

***Decision Tree* for Groups looking to operate viable and successful housing projects for refugees and those with no recourse to public funds**

Section 1 - Introduction

This guidance is provided for NACCOM members who are providing accommodation for destitute migrants who have no recourse to public funds and who therefore have no means to pay for their accommodation AND who are considering using the provision of accommodation for refugees as a mechanism for generating a surplus to help fund a wider housing project.

It is structured as a form of “decision-tree” outlining the choices and options, in roughly the order in which they should be considered.

It is framed in a way that assumes the group is not currently providing refugee housing, but this is for the reason that it makes it neater and easier to read. It is realised in fact that most groups already do this to some extent or other and are considering expanding or changing the way in which they do this, in order to make the cross-subsidy more effective. In reality therefore they may start well along this decision-tree, but it may well make sense for them to go back to the beginning of the decision-making process anyway.

It is designed to be used alongside a modelling tool in the form of a spreadsheet which can help estimate the costs and benefits of taking different options and modelling the impact of different volumes of business.

Section 2 - Issues to consider

2.1 Reason for doing this

The first thing is to take a step back and just ask yourself why you are considering doing this.

Is it partly at least because you are aware of the difficulties that refugees have in accessing and maintaining housing, particularly in the initial stages after they have secured leave to remain, and you think that you are well placed to act as a supportive landlord sensitive to their specific needs. This would be an entirely a logical extension of an organisation’s concern for destitute migrants and potentially form a spectrum of support services that helps migrants integrate successfully into their new community.

On the other hand your interest in this area may in fact entirely be because this would appear to be a means of generating revenue to fund what in reality you are exclusively interested in i.e. housing destitute migrants.

In reality it is probably a mixture of the two. If, however, this is not something that you are driven to do because you feel it is a part of your mission then there is a danger that going along this route might divert you from your real purpose. There is a lot of work involved in being a responsible landlord, and even more if you want to provide any additional support beyond basic landlord services. There are systems to be established, legalities to be addressed, additional staff to be employed, other agencies to liaise with, and political realities to address. It is not a step to be taken lightly. This should not be seen as an easy option.

If all of the above concerns you then you may want to explore other ways of raising the necessary funding to support your destitution projects first. Apart from the conventional route of securing charitable funding combined with funding in kind provided by voluntary labour, there is also the potential of selling other services / expertise such as language classes, assistance to employment programmes, or general advice services which may bring less additional issues to be resolved or ongoing commitments that could divert you. It is not the place of this paper to go into any detail on these options here but merely to highlight that there may be other routes to help fund destitution services.

Assuming that you are interested in meeting the housing need of refugees then the next question to consider is ...

2.2 Is becoming a landlord or landlord's agent the only option?

If you are concerned about refugees' need for support to maintain their housing then there may be other ways of expressing this concern, without being involved as direct landlord with all the commitments that that brings.

Up until 2010 there was a national programme of housing-related support, called *Supporting People*, administered by local authorities. This involved a range of services focussed on enabling vulnerable people secure and maintain independent housing. This explicitly included refugees as one of the client groups that the Programme was aimed at. Since 2010 local authorities have been free to decide whether to commission these services, and in the light of significant pressure on their resources many have scaled back the services they purchase. At the same time in many Authorities services explicitly aimed at refugees have been cut even more radically.

However housing-related support contracts do continue to exist. They tend to be more what is referred to as "floating support", where the provision of housing-related support is explicitly separated from the provision of the housing itself, and where the clients live in a range of ordinary housing. There will not be many such contracts explicitly aimed at Refugees any more, but sometimes contract specifications will still explicitly name refugees as a specific need group within a wider range of target groups, and there is the potential that contractors bidding for such contracts might consider looking for refugee-specialists as sub-contractors in such contracts. The problem is that even where this is a possibility the opportunities will only come along from time to time.

