdrawal of funding for poor service. This should be supported by other services such as social care and environmental health to ensure basic standards are being met (including that exempt accommodation have waste disposal licenses).



- **An Exit Strategy** – given that increasing numbers of exempt accommodation units are closing down, and the wider impact this may have on provision, the Council need to plan for what will happen, including the development of alternative provision and the planned rehousing/relocation of existing exempt accommodation claimants, aligned to the Council's overall supported housing strategy.

Responding to Residents' Issues – Potential Areas for Change

- 9.5 **Setting up a multi-disciplinary team** to manage exempt accommodation properties and concerns raised by residents was a popular suggestion from contributors. There was some criticism of the lack of response to concerns from the Council, and many reported not knowing who to contact for information and support; and others not being taken seriously when they did report issues. A common theme was that all departments of BCC needed to connect more effectively.
- 9.6 This could take the form of a council run HMO/Supported housing reporting service where tenants and residents can raise issues related to HMO properties so that agencies and landlords are held to account was therefore proposed. This would include a helpline/team for residents to contact.
- 9.7 Other mechanisms proposed included a charter for neighbourhoods as well as residents of exempt accommodation, and the use of Public Space Protection Orders and their enforcement.
- 9.8 There was also a feeling amongst some that communities were not sufficiently engaged by the Council in the long-term strategic planning of an area. Some reported frustrations with their Ward Forum, where matters were reported but seemingly not acted on. More widely there was a perceived disconnect between residents and strategic planning. It was suggested that real progress would be made by a partnership with local communities, contributing at a local level, to build trust and a space to grow a sense of community, including improving formats for residential involvement and influence in areas other than those served by a Neighbourhood Plan. One possibility would be to greatly increase the significance of the 'area profile' referred to in the 'Statement of Community Involvement' and use this to bridge the current gap between the Planning and Neighbourhood functions.

10 National Regulatory and Planning Framework

- 10.1 As the report to the Birmingham Adult Safeguarding Board notes:

[T]his accommodation is not commissioned by the local authority and often operated by Registered Providers of social housing leasing units from the private rented sector, it is taken out of the purview of local authority licensing controls and commissioning accountability; is operated by a



wide range of, often, insufficiently regulated organisations and is without assurance around Safeguarding and performance monitoring procedures.

10.2 The fragmented regulatory framework for exempt accommodation was picked up by many contributors, and detailed evidence was collated by a number of residents, seeking to understand the legal, planning and regulatory framework governing the growth of exempt accommodation.

10.3 It was noted that the regulatory framework provided by the Regulator of Social Housing which regulates all Registered Providers is comprehensive and covers: Value for Money Standard, Rent Standard, Home Standard, Tenancy Standard, Neighbourhood and Community Standard, and Tenant Involvement and Empowerment Standard.²⁴

10.4 However, the system of enforcement appears to be weak. Key areas of concern were set out in the report to the Adult Safeguarding Board and are reflected in the evidence received:

- The lack of a robust oversight and monitoring beyond minimal Housing Benefit Regulations
- The lack of knowledge around who is providing this accommodation, and their capacity
- The complexity of leasing and management arrangements and the lack of clarity around provider and landlord accountability to Registered Providers
- The lack of transparency around support and management arrangements
- The high concentration of vulnerable individuals living in small, shared units; usually without 24-hour staffing
- Gaps in understanding around the referral and assessment mechanisms behind access
- The potential for inappropriate mixes of residents, increasing the risk of exploitation and posing a significant risk to safety
- A hidden population of vulnerable adults living in unknown circumstances that may be inappropriate for their care and support needs and overall wellbeing, potentially placing them at risk of harm, neglect or abuse

10.5 When it came to the role of Council, some blamed the council for not enforcing existing regulations, others recognised the limited powers at its disposal:

I agree that more monitoring and regulation needs to be put in place to hold landlords and letting agencies to account, but councils also need to demonstrate good practice and enforce these regulations- it's all very well them using PSL to help the vulnerable but if the properties are not up to standard and the tenants are impacting community cohesion, it will do more harm than good.

Surely the only way forward is stronger regulation, the Council need to be given more powers to control change of property use. The law surrounding exempt housing needs to be reviewed and

²⁴ <https://www.gov.uk/guidance/regulatory-standards>.



radically changed by Central Government. We feel we are being badly let down and that urgent action is required to halt further saturation of the road with exempt housing. [Selly Oak, E8]

Councillors and officers are quick to point the finger at national government and to say that their hands are tied. Meanwhile MPs say that while existing legislation needs to change there is more that BCC can do. Is it any surprise that long-term residents feel abandoned. [Handsworth]

10.6 A number of recommendations/asks/suggestions were made both for national bodies, and for the council in working with these bodies:

