

Levelling Up, Housing and Communities

Oral evidence: Exempt Accommodation, HC 959

Monday 28 March 2022

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Members present: Mr Clive Betts (Chair); Bob Blackman; Florence Eshalomi; Ben Everitt; Kate Hollern; Andrew Lewer; Mohammad Yasin.

Questions 1 - 71

Witnesses

I: Paul Latham, Director of Communications and Policy, Charity Commission; Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing; Debbie Ivanova, Deputy Chief Inspector for People with a Learning Disability and Autistic People, Care Quality Commission.

II: Guy Chaundy, Senior Manager Housing Strategy, City Housing, Birmingham City Council; Helen Clipsom, Outreach and Private Rented Options Service Manager, City of Bradford Metropolitan District Council; Councillor Neil Jory, Leader of West Devon District Council; Councillor Sharon Thompson, Chair of the Homelessness Taskforce Members Advisory Group, West Midlands Combined Authority.

Examination of witnesses

Witnesses: Paul Latham, Jonathan Walters, and Debbie Ivanova.

Q1 Chair: Welcome, everyone, to this afternoon's session of the Levelling Up, Housing and Communities Committee. This afternoon we are looking at the challenging issue of exempt accommodation. I think all members of the Committee are trying to get their heads around what is a very complicated subject. It is a pleasure this afternoon to have two panels of witnesses who hopefully will be able to explain to us more thoroughly the challenges and the possibilities for improvement.

I will first of all ask members of the Committee to put on record any interests they may have that may be relevant to this inquiry, and then we will come over to the first panel of witnesses. I am a vice-president of the Local Government Association.

Kate Hollern: I have an employee who is a councillor.



HOUSE OF COMMONS

Mohammad Yasin: I am a member of Bedford Town Deal Board.

Chair: Over to our witnesses. Welcome this afternoon. I will come online first to Pauline Latham.

Paul Latham: I am Paul Latham—

Chair: Paul, I am sorry. That is the deliberate mistake for the afternoon. Fortunately you recognised it.

Paul Latham: No relative, as far as I am aware, of the hon. Member. I am director of communications and policy for the Charity Commission for England and Wales, and we are the registrar and regulator for 170,000 charities in those two nations.

Chair: Paul, you are very welcome. I got your name right this time.

Jonathan Walters: I am the deputy chief executive of the Regulator of Social Housing. We are responsible for social housing regulation in England and we regulate about 1,600 organisations.

Debbie Ivanova: Hello, I am the deputy chief inspector from the Care Quality Commission.

Q2 **Chair:** You are all three very welcome this afternoon. We are going to learn a little bit, hopefully, about the regulation issues, which are challenging for the sector. First of all, we will probably go around in turn and ask a general question because it is important to try to establish the framework in which regulation operates. Perhaps, Paul Latham, I could just come to you and ask, first of all: could you explain what your role is in regulating exempt accommodation from the Charity Commission?

Paul Latham: Of course. We register, as I mentioned, 170,000 charities. We regulate a wide range of organisations, everything from art galleries to care homes to schools to think-tanks, and within that remit or range of organisations our role is essentially to ensure good governance in charities, to ensure that charity trustees are running their organisation in the best interests of the charity and in line with its charitable purpose, which is essentially the statement of mission set out when it was founded.

Within that group of organisations there are some charities who are involved in providing or involved in some way in accommodation. That is around 8,000 organisations or around 5% of the charity register. Some of those organisations will be providers of exempt accommodation, but not all providers will be charities.

Q3 **Chair:** How many charities are providers?

Paul Latham: We do not have a figure for exempt providers. We have, as I say, on the register approximately 8,000 charities who are providers of accommodation in some way. We also know that around 500 charities have told us, because we ask if they are regulated by another regulator, that they are regulated by the Regulator of Social Housing. We do not



HOUSE OF COMMONS

currently specifically ask charities if they are providers of this type of accommodation.

Q4 Chair: How can you regulate the providers when you do not know who they are?

Paul Latham: We are not an inspectorate. We know who they are and we ask a number of questions of charities, and they are required to provide us with an annual return each year and their annual reports. We have, at the moment, a categorisation of charities and we ask them to list the type of work that they do or the type of purpose that they have. As I say, we do know if they are involved in accommodation.

We are this summer consulting on asking for more granular data from charities so that we have a more detailed understanding of the numbers working in different types of areas. However, obviously, if we seek to engage with a charity we will look very deeply into what they are doing at that time.

Q5 Chair: Let us move on to Jonathan Walters from the Regulator of Social Housing. Again, same question: what role do you play in regulating exempt accommodation?

Jonathan Walters: We regulate, as I say, housing associations, local authorities and for-profit providers of social housing in England. A lot of those will provide a certain amount of exempt accommodation but not all exempt accommodation is provided by housing associations. Similarly to Paul, we have some of the exempt accommodation universe within our regulatory remit, probably just over half, but probably another half is carried out by other organisations and not regulated by us. Within that group we have a large number of providers who provide a small amount of exempt accommodation, but we do also have a smaller cohort of organisations that provide in some cases almost exclusively exempt accommodation. We have a real spread of organisations that provide different levels of exempt accommodation.

Q6 Chair: But you know how many exempt accommodation providers you are regulating?

Jonathan Walters: We know the organisations that are providing predominantly exempt accommodation. Similarly to Paul, exempt accommodation is a housing benefit definition. It is not a definition that we have for ourselves; it is a way that housing benefit pays for certain types of services from the landlord. It sits with the housing benefit authorities. We collect information about supported housing and general needs housing, and exempt accommodation is generally a subset of supported housing.

Q7 Chair: You do not know how many providers?

Jonathan Walters: We do not, no.

Q8 Chair: It is not a great start, is it? We do not seem to know quite what we are doing in this. Anyway, let us move on to Debbie Ivanova and the



HOUSE OF COMMONS

Care Quality Commission. Could you say what role you play in regulating exempt accommodation? Perhaps you could let us know how many providers you are regulating.

Debbie Ivanova: That is a bit easier for us because we do not have a role in regulating exempt accommodation under our legislation. As the independent regulator of health and social care, we register, monitor and inspect services that fall under our regulated activities. Those regulated activities are very clearly defined in the Health and Social Care Act regulations. Our scope of registration sets out those activities in a lot of detail. Our regulated activities are about where personal care is provided and where there is support and accommodation that takes people into a service that makes it a regulated activity.

We do not regulate supported housing but we regulate the provision of personal care to some people who live in supported housing. Under our current regulations, we can only look at the support that people get if it is provided alongside personal care. That uses ancillary regulations.

We have no powers to regulate any support provided by landlords as part of people's tenancy. I understand the nature of the support we are talking about here is very broad, including things like helping with benefits, budgeting and maintaining tenancies. None of that comes under the definition of "personal care", which is what CQC regulates. That definition is very tightly defined. It is about providing assistance and support with bodily functions, including feeding, washing, dressing and all medication.

We are different to the other two. We do not have a role in this regulation.

Q9 **Chair:** In exempt accommodation, as I understand it, certain support services have to be provided for it to qualify. You are saying that the support services, as defined legally, are not ones that you regulate?

Debbie Ivanova: That is right. We only regulate supported living where it includes personal care, and that is defined by bodily functions.

Q10 **Chair:** You may regulate some services in exempt accommodation but exempt accommodation does not have to provide the services that you regulate?

Debbie Ivanova: That is right. We do not regulate exempt accommodation under our legislation.

Q11 **Chair:** Do you know how many units of exempt accommodation or exempt accommodation providers for which you regulate some services they provide? Do you have any idea?

Debbie Ivanova: As I understand it, something like 40% of the 553,000 units of supported living may have a provider who is registered for a regulated activity in other parts of the accommodation, but we do not go in and look at any of the settings where there is support offered and not personal care. At the moment that is not part of our regulation.



HOUSE OF COMMONS

Q12 **Chair:** You go into some units where personal support is offered. Do you know in how many of those units that support is provided under the rules of exempt accommodation?

Debbie Ivanova: These are not services that are provided under exempt accommodation. These are supported living providers who offer—

Q13 **Chair:** It is not the question that I asked. I understand that you go in and look at the personal support for individuals. Do you know how many of the services that are provided are provided in exempt accommodation?

Debbie Ivanova: No, because we do not regulate it. We do not know that.

Q14 **Chair:** There is a lot of information that nobody seems to know about at this stage. Let us move on.

There have been a lot of concerns—I will come back to Jonathan Walters—about the quality of exempt accommodation and the lack of regulatory oversight. Are you taking any steps to improve that? If you cannot, are you asking for extra powers to be able to take those steps?

Jonathan Walters: I will take that question in two parts. Organisations are regulated by us that provide exempt accommodation. We have followed up in a number of those cases, and you may be aware that we have issued a number of regulatory judgments and regulatory notices against a range of organisations that have provided exempt accommodation where we feel and have evidence that they have not met our regulatory standards. That is often to do with poor governance and it is often to do with poor service delivery because they are poorly governed, they do not have boards or the organisations are not running them appropriately. We have taken action with those organisations and there are a number of judgments that we have put into the public domain.

In answer to your earlier question, Chair, the estimation is that about 57% of exempt accommodation is within our sector. That is from the Prospect inquiry that was carried out. Roughly about half is with us and half is outside of our regulatory remit.