However, even where there this is not any explicit mention of refugees as a needs group this does not mean that refugees do not still receive housing-related support to maintain their accommodation. Many such contracts are framed as "generic" and will include a very wide range of needs. It can be difficult for a single contractor to meet all of these needs and those that have won contracts as a single supplier may well be interested in securing the specialist expertise of an agency that is skilled in dealing with the issues presented by those who have recently gone through the asylum system, and may be prepared to enter into a sub-contracting arrangement, even outside of the normal renegotiation / re-bidding for contracts process. Only, however if the scale of such specialist requirement justifies it of course – so the numbers would have to be sufficient. Even if this was a feasible option however it is not likely to be a particularly dependable source of revenue as the level of business would likely to be fluctuating. Making an approach in this way really requires you to be a part of the "homelessness" network in your area, in order to know who to speak to and what the general post-*Supporting People* state of play is. This is true however whichever route you choose to take to meet the housing and support needs of refugees.

One other option is to build a relationship with another housing or floating support provider acting as a referral agency to ensure that refugees with newly-acquired status can secure the housing and support that they require. There is obviously no financial gain in this, but this could be the best way of meeting the need, if this is the primary concern.

Assuming however that you do want to explore the possibility of acting as a landlord the next question is

2.3 Is there sufficient demand ?

Assuming that you are intending to specialise in the provision of accommodation for refugees rather than other vulnerable or disadvantaged groups, it is obviously important to take cognisance of the likely demand for accommodation from this group, and to be as aware as possible of the likely trends in this demand. There is no point in relying on a model that will generate sufficient resources based on managing 30 units of accommodation if there is no likelihood of these spaces being filled and staying filled.

In considering this an awareness of the developments of the dispersal policy of NASS is obviously important. An understanding of demand should also take into account the profile of the likely need group – single people or families, as well as possible cultural differences due to countries of origin which will impact on the type of accommodation that might be in demand.

Your expectation in terms of a likely length of stay of residents is also important. If you perceive that you are likely to be providing medium to long term homes then demand can be assessed more in terms of a back-log of need, whereas if you perceive that the usage is more likely to be brief stays linked to acquiring the necessary skills or contacts to move on relatively quickly, then you will require a steady and continuous flow of demand for this service to make it viable.

Deciding which of these is likely to be the case is dependent on your intentions and perceptions of what is needed. It is also important to take into account the nature and location of the accommodation that you have or are likely to have available and the housing market in your area. Some properties will be seen as suitable long-term accommodation and some will not be.

The extent and nature of the support you wish to offer is also relevant to this. The provision of support is potentially the route to higher revenue generation, but the nature of the need for support might make it more or less likely that there will be as low or quick turnover of residents.

If you believe that the demand is there then the first critical question that you need to ask is

2.4 Do you intend to provide support as well as housing?

The provision of support linked to the provision of housing is potentially important for 2 reasons. On the one hand refugees can be at a significant disadvantage when it comes to finding somewhere suitable to live – the combination of little financial capital, restricted social networks, lack of awareness of cultural norms, little time due to the notice period after an asylum decision, and outright discrimination; means they are at profound risk of homelessness and in need of a “sheltered” or “supportive” environment in which to begin to address these needs. It is also possible either before or as a result of the asylum experience that they may have physical or mental disabilities to cope with that impinges on their ability to manage in ordinary housing without support.

At the same time from the point of the provider the provision of additional support can be the key to generating additional revenue – particularly through the Exempt Accommodation regime.

For these reasons the decision to become a landlord may also be linked to the decision to provide an integral package of support.

Not all refugees in need of housing need this level of additional support however, particularly after they have been in the country for some time, have become more familiar with the system, and especially when they are able to consider working. A number of groups have provided housing for refugees without additional support services, and have focused on being a good landlord, while facilitating referrals as required to external agencies when additional assistance is required. This is more straightforward, but means realistically that the rents chargeable are limited to local housing allowance levels (set on the basis of size of accommodation by housing market areas), if it is likely that some or all of the tenants will need to claim Housing Benefit. With a good control of costs it can be possible to make this model of housing provision pay some dividend, although not as much as exempt accommodation. It certainly could be more appropriate because it is more affordable, if the tenant is or is likely to be working.

As a result some Groups maintain a balance of some properties where no additional support is given and some where the provision of support is integral. In an ideal world, if the capacity is there to resource this and the demand can sustain it, then this approach has a number of advantages.