- **Level of Care:**

- The Council should develop an enhanced and proactive partnership working with the Regulator of Social housing to ensure that the Council is aware/takes action to cease Housing Benefit payments/remove 'exempt' status where Regulator of Social Housing requirements are not met. The complaints system for tenants should be made more accessible.
- Guidance should be developed based on existing HB regulations and case law as to the level of care, support and supervision. This should be issued to all exempt accommodation providers and tenants together with an accessible tenants' complaints process. This should be integrated into the Quality Standards for exempt accommodation currently being developed by the Council. It should also be integrated into the Council's due diligence processes to ensure that Housing Benefit paid for exempt accommodation is appropriately spent.
- Individuals should be supported into the local community with clear guidance and a support plan which should be governed by the Council or Quality Care Commission, in a way similar to OFSTED.
- Any service to vulnerable people, where the premises/company receive public funds, should be registered, regulated and inspected. The outputs should be specific, realistic, achievable and regularly monitored.
- It should be clear who is responsible for managing and supervising such accommodation as well as who owns it. Both should be subject to fit and proper person checks.

10.7 It was noted that most of this focuses on the problem from the perspective of the property. The other approach is to take the perspective of the vulnerable client, and as to why there is no oversight of people in this position – as there is for example with people who are discharged from hospital. There should be a body with responsibility and authority to manage vulnerable people who require supported housing.

- **Financial Assurance:**



- Any organisation receiving Public Funds, particularly for vulnerable people, should be audited by a regulated public body to make sure that the funds are being used for the benefit of those they are intended for and they are being used effectively.
- An immediate and intensive audit of the six largest providers and the schemes they are managing through a complex network of 'specialist' agencies. These providers are responsible for 70% of exempt accommodation and yet, based on public information alone, none of them inspire confidence. Four of them effectively moved into this business, less than five years ago, while two others are small established providers (one based in London) that have recently expanded into exempt accommodation.

- **Planning**

- *Control on Numbers*: The ability to set tariffs regarding the number of supported houses within an area.
- *Tenure Balance* - the ability to set the tenure balance between HMO accommodation and family accommodation both owner-occupied and affordable, and between exempt HMO accommodation and regulated, general needs HMOs. [Housing Need in Stockland Green report]
- *HMO exemption* – exempt accommodation should not be exempt from Article 4 direction and that exempt accommodation be made subject to the same Planning Approval process as HMOs.
- Any property intended for such use should be subject to a background planning check to ensure that it is safe and suitable for such purposes, with a specified number of occupants, and that there is no history of breaches of planning law or unapproved extensions or building work. When the intention is specifically to convert a property for such use, that should be subject to a planning application and not allowed under permitted development rules.

10.8 It was noted – as above – that enforcement action was increasing, which was welcomed but led to further concerns that this may result in a drop in the number of supported accommodation places available, and therefore may leave many people in vulnerable situations in the city without a roof over their heads. There is therefore a need to support better housing options and good providers.



Appendix 3: Exempt Accommodation Session on 24 September 2021

Please see the following pages for the slides for the session.

Scrutiny Inquiry into Exempt Accommodation

Co-ordinating O&S Committee
24th September 2021



Agenda

Time	Subject	PRESENTERS
1000-1005 (5 mins)	Welcome & introduction by Chair	Councillor Carl Rice
1005-1015 (10 mins)	Introduction to the Session	Cllr Shabrana Hussain, Cabinet Member Housing & Homes Julie Griffin, Managing Director, City Housing
1015-1030 (15 mins)	Background and Context – Reasons for growth, current picture and landscape, and future potential future demand (5-6 slides)	Kalvinder Kohli, Service Lead
1030-1045 (15 mins)	Response to the Issues – key outputs/ outcomes of the pilot including Inspections, HB reviews, Social Work, Community Safety, Quality Standards, Citizen’s Charter, (4/5 slides)	Guy Chaundy, Housing Partnership Mgr and Pilot Leads
1045-1105	Q&A on presentations 1 & 2	
1105-11:20	BREAK	
1120-11:40 (20 mins)	Deeper dive into Housing Benefit (4/5 slides) Plus Q&A	Cllr Brigid Jones, Deputy Leader David Kinnair, Head of Benefits
1140-1210 (30 mins)	Deeper dive into Planning (4/5 slides) Plus Q&A	James Fox, Senior Enforcement Officer Uyen-Phan Han – Planning Policy Manager
1210-1230 (20 mins)	Bigger Picture - regional and national issues – partner perspective (2/3 slides) Plus Q&A	Jean Templeton/Dominic Bradley
1230-1240 (10 mins)	Recap and next steps	Guy Chaundy/Julie Griffin
1240-1300 (20 mins)	Member discussion and asks/ what next from Scrutiny	Councillor Rice

Welcome and Introduction by Chair

Councillor Carl Rice – Chair of Co-ordinating O&S Committee



Introduction to the session

Councillor Shabana Hussain – Cabinet Member for Housing & Homes
Julie Griffin – Managing Director, City Housing



Background and Context

What are the reasons for growth, current picture and landscape, potential future demand

Kalvinder Kohli

Head of Commissioning, Adult Social Care



Initial Needs Estimate: What is the Exempt Sector?