We have been talked to our sponsor Department, DLUHC, for a number of years about these issues. You may have seen that there was a written ministerial statement from Eddie Hughes recently setting out the Government's proposals to provide more support for local authorities in this area and to look at some of the housing benefit definitions, which I think are at the heart of some of the problems this Committee is exploring. Because it sits with housing benefit, it does not necessarily fit neatly with any regulator. We welcome the Government's recent announcement and we want to work with DLUHC as they work through the proposals that they are coming up with.

Q15 **Chair:** Over to Paul Latham. You indicated some of the work that you are going to do to try to get more information about the charities who are involved in this area. Is there anything else you are trying to do to



HOUSE OF COMMONS

improve regulation?

Paul Latham: It may be worth setting the scene slightly for our role. We are essentially a cross-cutting regulator of all registered charities, which, as I mentioned earlier, may be a whole variety of different types of organisation. We work very closely with specialist regulators for different sectors: the CQC we work with on care homes where they are charities, for example; the Regulator of Social Housing I have mentioned; and with regard to schools we will work with the Independent Schools Inspectorate and Ofsted.

Our role is about making sure charities are well-governed, that they are keeping people safe and that they are using the money for the purpose for which it was raised. Then it is really important to us, where there are higher-risk areas, that we have another regulator to work with who can tell us whether, for example, minimum standards of care or service are being provided.

We had a recent case into a provider in Bristol where we conducted an inquiry, which is our strongest power. This was a provider that was providing exempt accommodation. We took significant action in that case. We issued an official warning to that charity and we had a voluntary agreement from trustees that they would not act as trustees for a number of years. We did make a statement after we had conducted that inquiry that we did not feel that we had a sufficiently empowered regulator in that area, in the area of certain types of accommodation, who we could work with to understand whether standards had been met at an appropriate level. We are not an inspectorate, we are a regulator who, if issues are raised with us or if we identify issues through our proactive work, can step in and take corrective action.

Q16 **Chair:** I think we will come back to the gaps in regulation in due course. Finally, to the Care Quality Commission, is it your view that the level or standard of personal care provided is not affected by the type or standard or accommodation that people live in? Is there not a link there that perhaps you ought to be thinking about?

Debbie Ivanova: We can only look at the care of people who receive a regulated activity. If there are services providing care, if there is a supported living service that is registered with us, we are able to talk to the people in that service about their personal care. That is what triggers the registration. While I absolutely agree with you that there is a huge issue here around people who are receiving support, unfortunately it does not fall within our regulation and therefore we cannot look at the care of those people.

It is also important to say that when people are in their own homes, we can only enter those premises with their permission. For a service that is operating, say, a supported living service for people with a learning disability, which is what most of them tend to do, then we will go and we will talk to people who are running the service. If we are invited in to be able to inspect and look at the standards of care in that service, we are



HOUSE OF COMMONS

looking at the care that is provided to them. We cannot look at the accommodation because that is not what is registered with us.

Chair: Let us move on to further questions about regulation.

Q17 **Ben Everitt:** Jonathan, I will start with you. We are going to talk about some comments made by Inclusion Housing Group, which is not a fan. It has been critical of the approach, stating that the approach that you take creates “‘Zombie RP’s that remain in a permanent state of regulatory purgatory”. They also said, “The RSH has consistently failed to engage constructively or to provide a view on what a ‘compliant regulatory lease or operator’ looks like.” When we asked them their opinion on the standard response, it has been that it is “not fit for purpose”, and “it is not up to them to provide advice in this regard; this is not helpful or constructive in promoting further registration, market maturity or responsible regulation”. That is pretty harsh. How would you respond to these? Are you prejudiced against a lease model of exempt accommodation?

Jonathan Walters: Exempt accommodation is often provided on the lease model, which is on a short-term model, and we also have specialised supporting housing, which is similar but different, I am afraid—the picture gets more complex—that is generally provided on a long-term lease, 25 or 30 years. Inclusion largely provides that specialised supported housing space for adults with learning difficulties and suchlike. It is a slightly different space, I think, to exempt accommodation, although there are links. Clearly both are provided on leases.

You will be aware that Inclusion have been quite public about their views about the regulator. They JRed us on an issue, which we successfully defended. We take the view that we have been as clear as we can about where our concerns lie. We published a special document where we expanded where our concerns lay with lease-based accommodation, which is often to do with the financial metrics of the model. It does not look particularly resilient to us. Those are concerns that we have raised. Clearly, Inclusion take a different view. They are perfectly entitled to.

We regulate 34 or 35 lease-based organisations. I would say 23 of those have non-compliant judgments. There does appear to have been an issue where lease-based organisations have, for a while now, been struggling to meet our regulatory requirements. That is often to do with the fact that you can grow very quickly as a lease-based organisation. You can take leases on very quickly and add stock. You can go from a few dozen units to several hundred, to almost 1,000 units in the space of two or three years. That is a fantastic rate of growth for any type of organisation and growing your governance and your risk management alongside that is quite difficult. I think some of them have struggled as a result, which we have reflected in our judgments.

Q18 **Ben Everitt:** To follow up on that point then, it would seem from your comments there that there is an aversion to that lease-based model,



HOUSE OF COMMONS

given what you have just said about the potential issues with long-term viability and scaling.

Jonathan Walters: We have definitely seen a concentration of risk in that model. We have organisations who run a lease-based model who run it very effectively and very well, so it is not that there is a problem per se with leasing. Getting the lease right, getting the terms of the lease right and getting the balance between the freeholder and leaseholder right are all quite complex negotiations and in a lot of cases, people have struggled, we think, to get that in the right place. However, we do definitely have compliant lease-based organisations who provide a good quality of accommodation.

Q19 **Ben Everitt:** Not necessarily the model, more the operator?

Jonathan Walters: There can be problems with some of the operators, not necessarily with the model itself.

Q20 **Ben Everitt:** Understood. Thank you. Paul, Bradford Council told us that, "It should be noted that most Not for Profits are charities, but the Charity Commissioners take no role in overseeing them as providers of exempt accommodation." Is this something you recognise and is it something you can take action to rectify?

Paul Latham: I would not accept that statement. We are the regulator for any of those providers who fall within the category of being a registered charity and we will take action if they fall short in any regard in terms of their governance, keeping people safe and managing their money correctly. I mentioned one inquiry that we had held where we had taken action. There is another that we have taken in the same area of Bristol in recent years. We have a number of regulatory cases ongoing into the housing sector at any particular moment. We work very closely with the RSH where there might be overlap in terms of who might take the lead. No, we absolutely do not accept that.

I do think it is possible that there is sometimes a misconception of the role that Parliament has set us up to perform. As I mentioned earlier, we are not an inspectorate. We are not going through the doors of every one of the 170,000 charities on our register each year. If we spot a risk, if we have a complaint, we will carefully assess that and we will take action where necessary.

Q21 **Ben Everitt:** I am sure you can understand the sea of blank faces that are going around the room because I think we are all struggling to understand. In answer to your first set of the questions, there is this gap in terms of exactly who is inside scope and who is not, and therefore at what point you step in and start an inquiry. Is this something that you are seeking to change, or to communicate the role and the scope more clearly?

Paul Latham: We are not seeking to change our own regulatory model because it is one that has stood the test of time across this wide range of different organisations that we register and regulate, which are charities. We did, as I mentioned, make a public statement and we have engaged



HOUSE OF COMMONS

with the Department to say that we thought that there was a regulatory gap here, which we felt should be filled, which fell between existing specialist regulators and inspectorates. We would not feel that it is the appropriate role for us given that cross-cutting role with such a wide variety of charities, but we are concerned about it and where it falls within our remit we will absolutely act with our powers to the fullest extent.

Q22 **Ben Everitt:** Bradford Council cannot expect a letter clarifying?

Paul Latham: I am very happy to speak to Bradford Council. I am happy to write to them and to assist this Committee in any regard to understand where Parliament has set our part of the regulatory landscape and where we see those gaps. We do see that gap.

Q23 **Ben Everitt:** The point I am making, of course, is that it cannot just be Bradford Council. This Committee is understanding the complexity and the environment that you operate in as well. There is perhaps some more clarity that can be established there.

Paul Latham: I would add, if I may, that we have worked very hard over recent years to improve our whistleblowing service, to improve how we respond to complaints and to step up expectations of charities. They are required to issue us with a serious incident report if something significant happens, which could be a poor inspectorate report from the CQC or the RSH, or be a death on the premises—something like that. We have done a number of things to make sure that when problems happen, they are coming to our attention and we can act where it is within our remit.

Chair: I think Kate Hollern wants to come in on the same point.

Q24 **Kate Hollern:** Just on that point, you say act “within your remit”. Can each of you explain your role in regulation and how you work together for enforcement and identify gaps so that, moving forward, they can be addressed?

Paul Latham: I will start with our remit. We regulate a large number of charities across England and Wales. Our role is essentially about good governance and good stewardship of charitable funds, making sure that trustees, who are the people who are empowered and required by law to run those charities reasonably and responsibly, are meeting the requirements of charity law specifically but also, within that wider governance framework, that they are meeting the requirements of other regulators as well.

We can take direct action ourselves. We can take strong interventions like freezing bank accounts, removing trustees from their roles and replacing them if necessary. We can disqualify trustees who have already left an organisation. We can direct charities to undertake a range of corrective action to put the charity back on course. We can do all of those things within a framework of governance, which includes keeping people safe as well as keeping money safe, whatever type of charity you are.