These are :

- Greater flexibility in the use of properties offered – you cannot always choose all the characteristics of the properties you might be offered –and some will be suitable for one use and some for another
- Greater flexibility in the ability to respond to need – people’s needs do vary and do change over time so if you have a range of provision this makes it more likely that you will select the right person for the right resource and meet their need more effectively, including being able to facilitate people’s opportunity to move from supported to non-supported accommodation as and when appropriate
- Greater stability in provision – if you only have lettings with support attached then there is likely to be a greater turnover of residents with the greater risk of vacancies and the greater demand on staff resources and expertise that this presents.
- Greater potential for income generation – if you only provide ordinary lettings then you are restricting your capacity to generate a surplus to support your destitution work quite significantly.
- Greater likelihood of meeting Exempt Accommodation criteria – on the other hand being able to demonstrate that you have a process in place that distinguishes between those who need additional support and those who do not, strengthens your case that the accommodation might meet EA criteria.

To go along this route you need a range of skills and capacities and so you need to consider ...

2.5 Do you have the skills and the capacity?

The process of developing and maintaining such a project requires you to have access to a range of expertise and practical resources.

In terms of expertise you will either have to have in-house or ready access to at reasonable cost the following ;

- Understanding of good practice in terms of housing management
- Legal understanding in relation to property agreements (both between you and the owner of the property and you and the “tenants”)
- Understanding of property maintenance
- Understanding of the legal framework for the provision of rented housing (Environmental Health and Fire Protection standards etc)
- Understanding of rent regimes and benefit rules
- Understanding of housing markets and access arrangements for different housing types
- Understanding of finance systems and packages to manage your rental income and expenditure

You will need to have practical links to ensure that you know how you are going to furnish and equip the properties, as well as keep them maintained, checked and the equipment serviced (if this is part of your responsibility as landlord or landlord’s agent).

You will also need to have the capacity to respond quickly or in an emergency when things go wrong – due to serious incidents of one kind or another. This will also require you to have a good understanding of the network of resources that you might need to call upon in such an emergency – local health, social care, housing, welfare and advice services. If you are proposing to provide an additional package of support then the knowledge of local resources and a system of active working relationships is going to be central to your ability to deliver what is required.

Your tenants need to be able to contact you at all reasonable times.

You need to think through your response to health & safety issues. Working with and supporting people in their own home, frequently on a one to one basis brings with it a whole set of safety concerns that are different to those experienced in an office setting. How for example are you going to check that people visiting tenants have systems in place that can alert the organisation if they have not left the property when they should have done?

It is likely, particularly if you are providing a support package, that you will have to employ staff or more staff than you currently do. This brings with it a whole range of additional capacity issues – not only do the staff have to be paid – they have to be based somewhere, be trained, resourced e.g. with mobile phones, supported and supervised, insured etc. Even if using principally volunteers this requires an infrastructure to be in place to recruit, supervise, train and support them.

This is a question to return to as you work through your options, but the final question of capacity that needs to be addressed early on is ...

2.6 What is the political context in your area?

For the proposed model of pure accommodation mixed with some additional support packages to be feasible, and for it to generate sufficient income to support your work with people experiencing destitution, you need to be aware of the political context which you are working within, and to identify where you can get the necessary support from local authorities and the wider community.

It may be that the context is so negative that you will likely to be wasting your time going down this route.

Local authorities have enormous potential to help or hinder your plans. Their approval is likely to be needed in the context of :

- Approving the rent level (in terms of EA applications)
- Agreeing that the letting meets EA criteria
- Licencing the accommodation as a housing in multiple accommodation
- Providing building regs approval for any required adaptations

While all of these decisions will be based on explicit regulations, there is always variation created by interpretation, and decisions will be influenced by the extent to which they support the aims of the project

They are also a key agency that can provide positive assistance to the project and help them meet its aims. This can include :

- A source of information about properties
- A source of housing advice
- A catalyst to put you in touch with other key community agencies
- A provider of key housing and social care services
- A source of funding through small grants programmes

Determining the overall attitude of the local authority to refugees and the extent to which they wish to see their needs met is critically important. Refugees are hardly a priority group with the public at the moment, and many Authorities may well take the line that they wish to discourage the settlement of refugees in their area (or at least in parts of their area). On the other hand LAs are also not necessarily single-minded corporate entities taking a single line on all issues. Identifying supportive officers within the bureaucracy is key to success – they can provide invaluable advice on how to approach some of these issues and maybe even do some lobbying on your behalf.