- Exempt Sector has become the common term used for describing supported housing.
- The vast majority of supported housing is funded through exemptions to housing related costs set out in Housing Benefit (HB) regulations – hence the term ‘exempt’
- It is important to understand that HB funds the housing costs only.
- Funding for the provision of support must be found from elsewhere.
- In some instances the support element is commissioned by the local authority. A small proportion in the city is funded through the voluntary sector. Our recent Provider Survey Returns indicates that a significant proportion of the support provided is self funded from an individual’s personal income.
- Where support has been commissioned the provision is referred to as ‘commissioned supported housing’. Where the support has not been commissioned it is referred to as ‘non-commissioned supported housing’.
- The ‘Exempt Sector’ in the city therefore comprises commissioned supported housing and non-commissioned supported housing.

Growth of non commissioned Exempt accommodation: Contributing Factors:

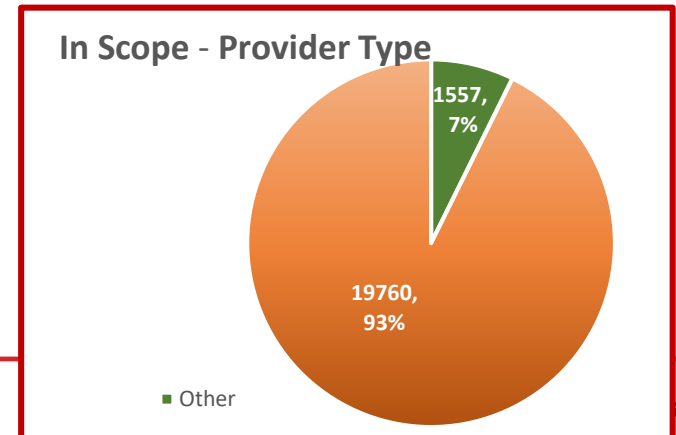
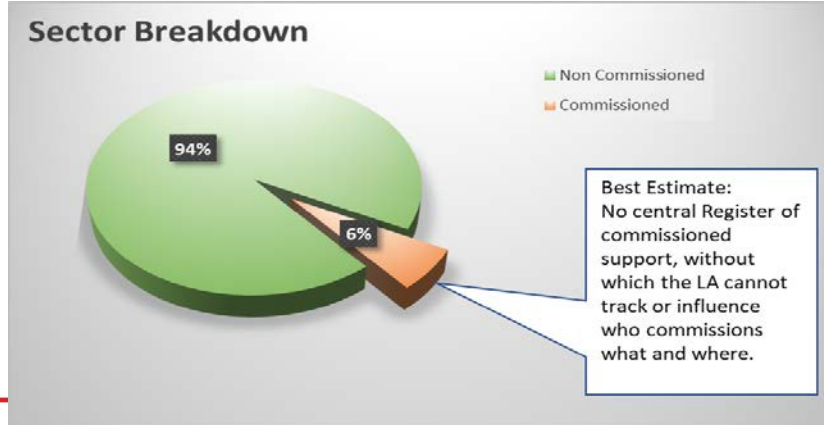
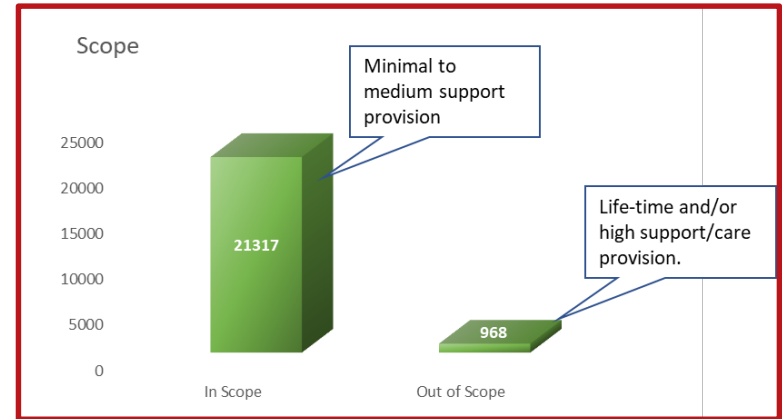
- The roots of the growth can be tracked back to disinvestment and deregulation.
- Reduction in budgets for key vulnerable groups such as substance misuse, mental health, offenders and removal of the ring fence for Supporting People (SP)
- Coupled with a reduction in regulatory powers, resources and agencies has agrubally led to the residual sector being left to explore how best to meet the demand that was still there and has grown
- Previous decommissioned services from SP also re-appearing. The lack of national guidance current regulations has made it easy to enter the market and meet the requirements
- Large private sector in Birmingham and the stock profile lends itself to house conversions to HMO's
- Structural issues within the housing sector in the city, particularly pertaining to single person accommodation. Access to social housing is limited. The Local Housing Allowance Shared Accommodation Rates are low rendering much of the private sector inaccessible to many on low incomes
- Housing options for low income single person households are therefore extremely limited – ‘pushing’ people into supported accommodation as their only option. The threshold for demonstrating a support need within HB regulations is low
- Birmingham has been an outlier in growth to date, but we are now beginning to see increases in other authorities across the country this trend is likely to will continue, It is not just a Birmingham issue.