HOUSE OF COMMONS

That is broadly our role and it is why I describe that interaction with a whole range of other regulators who are specialists in a particular field, who will be regulating organisations that might be charities, might be private companies or might be other types of provider. We will work very closely with them. They may take action under their framework but we may also choose to take action under our own framework.

We have information-sharing gateways with the RSH, the CQC and others so that we can exchange information where concerns have arisen and then we can have conversations under our own legislative frameworks. We also have a risk framework. We will take cases and escalate them where we see the highest risks to charities and to them delivering on their charitable purpose. We can have a practical conversation with the RSH, for example, about whether it is something that they should lead on, where we co-regulate, where it is something that we should lead on, or perhaps they will intervene and then we will follow up with our own powers and we will use them in concert.

That is broadly how we act as a regulator. There is a gap in terms of there being no clear principal regulator for exempt providers in the way that I have described.

Jonathan Walters: We are the regulator of social housing. Under our current legislation we regulate what we call “economic activities” proactively. That is about ensuring that organisations are well-governed, they are financially viable, they are delivering value for money, and they are charging the right rent.

We also have a responsibility that we are currently required to carry out reactively—the Government is going to bring forward legislation to change that—on consumer issues, basically around the quality of accommodation, the quality of services and the involvement and empowerment of tenants of social housing. That is hopefully going to change in the light of the Government’s recent social housing White Paper.

In terms of the way we carry out our economic regulation at the moment, we have, as I say, local authorities, housing associations and for-profit commercial providers all providing social housing. The economic standards do not apply to local authorities but they do apply to housing associations and for-profits. We collect a range of financial information from those organisations.

We conduct what we call in-depth assessments. Every four years, we will go and see all organisations that have more than 1,000 homes and we will look at the quality of their governance, board, management, risk management, financial position and so forth. We issue regulatory judgments where we make public our views of that organisation, whether we think they are compliant with our standards or whether we think they are noncompliant.



HOUSE OF COMMONS

Where they are non-compliant, we will then follow up with a range of intervention similar to the ones that Paul just described. We can make appointments to boards, and we can conduct statutory inquiries. There is a range of things that we can do to intervene where we believe that a provider is failing. As Paul described, where an organisation is a charity we also work quite closely with the Charity Commission to ensure that the right regulator is taking the right action in the right way and we make sure that we co-ordinate our efforts.

Q25 Kate Hollern: Sorry, did you say every four years and for providers with more than 1,000 units?

Jonathan Walters: That is right, yes.

Q26 Kate Hollern: That is purely on the standard of accommodation. What is the role of the CQC?

Debbie Ivanova: The CQC is the independent regulator of health and social care. That means that we register, we monitor, we inspect and we take enforcement action against hospitals, care homes, dentists, GPs and people who are receiving personal care in their own homes. We have a very defined remit that is based around those specific services but the range of our activity within those services is based on having that first registration and then following through, keeping information about those services, monitoring what is happening and going out to inspect those services. That is, depending on the type of setting, an inspection that should get under the care of the people living in that service and make sure that their care is to the quality that is set out in both our standards and our policies.

Q27 Kate Hollern: You do not have any real role in exempted properties where, for example, you have homeless people or refugees or people leaving prisons.

Debbie Ivanova: No, because those would not meet the definition of personal care.

Chair: We need to move on now to look at some of the problems with registered and non-registered providers. Ben Everitt.

Q28 Ben Everitt: Thank you. Back on to councils, councils get a full subsidy from the DWP if they are registered with the Regulator of Social Housing, yet we have been told that registered status is no guarantee of a good-quality exempt accommodation provider. What is going wrong?

Jonathan Walters: That is an interesting and important question. As a registered provider, our economic role applies to the whole of the organisation—the good governance, the viability, applies to the whole organisation. The requirements that we have around services and provision to tenants apply only to those bits of the organisation that qualify as social housing. This is where I am afraid we get into some of the problems.



HOUSE OF COMMONS

Exempt accommodation is not always social housing. In fact very often it is not. Because of the higher levels of rent being charged it does not qualify as social housing so our consumer standards do not apply to those properties. They may be owned by a registered provider that is registered with us but the standards around quality of accommodation and quality of services do not apply to those units that do not qualify as social housing. A lot of exempt accommodation, because it is charged at above the market rent to make allowance for the extra money that the landlord needs to provide that accommodation means that it is not qualified as social housing.

We have had cases where we have had organisations with a relatively small number of social housing but quite a large amount of exempt accommodation. Exactly as you were suggesting there, they were positioning their organisation in such a way that they would be attractive to local authorities because they would get the 100% housing benefit subsidy from DWP but ensuring that the accommodation itself was not social housing.

We have a view about that, clearly, and we follow up with the governance of those organisations. We still think that they should be providing a good-quality service no matter whether the accommodation is social housing or non-social housing. Good governance should be about providing a good quality service. A number of our judgments have been on organisations exactly as you describe, that only have a small amount of social housing but a large amount of exempt accommodation. We have issued downgrades against them and have made appointments to their boards. In one or two cases we have worked with those organisations and they have eventually decided to leave the exempt accommodation sector because they do not feel that it is appropriate for them to carry on providing that type of accommodation.

Q29 Ben Everitt: It feels like every time we ask a question here we are drawing another circle on a massive Venn diagram, yet the majority of this Venn diagram is unregulated. There appear to be very few shaded blocks.

Let's go to this issue of 1,000 units. Our colleague here, Preet Kaur Gill MP, stated in written evidence that the Regulator of Social Housing, "Does not proactively engage with providers with fewer than 1,000 units". It does seem that the process of regulation of these providers is weaker. Why do you take that approach and does it need to change?

Jonathan Walters: The first thing that I would say is that our standards apply to organisations of any size. The standards we set we expect all registered providers to meet irrespective of their size. We collect information from all organisations of any size. Even small organisations have to send us regulatory returns that we monitor. We obviously have a process of having complaints and whistleblowing and issues raised with us that we then follow up. So it is not to say that we do not regulate below 1,000 units, but we do not go around and carry out in-depth assessment on all of those organisations.



HOUSE OF COMMONS

Some of that is about practicalities of scale. The 247 organisations with more than 1,000 homes own 95% of the sector's stock. Then we have a very long tail of 1,200 organisations. Some of them only have one or two units of social housing and some of them have up to 1,000. We have a very long tail and therefore we take the view that we are benefiting more customers, more tenants, if we are focusing on those larger organisations that cover a much greater proportion of the population. But we do expect the same standards and we follow up. Of all the judgments that we have made on providers of exempt accommodation, the majority have been on people with fewer than 1,000 homes, because where we have that evidence we do follow up on it.

- Q30 **Ben Everitt:** That is a similar to the Charity Commission approach described by Paul Latham. However, you must understand that there is a bit of frustration in that the answer that we do not know what we do not know is a reasonable one but it becomes a bit less reasonable when the end of the sentence is, "But we haven't asked". We cannot rely on demand signals coming up to step in and regulate. There must be some better system of doing that.

Jonathan Walters: We have done an exercise. Since an organisation called First Priority got itself into trouble in 2018, we went proactively through all of our registered organisations to try to identify which of them were providing—we were looking at it through the lens of lease-based accommodation, not exempt accommodation—leases, both long term and short term. That captures most of the exempt accommodation provided by housing associations. A lot of it is exempt accommodation. We have gone through and practically done that and followed up with those organisations and proactively sought reassurance from them about what they are, what they are doing and how they are performing in this space. That has led subsequently to a series of regulatory downgrades as we have worked with those organisations and discovered that they are not in the place that you would want them to be at the moment.

- Q31 **Ben Everitt:** Are you comfortable that that is all that you can do or is there anything else that would provide a richer picture of what is going on?

Jonathan Walters: There is always more that you can do and we are having discussions both with DLUHC as our sponsorship Department and also thinking ourselves about what additional information we might want to ask of organisations. We absolutely are questioning ourselves as to do we have the full picture. We think that we have a pretty comprehensive picture.

We also try to make sure that we have very open communication dialogues with local authorities and with other regulators to ensure that we are getting that information. I am sure that you will hear more about that in your session afterwards. We want to make sure that we are getting all the right information and then are following up in a proportionate risk-based way.



HOUSE OF COMMONS

Q32 **Ben Everitt:** Thank you, Jonathan. Debbie, any quick comments on that from a quality point of view? I am aware that it canters into your patch a bit.

Debbie Ivanova: Yes, we cannot make any comment about the quality at the moment because we do not have that information because we do not regulate that service. One of the things that are particularly interesting for us is the complexity and diversity of this provision. It makes it quite hard to see how we would apply the type of regulatory approach that we use in CQC across it. However, it is very clear that there are people living in this accommodation whose needs are not being well met. We support the fact that that needs attention.

Q33 **Ben Everitt:** It feels very top heavy. We are looking at this from a top-down perspective. Thank you, Debbie.

One more for you, Paul. When charities provide exempt accommodation there is a mixture of commissioned and non-commissioned provision. How have you found the differences between the registered providers and providers who are commissioned?

Paul Latham: We can only comment on registered providers. As I have mentioned, we are not a quality inspectorate or regulator and we, like others around the table today, have concerns about quality here where we have seen particular instances that have definitely fallen below what we would intuitively expect.

When our staff go into a charity, they can take a high-level view of, "Does this look right? Does this raise concerns?" They can examine the books; they can look for whether safeguarding policies are in place and for evidence that they are being followed by the charity and so on. But fundamentally we are not an expert quality or safety regulator of people in these types of accommodation so we do not have a set of statistics that we can refer you to.