Checking on the political context is not only about working with local authorities. Links with the local community and the network of other relevant service providers is also critical. This can include housing providers, support services, advice agencies, volunteer bureaux, employment agencies, community and other voluntary groups. Their support and engagement can be critical in terms of advice, expertise, finding resources and a commitment to developing effective models of service. It should also be noted that local authorities themselves are far more likely to support any initiative that sits within a wider network of provision and which has the support of the wider housing and voluntary sector. Joined up and integrated working is currently the key to getting any new initiative off the ground.

Assuming that you do want to act as a landlord providing housing to refugees, some with attached support, some with exempt accommodation status, the following are the issues that you need to address, and these are covered in the subsequent sections in this paper.

- *Section 3 - How to Source Properties*
- *Section 4 - Considerations about what properties to take on*
- *Section 5 - Forms of arrangement for the management of the property*
- *Section 6 -Housing Management Issues*
- *Section 7 - Property Maintenance Issues*
- *Section 8 - Provision of Support*
- *Section 9 - Rent Regimes*
- *Section 10 - Exempt Accommodation requirements*

- *Section 11 - Getting HB Agreement*
- *Section 12 - Managing Costs*
- *Section 13 - Horizon scanning*

We now consider each of these in turn

Section 3 - How to Source Properties

The main options for sourcing properties are as follows :

3.1 Registered Providers of Social Housing

Registered Providers (RPs) are what replaced the term Registered Social Landlord (the change being that for-profit private sector landlords can now become RPs if they meet certain regulatory criteria as operated by the Homes and Communities Agency (HCA) as are local authorities). Most RPs would still describe themselves as Housing Associations. There are many small local RPs, but the majority of the stock is held by Groups that operate on a regional or national basis. A particular kind of RP is referred to as a Large Scale Voluntary Transfer landlord (LSVT). These are RPs that inherited local authority housing stock after a ballot of the tenants – some still only operate in the area in which they were originally established and some have become active regional players through pursuing mergers or actively seeking development opportunities in new areas (NB this is different to Arms Length Management Organisations (ALMOs) as in these circumstances the property is still owned by the local authority – the significance of this distinction is explained in paragraph 3.6 on local authority stock).

RPs might be prepared to make properties available for 2 main reasons.

Firstly, they may have difficulty managing or letting some of their stock. This could be because they have acquired properties through various means that are difficult to let because of their size or condition or difficult to manage because of their location - a long way from the majority of their stock for example. They may also have short-life properties which are due eventually to be refurbished or redeveloped. Equally there is a mismatch between demand and supply in some places and they may hold a high level of vacancies at any time. This may be for a particular sort of housing – such as sheltered housing.

Secondly, many RPs are historically organisations with a commitment to community development and social change, and may be amenable to the argument that refugees are a social group with particular needs that they would be prepared to respond to. All RPs are under an obligation from the HCA Standards to “co-operate with relevant partners to help promote social, environmental and economic well-being in the areas where they own properties”. Assisting you with properties may be one way of meeting this obligation.

Many RPs have their own support services so may not be interested in any arrangement where another agency is appointed to provide support. On the other hand RPs may well hold supported housing properties that are now being decommissioned by local authorities (as part of the dismantling of the Supporting People arrangements), and a proposal from you may well be one way of finding an alternative use for these properties. There is an incentive for such RPs to find an alternative use that meets the definition of “supported housing”, because otherwise they may be liable to reclaim of capital grant. The properties also might not be suitable for general needs letting.

There are a number of potential advantages to securing properties from RPs. The rent regime that applies to RPs allows for higher levels of rent fundable through Housing Benefit, even if additional

support is not provided. It is also possible in some Authorities that Housing Benefit departments will look more favourably on Exempt Accommodation applications where the property is owned by RPs because they view RPs as regulated bodies that are inherently trustworthy and they potentially benefit financially in terms of being able to reclaim most of the HB paid out from central government. Under such an arrangement you also may benefit from the fact that the RP has services that you can use (chargeable or not) in relation to property maintenance as well as expertise in relation to welfare benefits etc.

