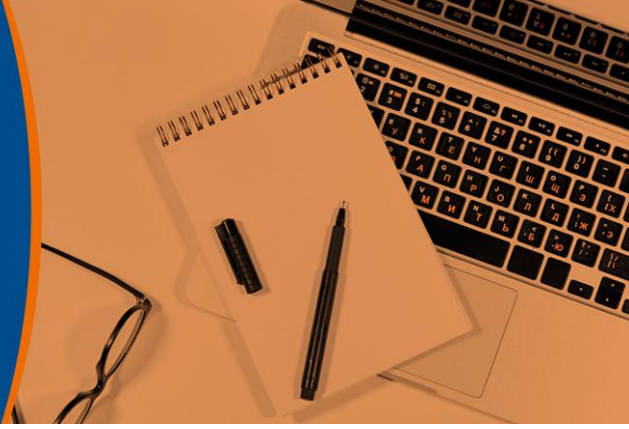
Strategic Network

Blog



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Supported housing regulation: Consultation – was it worth the wait?

Back in 2018, the government pledged to develop a robust oversight regime for supported housing. Now, seven years later, we finally have a consultation on the regulation of supported housing. But was it worth the wait?

As a reminder, the Supported Housing (regulatory Oversight) Act 2023 received Royal Asset on 29 July 2023 and it introduces:

1. **Local authority (LA) supported housing strategies** – local authorities will be required to undertake a review of supported housing in their area, to assess the availability of and need for supported housing. The strategies will need to be renewed every five years.
2. **Supported housing advisory panel** – the MHCLG secretary of state is required to set up an advisory panel to provide information and advice about supported housing. The government proposes to establish this panel as soon as possible.
3. **National supported housing standards** – this allows for the MHCLG secretary of state to set standards for support provided in supported housing.
4. **Licensing schemes** – the act creates a power for the MHCLG secretary of state to make regulations to establish a licensing regime for the supported housing sector.
5. **Planning** – the secretary of state must conduct a review of the licensing scheme within three years of the licensing regulations being made and following that review must consider whether to introduce a new planning use class for exempt accommodation in England.
6. **Homelessness** – the act sets out that a person will not be treated as intentionally homeless if they are leaving supported housing because it does not meet the national supported housing standards.

The consultation focuses on three elements introduced by the act: the national supported housing standards; the licensing scheme and the new planning use class. In addition, it proposes changes to Housing Benefit regulations which define care, support and supervision. The remaining elements of the act are in varying stages of implementation – interviews for the advisory panel were due to complete by the end of February and the homelessness provision cannot be enforced until the national supported housing standards are published.

There have been no updates about the supported housing strategies, though a number of local authorities, particularly those with supported housing improvement project (SHIP) funding, have commissioned needs assessments. However, MHCLG has published an evaluation of the supported housing oversight pilots and a review of the size and nature of the sector.

In a previous briefing for HQN members, I summarised the key challenges to improving the supported housing sector under the current patchwork of regulation. The key challenges were:

1 Reducing or rejecting Housing Benefit claims can result in a tribunal case, which can be costly to defend and may have a low chance of success.

2 Enforcement powers of environmental health teams can also be costly and time consuming to use.

3 As resident expectations increase, workloads may further increase whilst powers to meet their expectations may be limited.

4 The consequence of driving poor landlords out of the market may be an increase in homelessness and fewer housing options.

5 Ability to improve resident support outcomes is hampered by challenges accessing support from health, social care, etc systems.

6 Residents may be reluctant to engage with oversight work for fear of reprisals from their landlord.

7 Some providers are well resourced and can defend any challenges and/or adapt their business model to take advantage of the gaps in the patchy regulatory framework.

8 Scrutiny of arrangements is complex, time consuming and requires specialist officers.

9 A non-commissioned provider cannot be de-commissioned – additional scrutiny of Housing Benefit claims, accommodation standards and the quality of support can only go so far.

How many of these are addressed by the consultation? The short answer is, not many:

1 The consultation proposes linking Housing Benefit eligibility to the licensing scheme. No licence would mean no entitlement to HB under the specified accommodation rules, which would probably mean the resident would become homeless. The consultation also provides a definition of "care" and seeks views on how to define "support and supervision". Anyone hoping for a draft definition of the latter will be disappointed. Will it be possible to create a sufficiently robust definition that works for all four types of specified accommodation?

2 The consultation proposes that environmental health teams use existing powers (that can be costly and time consuming) such as improvement notices, civil penalty fines and banning orders to ensure compliance with the act. A new offence of *"operating supported housing without a licence"* is also proposed.

3 The consultation is silent on raising awareness amongst supported housing tenants of their rights and how to seek redress. New burdens funding will be provided by government to local authorities to establish teams to regulate supported housing providers in their area. Licensing fees are then expected to cover the costs of the teams going forward.

4 The consultation proposes that providers are treated as licensed for HB purposes whilst their application is processed. It also proposes an exemption for those with an HMO or selective licence until this expires, as well as a light-touch approach for commissioned services. It focuses on working with landlords to improve properties rather than taking a hard line that would lead to schemes closing. It also explains government is exploring what practical and financial help can be provided to anyone becoming homeless from supported housing licensing.

5 The proposed national supported housing standards would require providers to demonstrate progression in achieving the support outcomes agreed with a resident and identification of barriers to progress. It would also require signposting and that referrals are made to specialist services. Of course, it cannot require these services provide the support requested.

6 This is not covered by the consultation, perhaps due to the findings of the supported housing improvement programme evaluation that residents were mostly happy with their support. But this was due to having very low expectations and/or it being better than their alternative options. If expectations are raised through awareness raising activities, this attitude may change.

7 Only time will tell how providers might adapt. The supported housing improvement programme evaluation highlights how providers of "concern" chose not to engage with the pilots, because they did not have to.

8 Whilst the consultation highlights there will be new burdens funding and licensing fees to fund specialist teams, there are likely to be significant challenges in recruiting to these teams, particularly when every local authority in England will be recruiting at the same time.

9 The link with HB will be a significant factor in addressing this concern, as will the ability of the provider to defend their claim and/or adapt their business model.

And, of course, the wait for the new regulatory regime is far from over. A second consultation is needed once the responses to this first consultation have been reviewed. And after that, time is needed for local authorities and providers to get their licensing ducks in a row.

What might be a realistic timescale for licensing to start? 2027? And when might we feel the benefits of it? It seems at least a decade after it was first pledged.

About the author(s)

Emma Lindley is a housing professional with more than ten years' experience working in a variety of roles, including frontline housing management, resident involvement, policy development and managing properties for PRS landlords. She is happiest when exploring interesting ideas with interesting people. She currently works in strategic housing for a local authority, leading on identifying new solutions to old problems, such as homelessness, domestic abuse and fuel poverty. Emma completed a BSc in Housing at De Montfort University in 2014. She Chairs the Chartered Institute of Housing East Midlands regional board and is a lead associate of HQN's Strategic Network.