Methodology and preliminary findings to date

- Primary Research through quantitative multi-source data analysis
- Secondary research through stakeholder sub group
- Methodology Findings
 - The the current model of exempt accommodation provision has significant impacts for both the Local Authority and vulnerable citizens
 - Population projections and data suggest needs will grow – accommodation through the non commissioned exempt sector is currently the prominent available option to meet needs
 - 93% of the provision is within the oversight of Regulator for Social Housing (RSH) regulation, making RSH the primary regulator of supported provision, the focus of regulation is limited to Financial viability and Governance. No focus on the quality of support provision. Our findings show that there are a number of providers who are under regulatory intervention.

Supported Housing Sector - Analysis

- 21,317 units in scope
- Estimate 20,000 non-commissioned support
- 19,760 units equating to 93% of in scope provision is provided by RP's



Findings and observations

- Registered Providers (RP) are the vehicle by which the welfare system is accessed. Property, tenancy and support services are, in the main, not delivered by the RP directly So there is no direct relationship between the citizen and the RP
- This enables significant sums to be transferred to 3rd party entities, some of which are profit 'making organisations
- Our research indicates that significant number of units may have been designated as non social housing
- By implication therefore, Not for profit RP's are able to access enhanced Housing Benefit payments to fund private sector portfolio
- Current oversight and regulation of the private sector portfolio is limited and does not include rent, property, tenancy or VFM
- National Housing Federation (NHF) recently reported changes to membership in response to concerns from members. 'We believe that some of these providers of 'exempt accommodation' are operating 'for-profit', despite their official 'not-for-profit' status, which does not align with the NHF's values'.

Identified impacts for citizens

- Paying for own support without a means test around affordability
- Shared accommodation with no say or influence over who the other occupants
- Likely churn around the sector, difficult to exit the sector without appropriate support and information, risks of pushing people into destitution
- Potential for worsening of health & well – being without the appropriate levels of support, longer term impacts, needing to access more costly statutory care services
- Impacts upon vulnerable communities.

Impacts upon Local Authorities



Potential consequences and risks

Continuing as is

- Requires individuals to pay for their support
- Vulnerable individuals going into destitution
- Poor compliance with regulatory standards
- Inadequate system safeguards through a lack of join up between regulatory frameworks

Placing conditions on use

- Further restricts housing options for single person households
- Potential for providers sourcing demand from outside of Birmingham
- Potential increases in rooflessness

Response to the Issues

Supported Housing Oversight Pilot - key objectives, outputs, outcomes

Guy Chaundy – Housing Partnership Manager
& Pilot Leads



Supported Housing Oversight Pilot – Objectives

MHCLG funded a pilot with partners in October 2020 working with 5 local authorities alongside Birmingham – Hull, Bristol, Blackpool and Blackburn. The pilot will deliver the following objectives:

1. Improve the quality and standard of exempt accommodation in Birmingham through the roll out of the Birmingham Quality Standard and a multi disciplinary team who will undertake a regime of inspections
2. Ensure citizens are safeguarded and supported to effectively build their capability and autonomy.
3. Empower citizens living in exempt accommodation through effective communication and roll out of the charter of rights developed by Spring Housing.
4. Co-design a partnership led strategic plan for the use of exempt accommodation in Birmingham.
5. Investigate and prosecute Organised Crime Groups in the exempt accommodation sector as part of a partnership commodity - based approach
6. Undertake an evaluation of effective interventions and initiatives.

1) Improve the quality and standard of exempt accommodation in Birmingham through the roll out of the Birmingham Quality Standard and a multi disciplinary team who will undertake a regime of inspections

Since November 2020, new multi-disciplinary teams have been recruited to oversee the inspection/review process and implementation of the Birmingham Quality Standards. A new triage process was set up to track complaints and concerns, oversee property visits and any escalations between teams

Operational Tasking Group – (inc Supported Housing, Community Safety, Adult Social Care and Benefit review teams, Planning enforcement)

- 354 properties have been subject to partnership review
- Improved speed and effectiveness of the information sharing between teams, avoiding duplication of work. Building relationships internally and externally
- Highlighting issues around particular Managing Agents – many Registered Providers unaware of the issues taking place in their properties
- Actions taken by inspection teams in the main have been on an informal basis, providers often taking action when requested – avoiding costly formal enforcement
- Key impact for residents has been about raising the standards of exempt properties / homes and improvements to wider neighbourhood – which wouldn't have happened without the pilot