3.2 Institutions prepared to gift properties for social purpose

A number of organisations may be prepared to “gift” properties, most likely on a short-term leasehold basis. This could include churches with estate for ministers or other members of staff which is not currently needed. Educational institutions or other public services might be in similar position and open to suggestions. Even private companies will sometimes hold a stock of properties for use by staff and may see in the short-term leasing them to you as a way to bolster their corporate social responsibility image. If only a peppercorn rent is charged then this has the significant advantage of helping keep costs down. There is probably however a greater chance that the property may be unsuitable due to size of layout as it will not have been designed to break into multi-occupied lettings (if that is what you are interested in doing).

3.3 Individuals prepared to gift properties for social purpose

Similarly there are significant numbers of individuals who inherit properties that they do not need and yet do not necessarily want to dispose of them straight away. Some may be happy to allow you to use these properties on a short to medium term basis for a below market or peppercorn rent. Some may be prepared to transfer the ownership of these properties.

There is an enormous capacity within the community to make decisions based not just on narrow financial interests but also to take into account the potential for creating social value and furthering social objectives. The problem is of course finding such people at the right time, when they have decision about what to do with their asset. It is important that there is clarity about the offer you can make and how it will work so when the opportunity arises it is possible to exploit it.

It is possible that properties sourced in this way may be of better quality than through some of the other routes, and less likely to be focussed in specific areas (which has advantages and disadvantages as explored in one of the later sections)

3.4 Landlords wanting to rent property on a commercial basis

The private rented sector in many parts of the country has experienced rapid growth over the last 5-10 years. In some specific urban areas a significant number of properties have been bought to let. This is not universally the case, and in many areas what rented property there is let at a premium. Housing markets will vary widely. It is possible however that there may be glut of private rented property available, particularly in University towns, where the previous reliance on private rented lets has been partially-replaced by purpose built accommodation developed by the Institutions. It is possible that there are other examples of where a need for temporary accommodation in the private market has been reduced by developments of this kind.

In such circumstances landlords may be interested in alternative sources of steady income, and if you are able to offer a management service that minimises the hassle for the landlord and ensures that the property's condition and value is maintained, then they may be prepared to enter an

agreement with you that you control the lettings and accept a lower return than they otherwise might get in the open market. This creates the potential for this to be an income-generating business. In most cases you will be competing with other more commercial agencies offering similar services, and your “fee” should be set with this in mind. It is also possible that there may be other social agencies looking to do similar things for other specific needs groups – you will need to decide as to whether to take a competitive approach to this or to find a way of working in collaboration (which could have many advantages and may for example get the active support of the local authority).

This will only be feasible in some areas, but where it is may be a quicker way to meet the demand. It is also likely that many of the properties will already be converted for use as multi-occupancy dwellings and meet relevant standards. The income-raising potential is inherently less, unless the scale of the operation is significant. Income is also dependent on guaranteeing occupancy so being assured of demand is very important.

If you wish to use the property as exempt accommodation then the owner will need to agree to lease the property to you, even if only on a short-term. Local Authorities may look askance and see it as a “device” to avoid regulations if the lease is for less than 2 years. This is likely to involve the transfer of a higher level of maintenance responsibilities than merely acting as the landlord’s agent.

3.5 Landlords wanting social return on investment

Social investment is a growing and rapidly diversifying market. In this charities, churches and other socially-minded institutions and individuals seek vehicles to invest their reserves and available capital in a way that generates sufficient financial return but also most importantly a social return on the investment – successfully addressing one or more identified social problem or objectives. This takes a number of different forms and capital is channelled to organisations that are set up as social enterprises – business that have a social objective as well as profit-generation. Green Pastures are one such organisation that a number of Refugee and Asylum Seeker Groups have used to acquire properties which are then leased back to the Group. There are other sources of and vehicles for social investment that may be relevant and this is a fast moving world, so it is worth considering other options if you wish to go down this route. For example local housing associations are increasingly looking to investigate ways of tapping social investment or themselves being the source of the investment. This could be part of your conversation with Registered Providers as outlined in the first paragraph of this section.

The basic model is that the social enterprise purchases the property (usually found by the local group). They then lease to the Group over a relatively long period and at a rate that is affordable and yet generates sufficient return for them to pas back to investors. Because they have a portfolio of properties they are able to manage this in a way that can tailor lease charges to the circumstances, including on occasion a lower than market-rate or waiving charges altogether for a set-up period.