Q34 **Ben Everitt:** One more quick one. Is this the first time that these three organisations have been in a room together? Have you met before?

Jonathan Walters: Yes, we have good bilateral relationships with CQC and with the Charity Commission.

Q35 **Ben Everitt:** Who else do you need to meet to stitch all this together properly?

Jonathan Walters: I think that a lot of this rests with DLUHC and it would recognise that. That feeds into the recent written ministerial statement about how they want to change this system in the round. A lot of the bits of the jigsaw sit with either local or central Government and it is quite helpful that central government is taking a lead on this.

Ben Everitt: Thank you all very much.

Chair: Moving on to the co-operation between regulators, Andrew Lewer.

Q36 **Andrew Lewer:** To develop the theme that is emerging a little bit



HOUSE OF COMMONS

further, Westmoreland Supported Housing's quote on this is, "Having multiple regulators involved with different parties to one combined service can create issues from misaligned priorities to conflicting approaches to risk", including that each regulator, naturally enough, has a different regulatory approach. Would you see that as a fair criticism and a valid criticism of the problems involved in this sector?

Jonathan Walters: The system in the round at the moment, as we have been talking about so far, is quite complex and there is a risk, as Westmoreland has identified. Each of us is trying to play our role as effectively as possible. I do not think anyone would argue that there is an issue in the exempt accommodation sector. Given the people that it houses, it is important that that is put right. We think that we are doing everything we can within our powers and working with other regulators but it is important that central government are beginning to think about how they might change some of the regulations to address this.

Paul Latham: Given the large variety of charities that we regulate, we are very used to there being other regulators that are more specialist in particular areas and indeed lots of particularly larger charities face towards a number of different regulators. They might face towards those who worry about care, those who worry about education, us as a charity regulator, and of course they will have other crosscutting regulators like the Health and Safety Executive. These landscapes will sometimes be a bit complex and there is an onus on regulators to work closely together and to co-ordinate their work where possible to make sure, if there are particular sectors where it is complex, that we are looking to provide the right kind of information. That cross-regulator work is very important but it is very difficult in some sectors to boil down to a single regulator that does everything.

Q37 **Andrew Lewer:** Could I pick up with CQC one element of this in particular, which is that your role in respect of exempt accommodation is not one of your regulatory activities under the Health and Social Care Act at all? How does that influence what oversight you do have of exempt accommodation? Does that absence have an impact on how you are able to interact with the other regulators?

Debbie Ivanova: We do have areas that we work together on, which is around supported living particularly, with the housing regulator. What is important here is that of course I agree with what my colleagues have said—that we must work together as regulators—but I also agree that the more regulators that are involved, the more complex it is, particularly for the person who is at the centre of the services. Often they do not know where they are supposed to go with their problems.

We find that, to a certain extent, with people who are living in a supported-living service. When we inspect that service, and we are looking at the quality of the care that they receive, they very often want to talk to us about the house and what does not work in the house and the things that are not right for them there. So while, yes, I do not think that this is something that can easily be put under one regulator, I do



HOUSE OF COMMONS

think that the more complex it is the less likely it is to have good outcomes for people in services.

Q38 Andrew Lewer: Thank you. We have heard from you all that DLUHC needs to have a look at this and take a role. Several people have made that assertion. You have said that you do know one another, but ahead of a change from central Government, how do each of you think that you could take away from today and work better together? How in particular can you avoid the most dreaded of all things that come before this Committee, which is different organisations telling members of the public who have problems, "That's not my job", and leaving them hanging? How do we avoid that?

Jonathan Walters: No regulator wants to be acting outside of their authority. That is not a good place for a regulator to be and it is also a very challengeable place for a regulator to be, so there is something about what we do within our remit. One of the issues on this particular topic of exempt accommodation is spread between different regulatory remits. Some exempt accommodation is provided by housing associations, and we absolutely do everything we can to address that issue. But where it is not provided by an organisation that we do not regulate, there is a limited amount that we can do. There is a question of gaps and there is a question of overlaps. The overlaps are easier to deal with because where it sits in a non-regulated way with any combination of us, we think that we have pretty good established mechanisms for ensuring that those things are co-ordinating and you are not having dual or triple regulation unnecessarily.

One question is when accommodation is provided by an organisation that is not a charity, not registered with us and not inspected by the CQC and there are quite a number of those. That becomes hard and that is where there is a question for Government, at both local and national level, as to what they want to do with people who fall outside of any regulatory regime.

Paul Latham: We have good bilateral conversations, as has been described already. I am more than happy to take away is there any way that we can redouble our efforts to make sure that we are co-ordinated and in touch, but I take assurance that we largely are. The point about a regulatory gap has been addressed already and that is urgent in this particular space.

The final point was a customer-service point. It is when people are in touch with you, saying, "I have a problem, can you please do something?", whether that is a provider, a charity in our case or whether that is a member of the public with a concern, that you are treating them respectfully and that you are giving them information. That does sometimes mean that you have to say, "This is not something that we can deal with but there are—if there are—other regulators in this space who you can talk to who deal with your particular issue".



HOUSE OF COMMONS

Our organisation has made some big efforts over the last two to three years to step up our customer service. We have opened our call centre for longer and it has very good response times, so if people are trying to get hold of us we can talk to them about what they are seeing and we will endeavour to give them a helpful answer. I am sure that there is more that we can do in that space to be even more constructive and helpful rather than just say, "Sorry, this is not one for us".

Andrew Lewer: Thank you, and Debbie on that point.

Debbie Ivanova: The important thing for us is that we are very much focused on people's experience of care. When people come to us we are will talk to them about what they are experiencing. Obviously we are also paid for by fees from providers that provide regulated services, so we cannot use our organisation to get involved in areas that we are not paid to do. This is outside of our regulatory remit. Absolutely we will continue to work with our partners in the room and also across Government to look at how we can address this and continue to contribute to those discussions. But in terms of our regulation, there is a gap. We cannot get involved exempt accommodation at this point.

Andrew Lewer: Thank you. I spent 20 years in housing in local government and I do not think I have ever come across a more complex regulatory environment.

Chair: That is one thing that we can all agree on without going any further than us sorting out another problem.

Kate, are there any more gaps in regulation that you want to pursue that have not already been covered?

Q39 **Kate Hollern:** Yes. We are all rather confused about who is responsible for what, but what we have not heard is what support is available for residents. We talk about the quality of buildings and we talk about the quality of management, but if you look at people in exempt accommodation, there is additional support that they need that people are paid to deliver but nobody seems to have the responsibility for that. How do you liaise with residents in HMO and how does that work?

Jonathan Walters: Where it is one of our providers, if we are getting referrals and complaints, which we have done, we will follow up with the referrer and the complainant and try to understand the issues and concerns that they have.

Your question was maybe slightly wider about the provision of support to individuals within that type of accommodation. Often that will fall within the local authority. The exempt housing benefit is being signed off by a local authority so normally it will be them that is trying to ensure that the person going into that accommodation has the right support and the right information that they need to make those decisions.

Kate Hollern: CQC?



HOUSE OF COMMONS

Debbie Ivanova: I understand that that is the core of the problem in that there is nobody who is looking at the support of people within those settings because it does not come under any of the regulations that we do or of the other members in this room. You are absolutely right that that is where the big gap is and that is where the problem is because there is not an oversight of that support.

Q40 **Kate Hollern:** This is for all three, please. Do we think that it is appropriate that providers are given responsibility to provide care, support or supervision without a robust description of what this means or what it looks like? I am taking experience from my own authority where I have seen constituents who have been left in very difficult situations and nobody is taking responsibility. A provider is getting the funding and the responsibility but nobody is checking on actual delivery.

Jonathan Walters: You will be aware that there has been a series of private projects that DLUHC has been running in five local authority areas where it has been looking at some of the problems with exempt accommodation. There is quite a lot of learning that has come out of that and some of that is what has fed into the most recent written ministerial statement. It has identified gaps such as that and it is working on more guidance in this space to try to help. But exactly as you are getting to the heart of, there is nobody at the moment who has the full responsibility for addressing all of these concerns in the exempt accommodation. More will come out of the pilots and more will come out in light of the written ministerial statement but at the moment there is a gap here.

Q41 **Chair:** Thank you. We are going to move on. That is a good intro to what should happen in the future. There have been various suggestions. We probably have as many suggestions as we have people writing with evidence. Should there just be one regulator? Is that possible, given the complexities of this whole area or should there be a lead regulator that then co-ordinates with the others or should local authorities have the responsibility then to engage with the various regulators? Jonathan, what do you think is the way forward? Do you have other ideas apart from these?

Jonathan Walters: The recent written ministerial statement proposed three things. One is tightening up the housing benefit regulations because at the heart of this issue is the fact that exempt accommodation is a status that has meaning only within the housing benefit system. Tightening up those housing benefit definitions speaks to your point about care. How much care and support you need to provide to qualify for the exemption is not well defined at the moment. There is a question about that definition and we welcome it.

The Government's thinking at the moment is at the moment that local authorities are best placed to address this within their local authority areas because often this type of accommodation is very sensitive to the local housing markets, and local authorities are much better placed than national regulators to understand what is happening on the ground in their individual areas. There is definitely a role here for local authorities,



HOUSE OF COMMONS

both as the housing benefit agency but also as the strategic housing authority in the area.