Supported Housing Team - 1x TM, 8 x Housing Review Officers, 1 x Environmental Health Officer and 1 x Admin officer

- Team have undertaken 431 property inspections overall since November 2020 (not including follow up visits from other teams)
- 400 'reactive' inspections – complaints, safeguarding or health & safety concerns. A further 31 of 100 'planned' targeting key wards and providers
- Property standards have been improved – 1120 category 1 hazards and 650 category 2 hazards have been identified.
- 3 larger properties have been subject to regular 'formal' BCC review meetings to improve standards, one property has escalated to closure order working with WMP
- Monthly complaints - increased from Nov 20 (20), to April 21 (83), and decreasing to August 21 (64)

Planning Enforcement

- Over 200 properties investigated this year. Some enforcement activity has taken place to improve property layout, eg bedrooms and communal space. Support to one closure order (appealed by landlord but denied in court). In the main due to regulations, the response to concerns is that planning permission is not required and no enforcement action can be taken.

1) Improve the quality and standard of exempt accommodation in Birmingham through the roll out of the Birmingham Quality Standard and a multi disciplinary team who will undertake a regime of inspections

Quality Standards (BVSC)

- 179 registered providers and managing agents overall are being targeted
- Over 60 providers and managing agents are on initial engagement list (either providers who have shown interest in the quality standards or those who have signed up to the charter of rights)
- 4 outcome reports are awaiting final sign off
- A rigorous assessment process is informed by intelligence from background checks, inspection teams, Housing Benefit Team , The Housing Transition Team, onsite visits, interviews with staff and residents, website, and media reports
- The quality standards have been developed further to include a comprehensive list of indicators and good practice
- Assessment percentage is converted to bronze, silver or gold awards. Providers who don't yet meet the standard will be classed as 'developing standard'
- A Provider event on 21/08/21 had over 100 attendees
- We are developing a plan to include volunteers with lived experience in the assessment processes

Training Programme

Specification for registered providers and managing agents agreed, working with BCC L&D team on materials for modules

1. Provider Awareness and Learning – HB Regulations and requirements, Quality Standards, Citizens Charter and external links to safeguarding and modern day slavery modules.
2. Referral Agency Awareness and Learning - What is Supported Exempt Accommodation – how to refer what to expect for your citizens – QS and Citizens Charter

2) Ensure citizens are safeguarded and supported to effectively build their capability and autonomy.

Inspection Team

- During initial inspections with Supported Housing Team, social distancing and lockdown led to difficulty engaging residents
- Provider maybe providing 'more than minimal' but this is still leading to support plan concerns. Support is not necessarily person centred and inspection team lacks enforcement power, relies on provider undertaking voluntary changes..

Housing Benefit Review team (5 x Benefit Review Officers)

- Since November 2020, the Benefits team have processed 26012 new claims and rejected 132 new claims.
- 1861 have been reassessed, 786 claims have been reduced. 1075 claims have been cancelled due to insufficient care and support. 1526 claims have been cancelled because the resident had vacated the property.
- Additional 2 month reviews are now also being undertaken to check support in place
- Large sums of Housing Benefits overpayments have been identified and recuperated from landlords due to fraudulent claims or landlords not meeting legal responsibility to advise of changes. £2.5m since pilot began Nov 2020

Adults social care team (1 x Senior Practitioner and 2 x Social Workers)

- Since January 2021, the team have conducted 244 support reviews and 45 safeguarding reviews.
- Outcomes include ensuring citizens are safeguarded and supported to build their capability and autonomy, signposting to other services and working with providers to improve standards of support.

Homeless Transition Team (BVSC, SIFA and St Basils)

- Since March 2021, the team have undertaken 108 reviews of units to ensure homeless citizens have support in place and identify/resolve property issues

3) Empower citizens living in exempt accommodation through effective communication and roll out of the Charter of Rights developed by Spring Housing.

The Charter of Rights

A right to feel safe and protected

A right to decent living conditions

A right to clear information on your support entitlement

A right to security of property

A right to seek advice and assistance, and to challenge

Pilot Adoptees

- 20 providers
- 1400 units of accom.

In Progress Adoptees

- 62
- Over 6000 units of accom.

- ❖ **Charter of Rights has been co-designed** with 50 residents from Birmingham
- ❖ **“Introduction to the Charter of Rights”** sessions including quality visits for those on pilot.
- ❖ **Self-assessment toolkit** to support providers to meet the CoR good practice standards/asertain levels of need
- ❖ **Customer surveys**– very positive feedback with main areas of improvement being move on accommodation and being involved in providers decision making.
- ❖ **“Good Practice”** workshops inc Safe Mixes, Quality Standards, Transitional Homeless Workers, Self-Assessment and Customer Survey
- ❖ **“External Awareness”** Presented the CoR to the Homeless Forum and the Housing and Communities Research Group
- ❖ Picked up regionally and nationally as good practice, National DA network adopted the charter. Referenced in the National Expectations for Supported Housing.