This can have the advantage of being able to be more selective about the property, although market prices might make the choices in reality very limited. It does however reduce the potential for income generation (in comparison to gifted properties for example) and is probably only viable if exempt accommodation status is achieved or there is some other basis for charging rents above the local housing allowance level. The longer term nature of the arrangement may be seen as a disadvantage, particularly if there is any doubts about long-term demand, or concerns about the long-term dependability on higher-rents.

3.6 Local Authorities (including ALMOs)

Local Authorities will from time to time have properties that they have difficulty using or have been decommissioned from their previous uses – particularly as they contract services as part of the austerity drive. On the other hand they are more likely to have a pressing need themselves for any properties that have the potential for residential use, in order to meet their statutory requirements to respond to homelessness. Where LAs are still developing and have compulsorily purchased properties there is the potential for short-lets, but the properties are likely to be in poor condition with no incentive to invest any money in them. Otherwise any available properties are likely to be difficult to convert into residential use.

Again if you wish to use a local authority-owned property as exempt accommodation the LA would have to be prepared to lease the property to you.

NB We are talking about housing authorities here – the above paragraph does not apply to a Social Services Authority (County or Unitary).

3.7 Conclusions

There are advantages and disadvantages of these different options as we have tried to highlight, and realistically you are likely to have to try all options. However there is a broad recommendation contained in the order here and this is our view of the relative desirability overall of each of these options as sources for properties.

It is more important in many ways however to get the right property in terms of other factors other than their ownership. In considering taking on specific properties the following factors should be taken into account

Section 4 - Considerations about what properties to take on

4.1 Type of property

This means broadly shared housing or self-contained. First and foremost this is about understanding the demand – is the demand likely to come from family units or single people. The latter might mean shared, multi-occupied properties are more relevant. There are other factors to take into account however. If your likely model of housing is meeting longer-term needs then self-contained of some kind might be more appropriate, whereas if the housing is likely to be more transitional then shared might be more appropriate. Cultural issues might be important as well – how much sharing is likely to be acceptable or tolerable for different groups of people.

If you are reliant on commercial private landlords as the source of the properties then it is unlikely you will have access to many self-contained properties as the ordinary market is much more likely to have sufficient demand in it to ensure that these are let in the ordinary way. Other properties that you may be able to source may well have the potential to be used in different ways, and many gifted properties will inherently start out as family properties which need adaptation to be used as shared housing – an expense that possibly you could avoid.

On the surface shared multi-occupied housing is likely to generate more income, but you should take into account that HB ceilings are higher for self-contained units (depending on numbers of bedrooms) but if they are under-occupied the tenants will be penalised through reduction of benefit (the so-called “bedroom tax”). You should also take into account that management costs are likely to

be much higher in shared housing – much of the management time will be spent dealing with the consequences of the sharing.

On the other hand if you are looking to provide a support package which is fundable through exempt accommodation charges an important element of this may be the fostering of mutual support among the residents. If there is no facility for sharing or communal interaction within the property it may be difficult to make this case.

Finally bear in mind that these terms are not absolutes. There are degrees of sharing – different facilities may be shared – e.g. you can have a property divided up into bedsits each with their own basic cooking facilities but with shared bathrooms, laundry etc.

4.2 Size of property

If essentially you are looking at shared, multi-occupied premises then the size becomes important. Obviously the more residents the greater the potential income. On the other hand also the potential clashes between residents and the potential for management problems. As a rule of thumb many groups say that 5 residents is probably the maximum that should be sharing –and some would say that 4 is more ideal. The numbers of units also has implications for the houses in multiple accommodation standards that might apply to the property, and 5 again is a threshold number here (more detail on this is explained under Para 7.1 on “Property Standards”).

4.3 Location of property

Where a property is located can be important for a number of reasons. Some areas may be considered undesirable because of the prevalence of racial tension in the area or because of the distance from necessary facilities or paucity of affordable transport options. It is also possibly the case that certain areas are targeted as being ones where the local authority is trying to balance the housing market, and is less likely to agree to licence another house in multiple occupation (if licence schemes are operating in the area). Equally there may be reasons for positively selecting some areas because of the concentration there of relevant communities that are going to form a vital part of the social support network for residents.