Within that, as we have been teasing out here, there is a real need for looking at the overall regulatory architecture and what happens to those organisations that are not regulated by any swathe of the people who the people you have in front of you today, and what should be done with those. Is that more power to the local authority or is that asking an organisation—maybe one of the ones in this room, maybe another one—to take on greater responsibility? We are very happy to have that conversation.

Paul Latham: We welcome the pilots that have been taking place. We would not propose a specific structural solution because we think that there will be others who are closer to this particular market, my colleague sitting with me and the Department for Levelling Up and others. Our core ask is for this gap to be addressed.

In terms of charity regulation itself, it is quite important that the things that people expect of charities—the public expect high standards from charities. They expect the money to go where it is intended, and they expect the charity to do what it says on the tin and they expect action to be taken if that is not the case. There is benefit in a cross-cutting regulator of charities, recognising that sometimes charities will be operating in spaces where there are also private companies. There are also other types of providers and they may need a specific form of regulation for that activity, in this case providing suitable standards of service and care to beneficiaries of exempt accommodation.

Chair: Debbie, anything to add from the CQC?

Debbie Ivanova: We cannot provide an evidence-led view on proposals at this point because although we have been involved in early discussions we have not had the opportunity to look properly at how that could happen. We would want to do that well and we would need resourcing for that. I mentioned before that we are paid for with fees, and a formal Government request would need to be made to us to look at an approach to regulation within the sector. At this time we are not in a position to be able to say how we think that that should look.

Q42 **Chair:** Can I go back to Jonathan and what you were saying, and indeed the other comments as well? Given that you think that this might be best addressed at a local authority level, are you saying that local authorities need more powers and resources to look at this sector as a whole but with the ability then to maybe refer specific issues to you as a social housing regulator, to the Charity Commission where a charity is involved or to the CQC if they have concerns about personal support that is being provided in those properties?

Jonathan Walters: Yes, the written ministerial statement looks as though that is the way Government thinking is going. That is something that we welcome and we are very keen to work with them as they work



HOUSE OF COMMONS

on that proposal. Just as you described, you maybe have more powers for local authorities but then they interlink with the existing regulatory regimes.

Chair: Any comments about that approach, Paul?

Paul Latham: Directionally we are pleased that the Government have set out a written statement. We are pleased that the pilots have taken place. We would not stand in the way of that but we are not close in that way to specific types of accommodation at that local level. We certainly welcome the suggestion that local authorities may have a stronger role per the pilots, but that is for the Department for Levelling Up to reach a view. We are very interested in the Committee's viewpoint as well, of course.

Chair: Finally over to Debbie, with stronger powers at local level but with the ability to draw you in where appropriate with the specific issues that you regulate.

Debbie Ivanova: Obviously that would need some amendment to what we regulate because even if we looked at the new powers that we will have to assess local authorities, for example, that is under the Care Act and this is not provision that is under the Care Act, as I understand it. There would need to be a clear look at what is the legislation and the regulatory remit on which this is based to enable us to be involved, either from looking at what the local authority does or looking at individual situations, unless it was a place where there was personal care already offered.

Q43 **Chair:** Yes. I suppose there might be one suggestion that many people in exempt accommodation actually do require the personal services as well as the very limited support that might be there to justify the additional housing benefit that gets paid.

Debbie Ivanova: I think that is possible. One of the things we are also working on, with the Government and the Department of Health and Social Care, at the moment, is looking at whether there should be an extension of the expansion of the definition of "personal care" because, for example, people with learning disability or particularly autistic people coming out of long-stay hospitals into accommodation may not always require personal care and there are gaps in the regulation around some of the people who have quite comprehensive needs, but it doesn't fit into that very distinct personal care definition.

Chair: Maybe if you do an additional note for us on that point it would be helpful just to understand that a bit further.

Debbie Ivanova: Thank you.

Chair: That would be helpful. Thank you, all three of you, for coming. I think we can all see at least we have had an initial look at what is a thoroughly complicated and challenging area but—I think it has been said already—if you get complications and challenges you get gaps through



HOUSE OF COMMONS

which unscrupulous people choose to walk. Thank you all very much indeed.



Examination of witnesses

Witnesses: Guy Chaundy, Neil Jory, Helen Clipsom, and Sharon Thompson.

Q44 **Chair:** Thank you all for coming to give evidence today in our second panel. I will just ask the two witnesses that we have live with us to introduce yourselves, and then I will come over to the witnesses we have online. First of all, I think we have Councillor Neil Jory.

Councillor Jory: Thank you, Chair. I am the leader of West Devon Borough Council.

Helen Clipsom: I am from the City of Bradford Metropolitan District Council. I head a team that features outreach work to people in housing need and a private sector lettings team. I also run a large group within the council that focuses on issues caused by certain types of accommodation, which is basically where our submission was pulled together from.

Councillor Thompson: Councillor Sharon Thompson, cabinet member for vulnerable children and families in Birmingham. I am also representing, as the chair of the West Midlands Combined Authority, the homelessness group for elected members.

Guy Chaundy: I am from Birmingham City Council. I am senior manager responsible for housing strategy and have been leading on the pilot activity in Birmingham over the last few years.

Q45 **Chair:** Thank you. You are all from local authorities and very much involved in this particular issue, so the first is a general question to you and I will come round to each of you in turn: how would you assess the quality of the exempt accommodation in your area and the particular challenges that you are facing? I will come over first to Sharon Thompson because I think, in the wider Birmingham area, you probably have more exempt accommodation than anywhere else in the country in terms of numbers.

Councillor Thompson: Thank you very much, Chair. We have seen a varied amount of quality in terms of exempt accommodation. Where it is really good exempt accommodation that is fine; it is well managed and well supported. Where we find that there is poor exempt accommodation—and this is partly because this is non-commissioned and that the support cannot be paid through housing benefit—and if they are not sourced when that is commissioned, it can be quite problematic.

We are seeing it have such a detrimental effect. We have seen a number of people go into exempt accommodation and come out worse from it because they are not getting the level of support. We have had a lot of reports from the police and emergency services around the effects that this is having on individuals, their state of mind, and people not being appropriately put into properties together—a lack of support completely.



HOUSE OF COMMONS

We are also seeing the effect that is having on local communities that are living around exempt accommodation. It is no exaggeration when I say that some people lock their car door of a night time and don't know if they are going to have windows in the morning because of the level of vulnerability, the level of effects of mental health and other things that people are not being supported with inside that accommodation.

Finally, Chair, just to add that that is not just the Birmingham context. We are also seeing issues across the region. I have spoken to many people across the country who have also seen adverse effects.

Q46 Chair: Could I follow up one point there about the accommodation often being very unsuitable for the individuals who are within it? We have had some quite worrying stories about vulnerable women, in particular, who have been fleeing domestic violence, who then get put into accommodation—almost at random—with people, say, who have alcohol or drug problems. Is that something that has been flagged up to you as a local councillor?

Councillor Thompson: Absolutely. Since looking into exempt accommodation myself I have seen a lot. I have seen a lot of reports that I have read from police in the meetings that I have had with them. People that have been in exempt accommodation have ended up being sexually assaulted by people that are living in there as well. Women who have come from domestic abuse backgrounds placed in properties with people that are not suitable for them.

I almost liken it to making a cake but putting the wrong ingredients in and you are going to have an adverse effect, so it can be really bad. However, there is some excellent provision out there as well, so it is about making sure we get the balance.

Q47 Chair: Guy Chaundy, I think you are from Birmingham, so is there anything you want to add to this issue from the Birmingham point of view?

Guy Chaundy: Yes, we have found good provision and that is evidenced through the 40 providers going through our own accreditation scheme. However, you have to balance that with a large number of large providers that are not engaging with that, so we would like to see that as a little bit more of a requirement to go through accreditation.

Through the pilot we have managed to get behind the front doors of over 1,000 of these units, which has identified a range of issues around presence of statutory hazards and, more importantly, inconsistent levels of skills and ability to deliver support.

Just on that issue of inappropriate mixes, we have come across that. We have found that there have been people living in this accommodation that shouldn't be within that particular property. What we have suggested is that we need to tighten up some protocols around how statutory referring agencies are referring into particular units to make sure that those kinds of checks are carried out in advance.



HOUSE OF COMMONS

Q48 **Chair:** Councillor Jory, it is a very different situation—a very different area to Birmingham—in Devon, but are you getting the same sort of challenges?

Councillor Jory: I think it is a different perspective, Chair, in that we are a district council in a two-tier situation. The county council is responsible for social care and provide care packages for some of the people who are in this type of accommodation. As the district council, we are responsible for administering housing benefit claims. That includes the exempt housing benefit claims. It is that administration of those claims where we are involved. We are not involved in routinely checking accommodation.

We have become involved in a number of situations where our environmental health services have been requested—often by carers—to go and look at accommodation and we have had to make enforcements in order to get the accommodation up to a reasonable standard.

Q49 **Chair:** Before you pay housing benefit out, are you not obliged to at least do some checks on paying out to make sure that people are getting that basic minimum of support that they are supposed to get for it to be called exempt accommodation?

Councillor Jory: Absolutely. I think there is a problem there with regards to the definition of that support. We have come across some cases where the support, in effect, is almost invented in order to get the scheme into an exempt qualification. We do have to look at that and we do check the paperwork, but it is paperwork that comes in rather than a physical check. Our experience is that some of the housing associations that are involved in schemes in our area are extremely inefficient at putting their paperwork together and at showing that they are meeting the criteria.

Q50 **Chair:** Should you just stop their payment?