4) Co-design a partnership led strategic plan for the use of exempt accommodation in Birmingham.

- Strategic Needs Assessment - Data gathered from a number of sources including a survey of providers to understand baseline of needs and growth of provision
- Data analysis and testing of assumptions is continuing, due to finalise Autumn 21
- Developing recommendations to take forward as part of the future strategy – to include local and national recommendations
- Draft Supported Housing Strategy – key stakeholder and public consultation will follow, and Cabinet decision expected spring 2022
- A toolkit for managed transition / provider exit is also under development to accompany the strategy – to include a number of key components to support providers and BCC to manage any withdrawal effectively - risk management, support and assessment, communications and project management & equality analysis

5) Investigate and prosecute Organised Crime Groups in the exempt accommodation sector as part of a partnership commodity - based approach

Community Safety Partnership Team (1 xTM, 4 x SOC & ASB officers, 1 x Admin support and 1 x seconded WMP officer)

- 238 visits have been undertaken supporting inspection teams.
- Total of 290 investigations conducted of which 54 remain open.
- Actions taken – 133 Evictions/Removal of Tenants, 1 Closure Order, 8 Community Protection Warnings, 20 Involvements with decommissioning of properties & 12 Involvements with arrests made by West Midlands Police and 167 properties visited, were offered advice (E.G. Offer of ASB Policy, CCTV Improvements, Relationship Building with Local Residents, Signposting Tenants to Relevant Support Networks).
- The multi-disciplinary approach has been embedded.
- There has been a real push to get other external partners involved with the pilot and most recently WMFS have come on board and now play an active role in visiting the accommodation and either offering advice or enforcing Fire Regulations and Safety.
- Increased powers are needed as well as existing CPW/CPNs

6) Undertake an evaluation of effective interventions and initiatives.

MHCLG and Regulator engagement

- MHCLG national steering group has focused on key topics including – Strategic Needs, Benefits, Planning, Support & Assessment, New Providers, Referral pathways
- External evaluation of the pilot through Kantar is underway in line with end of pilot in September
- Pilot teams have worked tirelessly to raise awareness with MHCLG and the significant Providers surrounding the growth of exempt properties within Birmingham and more importantly the high density of growth within specific geographical areas. This had led to some of the major providers agreeing to curtail their portfolios of properties within certain areas or within the Birmingham region all together.
- Ongoing engagement with MHCLG & Regulator re a number of providers with exempt status under review.
- A number of providers have announced will be coming out of sector – working closely with them to oversee managed movement and individual risks
- Discussions with MHCLG focused on future overarching policy and regulation for supported housing in the future, to include the role of local authorities
- There needs to be a dedicated multi-disciplined team/department within the BCC that specifically caters for exempt accommodation. Without this, information will not be shared, there will be discrepancies over who is meant to deal with certain issues/concerns and there will be confusion from the public as to who has control and responsibility.

Q&A session



Break



Deeper dive into Housing Benefit

Cllr Brigid Jones – Deputy Leader
David Kinnair – Head of Benefits



Supported Exempt Accommodation

For a claim to be treated as an 'exempt accommodation' claim, the accommodation provider has to provide care, support or supervision to the tenant., and the tenant must need the support.

There is no legal definition of care, support or supervision, and there is no specification about how much care, support or supervision needs to be provided. It has been decided by the Upper Tribunal that it must be more than minimal.

Housing Benefit is a benefit to the citizen as oppose the Landlord

Housing Benefit payments DO NOT cover any of the cost of the care, support or supervision.

The Council ;

- Must adhere to the regulations
- Must refuse if they do not meet the criteria
- Restrict eligible rent/service charges if it is deemed to be overly expensive in comparison to other suitable alternative accommodation
- Can stop HB payments if following a review of the claim identifies that insufficient care, support or supervision (CSS) is taking place.
- Only need to be “more than minimal” CSS taking place for us to have to pay.

Regulation limitations

- Cannot delay without reason – once we have obtained all the information and evidence to make a decision then we have a statutory obligation to make that decision within 14 days.
- Cannot pay Local Housing Allowance (LHA) rates whilst we are going through the decision making process. Until a decision is made then we would not be able to pay HB (unless the resident falls into the pensioner category where HB can still be claimed but only under the appropriate HB scheme).
- Cannot refuse based on the level of support – if the evidence provided shows that more than minimal CSS is taking place then we would have to pay even if the levels being provided do not actually meet the required needs of the individual resident.
- If there is insufficient evidence/information provided then we would not be able to make a decision.
- Cannot take into account the standards of the property, or reports of anti social behaviour or substance use – this is not part of the criteria. Will refer to appropriate department or agency

Supported Exempt Accommodation Team (SEAT)

Team was set up April 2019

The purpose of the team is to review existing landlords/residents and to review new applications for SEA.

New processes:

- Meet with all new landlords before applications are considered
- Full case review of providers of concern
- Reviews all claims after a 2 month period
- Tracking outcomes of 50 cases where SEA has been withdrawn following the 2 month review
- Withdrawing of SEA status following reviews
- Working with Revenues (Council Tax collection) on correct liability for supported accommodation properties.
- Working with the Supporting Housing Pilot with MHCLG

Outcomes

- Overpayments to the value of £3.6 million recovered
- Withdrawal of SEA status
- Improvements in services for tenants
- Fraud Referrals
- Information sharing with the Regulator of Social Housing

Ongoing Reviews and Partnership working

- Created SEAT in 2019
- Reviewed service process and remit since implementation
- Benchmarked with other LAs (Core Cities, West Midlands LA's, DWP Practitioners Operational Group)
- Invited the DWP's Performance Development Team to do a review and health check of the current process in Birmingham.
- Birmingham's internal Audit section have been asked to review the process and make any recommendations for improvement
- DWP – are currently working to gather more information on the SEA caseloads and the Benefit Service is part of these talks: there has already been a number of meetings. The HB system will be enhanced to enable the DWP to start to gather information for analysis from April 2022.
- Head of Benefits and AD for Revs and Bens, both attend separate forums with the LGA and DWP – BCC is one of a small number of councils on these groups
- Core Cities focus group
- Consulted on 53 page DWP guidance
- Shortlisted as one of six finalists from all LA's in two IRRV categories, Team of the year and most improved team (from adoption of team in 2019)

Review & Applications

New Providers – last 12 months

- In the last 12 months there have been 390 applications for new providers
- Granted – 62 new units
- Refused - 211 units have had SEA status refused
- Restricted – 117 units had their rents restricted

Reviews – since April 2019

- 32 Providers of Supported Accommodation have been, or are in the process of being reviewed by the Team:
 - 15 Registered Providers
 - 9 Private Landlords
 - 8 Support Providers
- 161 properties - reviews completed
- 5,207 individual claims have been reviewed
- 48 properties currently under review/investigation
- £3.6 million overpaid benefit identified and recovered (Inaccurately or fraudulently claimed – legal duty / additional process check)
- 9 Fraud referrals made to DWP

Response to further Questions from Scrutiny

- **Average cost of each placement to the state –**
- The average weekly HB entitlement: PT: £184.28 RP: £217.80 (this is mid-table compared to other authorities)
- Please note this is not all LA as subsidy will cover all Registered but subsidy loss to LA on PT. E.g. Birmingham 2.6 million.
- **Average cost of social rent in the city -**
- RP is £218.53, will not match above question as not all rent is always covered by HB entitlement.
- **Process** – How claims assessed, differences/benchmarking, strengthened
- **Regulator Criticism or Involvement** – If and when a provider has registered status removed by the regulator we would then reassess and potentially end the claim and refer to Universal Credit with housing costs. However, if the regulator has downgraded etc the regulator still classifies them as a registered provider status, so this is not a status we award or bestow and have no influence over. The regulations state how claims from registered providers should be classified. We will, however, investigate and review that LL as part of our review process, team set up in April 2019

Q&A session – Housing Benefits



Deeper dive into Planning

James Fox - Acting Principal Planning Enforcement Officer
Uyen-Phan Han – Planning Policy Manager



The Use Class Order - What use class is supported accommodation?

- Supported accommodation is not a C4 HMO - Shared housing managed by RSLs are excluded from the definition of a HMO in Schedule 14 of the Housing Act 2004, therefore unaffected by the City Wide Article 4 Direction.

Use Class Order

- **C3(b)** – for properties with no more than six residents living together as a single household and where care is provided for residents
- **C3(c)** – for properties with no more than six residents living together as a single household where no care is provided to residents
- **Sui Generis** - a category for any uses which do not fit within any other class – more than six residents for HMOs and Supported Accommodation planning permission required
- Can Supported Accommodation be Use Class C2?

Will supported accommodation require planning permission?

- **The basis of our assessment – Single Household?**

There is no legal definition of what constitutes a single household.

Whether occupants form a single household will always be a matter to be determined on a case by case basis as a matter of fact and degree. There is no definitive factor.

- **Do the occupiers have to be related?**

“Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004”

Important - This interpretation does not extend to C3(b) or (c).

How do we assess a single household?

The Council will have regard to the following factors, amongst others, for determining if the occupants of a property form a single household:

- whether the bedrooms contain kitchen and or cooking equipment such as sink, microwave or fridge;
 - whether the kitchen is of a reasonable size to accommodate the needs of all the occupants and evidence that it is in use e.g. food in the cupboards and fridge and utensils being used;
 - whether there is a separate lounge area or large kitchen diner that allows a space for residents to spend time out of their bedrooms;
 - whether there are no more than six occupants residing at the property;
 - what the relationship is between the occupants.
-
- **Birmingham's approach** – A comparison to other Councils
-

How will planning applications for supported accommodation be assessed?