Councillor Jory: In that situation we do not pay them.

Q51 **Chair:** Right. Over to Bradford: similar sorts of issues or different sorts of issues that you are facing?

Helen Clipsom: Very largely similar issues I think, Chair, compounded by the fact that we have a lot of old industrial buildings that people keep converting into housing, which would be marvellous if it was nice flats. They keep converting them into pod units, with very small rooms around shared facilities, and then putting people in as exempt housing when it is not a particularly suitable environment for that cohort of people.

Q52 **Chair:** I will just go round in reverse order and ask Helen again from Bradford's point of view: is there any difference between the standards and the challenges when the providers are registered or when the service has been commissioned?

Helen Clipsom: There is a distinct difference because, with commissioned services, we can insist on certain things and we can say we will go in and inspect. We will ask you to confirm the care. I have an



HOUSE OF COMMONS

outreach team and they can go and talk to people and see if they feel the care that is provided is adequate.

With non-commissioned there is no means to do that. Nobody is supervising the care. Our environmental health housing team does look at the quality of the actual accommodation but it is limited to safety aspects—health and safety. There are other bits of health and safety that it cannot look at. For example, whether it is suitable to house that kind of person. I would say that is one big difference.

In terms of the registered providers against non-registered providers, we commission services from specialist providers who are not registered where their service is tailored to a specific group of people. We don't have services in Bradford that are claiming to do that that are outside of the commission framework. Even with our commission providers, we can sometimes get issues with them using unsuitable accommodation. We have more leverage on that, as I say, because they are in a contract. Therefore, we can specify more about the standards of accommodation and the standards of care.

Q53 Chair: Councillor Jory, are there differences between registered providers and commissioned services?

Councillor Jory: Yes. We currently have more registered providers than non-registered. I think we heard earlier of the lack of powers that the regulator has and I don't think, in our experience of a relatively small sample, that there is any correlation between poor schemes and their regulatory status. I think there is evidence that there are one or two providers that we have within our patch who are not registered who do a really good job, so I don't think there is any particular correlation there.

Chair: Moving on to Birmingham and the west midlands, Councillor Thompson.

Councillor Thompson: Thank you very much, Chair. I think in Birmingham we have a huge amount in terms of non-commissioned exempt accommodation, so that is one thing there. You can sometimes see the differences in the provision and it is around the lack of regulation that is around that as well.

I would say that, when it comes to non-commissioned services, we have tried to work as much as possible and that is why we have created almost quality standard assurance for our framework. That would give us a lot more leverage when it comes to the providers. However, that is just a sticking plaster at the moment because there is no legislative weight behind it in terms so is quite difficult.

You do find with commissioned and exempt providers that they usually work a lot more closely with the local authority. It is about addressing the local need, making sure that it is fit for purpose and that the standards of the property meet the standards that we would expect. In terms of non-commissioned, it is very different in a sense because the rent is paid through housing benefit and, although housing benefit says more about



HOUSE OF COMMONS

the minimal amount of care and support, it does also mean that you cannot spend housing benefit on support.

There are always questions about where that support is coming from. Some providers, in the non-commissioned sense, are not putting the level of support that they should be putting in. We don't have the leverage around us to challenge that as much as we would like to, so I think that is a big thing but I am sure Guy will fill in the gaps on that particular area.

Q54 Chair: Guy, please come in and fill in the gaps, but could you also talk about the financial challenges that the council faces and, indeed, some of the providers may face in the current system? Perhaps you could comment about that as well.

Guy Chaundy: Adding to what Councillor Thompson has said and to the fact that it is compounded in Birmingham, 93% of the provision in Birmingham sits as non-commissioned provision and under registered providers. As I say, the commissioned provision only makes 6% or 7% and we have tight controls over that because we have that contractual relationship wrapped around the provision.

Just in terms of the issues with registered providers—and I think Jonathan alluded to it when he was talking—although they fall under a registered provider status, the properties that they are operating as exempt accommodation do not fall under the regulator's consumer regulation framework, for example. The sort of problems that we are seeing on the ground—even though they are registered providers—are still problems that we have problems trying to resolve.

In terms of the financial challenges for us, clearly, because it is majority registered provider, the subsidy issue at the moment is an issue for the council. Although, if there is a shift away from registered provider to private, that may become an issue.

I think that the challenge for providers is around the margins they have to operate in to provide the quality of support that we would expect, the rents that they are able to charge and then obviously meeting the cost of that support, which at the moment isn't covered by any of the housing benefit. Therefore, while the enhanced housing benefit covers the housing management element, it does not pay for the support and so that has to be met from elsewhere and often that is from the individual tenant.

Q55 Chair: On the financial side, either Helen or Councillor Jory, anything to add to that?

Councillor Jory: I think on the financial side, Chair, our paper highlighted one particular direction that we would like to bring forward. That relates to the leasehold model that was discussed earlier. That involves one particular situation that we have encountered within our borough, where an unregistered provider who was doing a pretty good job previously sold its business.



HOUSE OF COMMONS

The properties that comprised its portfolio were subsequently sold to what I believe is called a special purpose vehicle—so a company that is established just for that purpose—for a figure of just short of £6 million. The same day those properties were resold to an investment company in Jersey for £18 million. That was done on the back of increasing the rents, through turning the tenants into exempt housing benefit tenants and increasing the rent on a 25-year lease in order to get that return over the period of the lease. We were absolutely staggered by that transaction and we have been trying to get some action on it ever since, so that would be the one financial area that I would like to raise if I can.

Chair: I think you have staggered us all with that comment. Perhaps we could move on to some further questions about some criticisms that have been made of local authorities in this area. Kate Hollern is going to pick up those points.

Q56 **Kate Hollern:** There has been a lot of criticism levelled towards local authorities, basically a lack of consistency and probably regulations on the standard provided within different local authorities. Is someone picking up best practice and sharing, Sharon?

Councillor Thompson: Thank you very much. The pilot was part of the key thing around that—five pilot areas looking at best practice across the country. From the investment in the pilot, we have seen some difference there. I think that has been shared.

Some of the issues we have shared in best practice across local authority areas. I have spoken to so many local authorities across the country on exempt accommodation because, once I saw what was going on, I was so staggered that I felt this needed everyone coming together in the work that we had done with the LGA.

One of the problems that we are finding at the moment with many local authorities—and we were in the same position—was that many local authorities will say that they have an HMO issue. Locally, people raise issues around HMOs and they don't quite connect it to exempt accommodation because it looks like an HMO but it isn't, so sometimes there isn't clarity over what the problem is. Therefore, it is difficult to get into that space of: we need to look at what best practice looks like.

Birmingham did have the pilot and, looking at the terms of reference of the pilot, we decided that we wanted to do a city council scrutiny review at the same time. That also looked at the human impact of local communities and what was happening to the individuals living in them. That was important for us to do that and we have been sharing best practice. The LGA are now looking at that moving forward.

I would say that previously there has been a lack of data. There has been a lack of joined-upness, and not just between local authorities but nationally, so it has been difficult to share best practice or even see what it is. Many local authorities did not realise anything around exempt until there was an issue, in all fairness, and I think that is what we have seen



HOUSE OF COMMONS

we have been at the brunt of in Birmingham but we have definitely been pushing.

Kate Hollern: Councillor Jory, would you like to comment?

Councillor Jory: Yes, happily. The pilot that has been referred to, as far as I am aware, has only been rolled out in unitary areas and I think that there are some very specific circumstances in two-tier areas that perhaps the pilot might be extended to. Clearly, making sure that we collaborate with our colleagues at the county level who are providing the care packages is important. We have certainly got much better at doing that over the last three years since this situation arose.

We have been sharing best practice with other districts in Devon. We have been sharing best practice with the DCN and the LGA as much as we possibly can. We will talk to anybody who will listen about this and we have been banging on the door of DWP for the last three years to try to get some movement, and I think we are finally being heard. That obviously will be something that I hope leads to some resolution in terms of regulations.

Q57 **Kate Hollern:** That is very important. How much would proper regulation cost, do you think?

Councillor Jory: I don't know. I don't think I am qualified to make that judgment, so I don't have a view about it. I am certain that, at the moment, as a district council, we don't have the capacity or the capability to do that right now in the way that I think needs to be done.

Q58 **Kate Hollern:** That is one of the major issues when you have a two-tier authority. If I can come back to Birmingham: how would you see the best way to take this forward? What are the barriers to taking tougher action against providers, where necessary, and what would you like to see in rules and regulations that would make your job better and provide a better service for the people who are in exempt properties?

Councillor Thompson: I think I will start there. We have an extensive wish list that we have presented to the Government. We have been working with local authorities across the country but, also, working with charities—such as Crisis, Commonweal and St Mungo's—just to make sure that what we are looking at doesn't have an adverse effect and we are just looking at it through a council lens, so I think that is important.

One thing I am very keen is that we have is a regulation change towards the planning rules. At the moment, in terms of planning, exempt isn't treated as if it is like an HMO. That means that if you get a selective licence in article 4m exempt becomes exempt from those powers. That makes a significant difference when you are trying to deal with the challenge locally. If we change some of the planning rules, that would help to reduce the saturation in areas where it is over-saturated with properties because they do skip some of those laws.



HOUSE OF COMMONS

One key thing that I would like to see a change in is a change to the definition. More than minimal care and support; what does that mean? It can mean a range of things from going in and visiting someone once a month and to someone spending a lot of time with a person that needs it. The definition needs to be changed.

I would like to see local authorities to be able to put together their own local strategy around exempt accommodation and that to be considered with some of that work, so that we can say to the Government, "This is what the local area needed," when they start looking at funding. I think a big thing is around the funding model. The fact that you cannot pay for the care through the existing funding model because it is housing benefit, some providers are asking people to pay the top up out of their universal credit, which isn't right.

I have seen supported people go in. There have been a few changes in terms of consistency, so that is something that we would like to look at as well. I know Guy has other things on the list that he would like to see change in, but they would be some of the key ones and I think more responsibility and ownership on the actual providers themselves. Some more powers to the regulator as well as local government.

Kate Hollern: Guy, would you like to comment?

Guy Chaundy: Sorry, was that to me? Yes. I think Councillor Thompson summarised it well. There are the two key issues for us: one has been the inability to control the growth, which has happened at a considerable rate and being able to control the growth where we have evidence, through a needs assessment, that we have an oversupply.

We have done quite a lot of work through the pilot. We have done a strategic needs assessment, and we have determined that we have twice as much provision evidenced as what we truly need for supply. We have been unable to make decisions around stopping new claims on that basis, because we can only determine them through a provider meeting the threshold through housing benefit. That is one of the things that I think, not just for us, we have seen local authorities starting to see growth in that is getting beyond what they need—the ability to be able to say that, especially when it is saturating certain neighbourhoods.

The other one is about quality—about oversight of quality and the need for a regulator or a model of regulation that works at a national level around who is coming into this market. The key thing is councils having the resources and the control to provide the oversight so that they can inspect properly. If it is well-resourced, they can work with providers under a regulatory regime to drive up standards. Obviously, that on the back of having some kind of accreditation scheme that sets out what the quality looks like in real terms.

Chair: Right. Moving on now to other issues facing local authorities in this area. Florence Eshalomi.



Q59 Florence Eshalomi: Good afternoon, everyone. I want to come back—both Guy and Councillor Thompson have touched on it—to the fact that over the last few years you have seen a massive increase in exempt accommodation in Birmingham. What do you think is the main cause of this?

Councillor Thompson: I think we are both being too polite to say who goes first. Do you want to go first, Guy?

Guy Chaundy: No, that is fine. You carry on, Councillor, and I will pick up.

Councillor Thompson: I think a range of things are creating property creep, if I can say that for want of a better word. The bigger the properties, the more likely we are to see an increase in certain areas. I think, throughout the pandemic particularly, some providers saw this as a lucrative investment and business model. It should not be. The margin should be tight as in, like, 3% if you are doing it properly.

What we are seeing—and I know that a lot of local authorities are also seeing this—is property investors that are coming forward and saying, “We want to invest. We know that you have an issue around whether it is homelessness or need for support,” so they are almost trying to step into the market in that effect. In Birmingham, particularly, we have seen a number of providers that have been in the market for a while but have started to expand at a great rate. Again, I think that has been one of the things that has been particularly key.

Not being able to have the oversight, only being able to test people based on more than minimal and if they are not for profit in terms of on paper, is another barrier towards curbing this issue in its entirety. Other local authorities across the west midlands are also starting to see an increase of providers coming forward and approaching them, which is a considerable burden for them as well.

Florence Eshalomi: Guy, is there anything you want to add?

Guy Chaundy: Yes, if that is okay. I think Councillor Thompson has summed up. There is not one single reason for this. I think it has been a range of drivers. We already have a high level of private rented sector in HMO accommodation, which has been fairly ripe to conversion into exempt. What we see in those areas—you have heard the example—is properties being bought at considerable value and then converted into this type of accommodation.

What that has done is create growth, which has then been targeted, not just within the city but outside—Birmingham is seen as a go-to area because we have the level of provision that we have. That has been a self-perpetuating thing. At a regional level, we remain the destination of the west midlands who support people that are suffering from homelessness that are leaving a custodial setting and so on. We have seen that being exploited, not just within the region but also nationally



HOUSE OF COMMONS

and we have evidence—again, through the needs assessment—of the level of city placements that have come in.

It has been feeding the growth, if you like, without the ability, as I said before, for us to say, “We have enough.” We have been unable to do that if providers are meeting those loose definitions and requirements within the current housing benefit.

Q60 Florence Eshalomi: If I look at the problems we face in London, it is the lack of access to family-sized properties, which I think there are a lot more of across the Birmingham region. I won’t name the programme, but I remember watching one of the auction shows and the number of properties that were being bought up and then converted—large-style properties.

Do you have the data on how many outside Birmingham referrals and outside borough referrals are made to you that you could share with us? I am just keen to see.

Guy Chaundy: I have. If you want to take one of the others first and come back to me. I have it in front of me somewhere. I will just try to find it.

Q61 Florence Eshalomi: Thank you. I want to move on to you, Councillor Jory, in terms of the problems you face in Devon and across rural areas will be different to those in urban areas. Why do you think that is?

Councillor Jory: Clearly, the problem that we have is different from Birmingham. We are looking at a pretty small sample, I would have to say. In the whole of west Devon, you are looking at about 100 exempt housing benefit claimants for over something like five landlords. Our particular problem is that one of those landlords accounts for about 70% of those. That is the leasehold model that I talked about earlier. There are a large number of people who we are quite concerned about who are living in market towns in very rural areas with, we think, insufficient support and I think that is the nub of the problem—the nub of our concern here.

Q62 Florence Eshalomi: Earlier you talked about the fact that you do not have the capacity or capability to address this. How best do you think the Government could help you?

Councillor Jory: From our perspective, as a district council—and I said at the start that it is a very specific perspective—we are gatekeepers effectively for the DWP housing benefit payments. What we would like to see is absolute clarity about the levels of rents that these organisations can charge in particular areas. Obviously, there is a cap upon housing benefit itself. We need to know that the level of rent is a market rent. I think there needs to be absolute clarity about the service charges that can be applied and auditing of those service charges properly, and I think there needs to be absolutely clarity about what the support and supervision should be and to make sure that people are getting it.



HOUSE OF COMMONS

The problem that we have, in the situation that is in front of us at the moment, is that no reputable housing association would touch these properties with a bargepole because they would not enter into the lease that is on offer. It just makes their business model completely irrelevant, so that attracts housing associations who we don't think are actually up to the task of supporting these people.

Q63 Florence Eshalomi: Yes. That is a key issue that I wanted to ask you about, Helen. Everyone has outlined the difficulties that they face with some of the properties, the conditions and the fact that you have vulnerable residents. Bradford Council's written evidence mentioned that limited resources mean you can only scrutinise the worst providers, so in a sense you are seeing average, mediocre providers slip under the radar. In terms of trying to put funding on that, how much money do you think you would need to address this as a problem?

Helen Clipsom: I would struggle to put a figure on it. At the moment, the line is held by two very fierce officers, one in housing standards and one in housing benefits, who are almost singlehandedly holding off a lot of this.

I sense that it would not require much more resource in the council if we had clearer guidelines to go on. If you could scrutinise and support the housing benefit claims and say, "You need to provide at least five hours' support a week," or something. In terms of housing standards, if you could say, "You can't open this building until it meets certain standards," because what we find at the moment is that there is nothing that requires a sign off on a building. It is only the fact that our housing benefit is very strict on what it will pay off that is holding things down, so clearer standards would be useful.

It is interesting to point out, in a sense, that we have a Housing First scheme going as well. That houses some of the most vulnerable, erratic, hard-to-house people. We do that in private rented housing where the rent paid is the LHA rate more or less, so with a support commissioner coming in separately.

The rents charged by the landlords for the services provided under enhanced housing benefit are fantastically higher than that, so that is something as well that would be very well addressed I think, because it is a licence to print money from where we are sitting and it is a problem. It is the same with our commission services. They do exactly the same.

Florence Eshalomi: Therefore, it is going back to regulation and oversight. I will leave it there, Chair.

Q64 Chair: I think the phrase "licence to print money" got a few nods around the room at that point.

Could I move on very briefly to a couple of specific points? Councillor Jory, you mentioned the challenge of a two-tier council system and the fact that some of the issues you have concerns about, I suppose, are a county council function if any were. Is this something that should be able



HOUSE OF COMMONS

to be resolved in agreement between the two authorities or does it need a change of regulation to make sure it happens?

Councillor Jory: That is quite a difficult question. We are trying to work as closely as we can with our county council and we work very closely with it on a number of issues. I think the problem here is not so much the problem of—how can I put it? If the county council is providing the accommodation through a care package to a registered home, for example, all of that budget is coming from the county council coffers. If a housing provider, a housing association or a charity comes forward and sets up one of these schemes that qualifies for exempt housing benefit, then that money, of course, comes out of somebody else's budget. Therefore, there is a very real driver here to encourage those sorts of schemes, whether it be deliberate or not. I think that is potentially the problem.

Is it cheaper to take somebody from a residential home and house them in the community in one of these schemes or is it just being paid from a different place? That I think is more the problem. I don't think the influence district has the influence to tell our county what it should and should not be doing in that respect.

Q65 **Chair:** If you had some of the regulatory changes that have been suggested, maybe, you would be in a different conversation with your county colleagues?

Councillor Jory: I think so.

Q66 **Chair:** Right. Just finally from me, moving on to Birmingham, this issue of residents moving in from outside Birmingham, particularly from London, because of the nature of the accommodation that you have there: is there anything that you think should or could be done to stop that influx?