- **Policy DM12 Residential conversions and specialist accommodation**
 - a. It will not lead to an unacceptable adverse impact on the amenity, character, appearance, parking, public and highway safety of the area, taking into account the cumulative effects of similar uses in the area;
 - b. The accommodation and facilities, including outdoor amenity space and provision for safety and security, is suitable for the intended occupiers;
 - c. It is accessible to local shops, services, public transport and facilities appropriate to meet the needs of its intended occupiers;
 - d. The scale and intensity of the proposed use is appropriate to the size of the building;
 - e. It will not result in the loss of an existing use that makes an important contribution to the Council's objectives, strategies and policies.

How will planning applications for HMOs be assessed? Will existing concentrations of SEA in the area be considered?

- **Policy DM11 Houses in multiple occupation**

- 10% threshold
- No sandwiching of family house between two HMOs or non-family residential uses
- No three or more in a row of HMOs or non-family residential uses

Criterion “e) would not give rise to unacceptable adverse cumulative impacts on amenity, character, appearance, highway safety and parking;”

Q&A Session - Planning



Bigger Picture - regional and national issues and partner perspective

Jean Templeton – Chief Executive St Basils

Dominic Bradley – Chief Executive Spring Housing



Where are we now?

Birmingham Safeguarding Adults Board have made exempt accommodation one of its priorities.

- ✓ West Midlands Combined Authority, exempt has become part of the homelessness taskforce priorities.
- ✓ Active dialogue with DLUHC
- ✓ Working to strengthen duty of care and due diligence of statutory bodies in the use of supported accommodation.
- ✓ Empower Clients living in the sector to make informed decisions about their personal safety, personal and social interactions within shared living environments. Charter of Rights.
- ✓ National Housing Federation amended membership criteria for membership
- ✓ Leased based providers part of the risk sector profile published by the regulator.

Where Should Our Focus Be?

Continue to:

- Establish a local evidence base of Supported Housing Needs and provision in the city.
- Curb the unmitigated growth. Work in a more strategic way with providers.
- Ensure that we are community focussed. We have reached saturation point in many areas of the City.
- Work with Central Government to encourage greater clarity to the existing regulations Supported HB regs not fit for purpose, need amending at least to cover social housing. Lack of funding for support has contributed to the current situation. Clarity required in relation to definition of supported housing and oversight authority given to Local Housing Authorities.
- Strengthen duty of care and due diligence of statutory bodies in the use of supported accommodation
- Empower clients living in the sector to make informed decisions about their personal safety and personal social interactions within shared living environments - Charter of Rights
- Use existing regulatory and enforcement powers to respond to preventing personal and community related risks
- Ensure that out of area referrals are minimalised or linked to genuine resettlement
- Share learning within the region and support comprehensive approach to standards and charter of rights.

Q&A – Bigger Picture



Recap and next steps

Guy Chaundy – Housing Partnership Manager & Pilot lead
Julie Griffin - Managing Director, City Housing



Recap and Next Steps

- Pilot with MHCLG is due to formally end 30th September 2021 - some funding remains available alongside some additional BCC budget identified to retain Inspection teams until March 2022.
- 'Reactive' inspections will continue in response to complaints, health and safety or safeguarding concerns. 'Planned' inspections will align to gather evidence on providers going through the Quality Standards process
- Strategic Needs Assessment is continuing – some additional data analysis is underway to test and confirm assumptions, due to finalise end of September.
- Local and National recommendations are being developed as part of the pilot evaluation and the Scrutiny report. All to feed into the council's draft Supported Housing Strategy
- Key stakeholder and public consultation on Strategy will be undertaken ahead of Cabinet decision in spring 2022

Potential Recommendations

Local (Within control of BCC)

- Adopt a council wide approach to commissioning, placing conditions on use
- Adopt a council wide approach to referrals into non-commissioned provision
- Expand current QS to include: due diligence test on organisation, demonstrate sources of adequate support funding, property standards meet decent homes requirements
- Identification of funding and resource required to oversee, inspect etc 20,000+ units
- Collective BCC list of approved providers based upon criteria as set out

National (Not in control of BCC)

- Current model, 2 years for legislative change is unacceptable and this has already been flagged with DLUHC (formerly MHCLG)
- Adequate government funding considerations for funding for support in order to avoid personal charge
- Consideration for a Government led national accreditation requirement – Local Authorities can influence numbers and standards through requirements to be accredited, plus Local Authority resources to manage any inspection and oversight
- DWP, DLUHC and the Social Housing Regulator to collectively agree and tighten the definitions and regulations for this sector, with the aim of removing loop holes and ambiguities that currently exist
- Amendments to the definition of a HMO in Schedule 14 of the Housing Act 2004.

Member discussion and asks/ what next from Scrutiny

Councillor Rice