Guy Chaundy: Do you want me to start this time?

Chair: Okay. You have the difficult question. Councillors pass them on to officers when they get difficult, you see.

Guy Chaundy: I am sure the councillor will want to add. Going back to the initial question: do we have any information in terms of quantifying the issue? One of our problems is the data and the requirement for people, as part of their Housing Benefit claim, to advise where an individual has come from or been placed from. It has been very difficult to get detailed understanding of the level of outer city placements.

For example, over a four-month snapshot we identified over 120 different organisations referring in, of which 43 were outside of Birmingham. I don't know what that equates to in terms of numbers but 43 organisations referred from outside of Birmingham.

We would like to see some proper protocols wrapped around where people are referring from—another authority, a statutory agency, criminal justice—so that there is a requirement outside of the housing benefit



HOUSE OF COMMONS

route to advise the local authority. This is something we talked with the other pilot authorities about through some of the learning, so that we have some proper protocols wrapped around not just advising but also the quality of that referral. What does that person need? Is there a local connection? Are they going to get the support wrapped around them that they need? We have heard examples of people turning up at properties. We have been to see them and they say, "I don't know where I am. I've been placed here. I don't know anything about the area. No local—"

Q67 Chair: That would be a bit like the protocol for homeless allocations where the receiving authority should be notified by the authority, which is sending people, about who is coming and what their needs might be?

Guy Chaundy: Yes, that duty to refer.

Councillor Thompson: Sorry, just to add to that, Chair. Yes, I think Guy is right that we do need to have that duty to refer but it is also about being clear that these are some of the referrals but also, where providers are advertising their room spaces, I have seen they are on Gumtree. You can get referred through Gumtree, all kinds of things, different places, and it needs to be curbed and managed because people are just referring into places that are not adequate for them. You should not be able to do it online in that manner.

Chair: Fine. Let's move on then to the final questions. Andrew Lewer.

Q68 Andrew Lewer: This is just to give you an opportunity to round up. You will have seen that the Government have made a written ministerial statement highlighting their wish to provide minimum standards of support and have referenced their wish to enhance the powers of local authorities in reforming housing benefit regulations. Here is the opportunity: what would you like to see them do? I will start with you, Neil.

Councillor Jory: Again, from our perspective, we would like absolute clarity about the rents that can be charged, absolute clarity about service charges and proper control over those and, also, on the nature of support and supervision, so that we know exactly what that is and how that is being delivered and monitored. I think, from our perspective, as far as exempt housing benefit is concerned, those things would deliver to people the support that is being paid for and would also give us a mandate to make sure that we pay those housing associations that are delivering, that we monitor the returns and the applications that we are getting in and don't pay those who do not deliver and that we weed the bad providers out of the market.

Helen Clipsom: Very similar, I think. We would like to have more control over the rents because the disparity particularly with our Housing First project, the disparity between what it costs to house somebody—not support them but to house them—in Housing First and what it costs us to house them in one of these exempt houses is so high that you think, "They are the same set of customers. Why is there such a high cost?" So,



HOUSE OF COMMONS

some clarity about what actually the charge is, not just: what can we put into it? What can we charge for it?

Also, some I hesitate to say “minimum standard of support” because it is going to depend on the customer’s need. For example, if you are housing very vulnerable women, you need quite a high level of security because exploitation is a very big issue. If you are housing people who have more difficulty just because they cannot manage day to day you may not need that kind of resource, so I am not sure. I would like to see a graded system for discerning what kind of support, which depends then on deciding does—

Q69 **Andrew Lewer:** Local gradations or national?

Helen Clipsom: This is where it gets more difficult. The CQC has lists of needs and how your needs stack up for things in social care and personal care. That is there. That is not here, though. Nobody is saying, “How do you assess if this person needs support?” because it is a very nebulous term. Therefore, that is something that I think would need a lot more work on to be able to answer that. I think it needs to be done, otherwise we will end up with a one-size-fits-all rule that is one-size-fits-nothing—like the old British Army uniform joke.

Q70 **Andrew Lewer:** Thank you. Sharon, any keys asks from the centre to try to sort this out?

Councillor Thompson: Yes, I think I would echo what has already been said in terms of the rents, particularly around definitions in terms of support and care. I would like to see what we did in Birmingham rolled out further, which was the charter of rights, which was developed with people who have lived in exempt accommodation—they understand what their rights are as well—and some form of quality assurance around that. That again is something that we have developed our own standards here in Birmingham.

I would also like to see—and it goes back to that point of local authorities having to put together a supported accommodation strategy, whether you have an issue or not. That will help us to understand and model and make sure that people are not being referred inadequately and that it is manageable. Also, a big thing around the Government making sure that there is proper data collection around exempt accommodation. There is a huge lack of that at the moment. I think that would help reform us.

Our biggest wish would be that we know that they have put out their statement of intent but, also, it is to make sure that we have a decent timeline that is attached to that because some of this is quite urgent for people who are living within this sector.

Andrew Lewer: Thank you. Guy, finally on these asks from the centre.

Guy Chaundy: Yes, I agree with everybody that has just given their thoughts on this. For me, the key one, which Councillor Thompson alluded to, on the back of the local authority having a strategy and a



HOUSE OF COMMONS

clearly defined needs assessment, some powers to control what the scale and type of provision is in their area. That there isn't just reliance on housing benefit regulation, so that there is a strategic handle on what supported housing looks like within an area.

I think, in terms of the quality, it is having a funding model that allows us to provide the correct oversight and obviously regulation and regulatory control, whether that be through the local authority, and the central regulator tidied up so that we have that oversight and the councils are resourced to deliver that oversight.

Q71 Andrew Lewer: This is a final opportunity to reflect on any of these following things. Do any of you want to see any particular changes in the planning system that would help with this? Are there any key takeaways from those of you who were involved in the Government pilot programme? Do you have any overall views about how exempt accommodation fits into the wider scheme of housing provision and how we can ensure that there is enough of it—I was going to use the dreaded words “going forward” then but I won't—into the future? I will start with you, Helen.

Helen Clipsom: Definitely. I think in terms of planning we would like to see—because we have such an issue in Bradford with permitted development, and I know it is an issue in other parts of West Yorkshire and presumably in other parts of the country—the planning authority have more control over exempt accommodation to say, “You cannot put it here because you are trying to put it in an area that is not suitable for it” or “You need more of this” or whatever you need. It needs to be laid out differently.

This is something we have had an issue with already. One of our provision providers had to move buildings; lost the use of a building, moved to another building. We have great concerns about the area of this building because it is a residential area and the people they are moving there are offenders. This area has not previously had a large volume of people with an offending history and there has been no chance to prepare them or take any action, so I think in terms of planning we need to have more control over it as a change of use perhaps rather than still allowing permitted development for the buildings to be turned into housing if that is a change of use.

Andrew Lewer: Thank you. Neil?

Councillor Jory: No particular asks on planning; our primary concern here—and we have obviously highlighted a particular case that I was very keen to get in front of the Committee—is that the right care is provided by good, reputable organisations to the right people and that that is funded.

I can give an example in the case that I am talking about, and I am sorry to harp on about it again. If we were paying the rent at the new lease that was put in place, we would currently be paying £900,000 a year



HOUSE OF COMMONS

more to this provider than under the previous scheme, under which people were being quite adequately looked after. As a district council, my entire budget is £8 million. If you were to give us that £900,000 we could do some amazing things with it, particularly for those people, but I think our concern is to recognise those good providers, support them and see that there is no place in this market for people who are just looking at it from an investment perspective—pure and simple, to make the most possible money out of it.

Andrew Lewer: Thank you. Guy next, and then we will finish with Sharon.

Guy Chaundy: I very much agree that planning is a key tool that we need to look at. We have a strange scenario at the moment in Birmingham. The vast majority of accommodation is converted Victorian family accommodation.

You could have two semi-detached mid-terraces, one of which is a HMO that we can licence and we can also include within our planning restrictions and require planning permission, but the one next door is a registered provider who is excluded from both licensing and requiring planning permission to convert and, in theory, operating the same kind of mixed-use accommodation. Therefore, our ability to control growth through planning has been hindered. Also, we have introduced article 4 within the city but, unfortunately, we cannot include the RP-exempt accommodation in the density and calculations to restrict growth.

Just on that last point that was raised about funding, our monthly HB bill is approximately £14 million. I think we could do quite a lot with that kind of money.

Andrew Lewer: Thank you. Sharon, finally.

Councillor Thompson: Thank you. I think Guy has covered off most of that. It really is around making sure that exempt accommodation falls within other housing planning law, such as article 4 selected licence, which I said before.

I would like to see something in there around local impact assessment because what we are seeing on some streets in Birmingham, where it is oversaturated, you could have six to 10 exempt accommodation properties all on one street all from different providers, and the level of vulnerability on this street attracts people who want to manipulate people who are vulnerable, and it has such an adverse effect and changes the neighbourhood completely. That is something that I would see as quite urgent, particularly when it comes to slowing it down.

Also, the fact that we have so many properties that are being flicked into exempt accommodation when our biggest need is family housing.

Andrew Lewer: Thank you all. Thank you, Chair.

Chair: Thank you, Andrew. Thank you all four witnesses for that session.



HOUSE OF COMMONS

I think that has been a lot of information for the Committee about what is going on on the ground—first-hand evidence to us about the challenges that all your authorities are facing and the restrictions that are being placed on you in trying to deal with them. Thank you very much indeed for coming this afternoon.