It is of course perfectly possible that you have little choice and the availability of properties may be in the less popular areas for obvious market-led reasons. On the other hand it pays to have worked this out in advance and consider rejecting such offers. There is a danger otherwise of being saddled with a property where you have certain obligations to meet but where you cannot actually let the accommodation. Overall an awareness of local housing markets is really important in the decision-making process. Decisions may then vary depending on whether you are looking for transitional or more longer-term housing.

4.4 Condition of property

There are 3 elements to the condition of the property that need to be considered – the structural soundness of the property, the internal decoration and finishes and the amount of work that is needed to make it suitable for the form of letting you wish to make.

A methodical check of all of these, including with reference to the required property standards, and using a professional surveyor in many cases is frequently well worth the investment of time and money. This obviously depends however on the proposed nature of the arrangement with the owner and the length of time that a commitment is going to be for.

If you are looking at a medium to long term arrangement where any maintenance responsibilities are part of your responsibility, you should draw up some form of projection of costs to be included in your costing of the proposal. This would have to take into account how you proposed to undertake maintenance responsibilities – see Para 7.2.

The condition is clearly important at a number of levels. In the first instance it is about being a good landlord. Generally the better condition a property is in the more likely it is that tenants will respect the property. Sometimes a property in superficially poor condition can end costing more not only because less care is taken of it, but also because it can contribute to other management problems.

The cost implications of bringing the property up to standard and maintaining it are obviously an important consideration in the economic viability of any proposal.

4.5 Length of Occupation

How long can the property be made available for your use is something that you need to consider. If you are looking to lease the property then there is a minimum period that you will probably consider viable – particularly if there is any need to invest money in the property (even if just furnishing and equipping it). If you are looking to use the accommodation as exempt accommodation it is also possible that a very short lease may be regarded as undermining your case with Housing Benefit. As a working rule of thumb a minimum of 2 years would seem reasonable.

It is possible however to have too long a lease – a commitment of more than 7 years might be felt to be risky as it would be difficult to predict demand beyond that point.

Section 5 - Forms of arrangement for the management of the property

5.1 Leasing

A lease is an agreement that involves the temporary transfer of rights and responsibilities of occupation from the owner of the property to the lessee. It will involve the specification of a period of time during which the lessee has these rights and they can only be withdrawn according to the terms as agreed in the lease. It gives the lessee an interest in the property, and thereby the potential to issue subleases or tenancies in their name as a landlord. This is different to a “licence” where the owner gives someone temporary permission to use premises, but which can be withdrawn at will. A lease should contain provisions for a fee to be paid as part of the contract between the parties, even if only of a notional amount. Without this provision it may be legally questionable as to whether the interest in the property has been transferred. A lease may be referred to as a tenancy, but you should be wary if a property owner proposes to issue you as an organisation a form of tenancy that would normally be issued to an individual or household. They may be precluded from issuing such tenancies to corporate bodies and it may not create the required legal interest in the property.

If the owner is a private individual or a for-profit organisation or a local authority then the only way that you can get the lettings treated as exempt accommodation is by holding a valid lease on the property. If the owner of the property is a not-for profit Registered Provider or another not-for profit organisation then a lease is not required as such, although to give you some form of security is possibly desirable.

A lease does not have to involve the transfer of all responsibilities in relation to the property, and the extent to which you as lessee take on responsibility for all aspects of property maintenance and upkeep is open to negotiation. On the whole the longer the term of the lease, the greater the

transfer of responsibility; and the greater the transfer of responsibility the lower the charge (less so that the first rule of thumb however).

5.2 Acting as management agent

You can act as management agent for the owner – undertaking their functions including letting the accommodation, collecting rent, enforcing the occupancy agreement and organising all repairs etc. In this situation you will be paid a “fee”. In practice this will normally be a question of your banking the rental income collected and then paying it to the landlord less your charges. On the surface this can look and feel the same as paying lease charges but legally it is totally different.

As a Managing Agent you cannot issue the occupancy agreements in your own name, and although you can receive Housing Benefit payments you cannot claim that the accommodation is exempt accommodation, unless the owner of the property meets the specified criteria (essentially a not for profit body except for housing authorities).

There are significant advantages to this form or arrangement, mostly around the minimisation of risk – you do not have to pay the owner if the room is not let, and you will not normally be responsible for any maintenance bills. Against this must be set your lower level of security, and certainly a lower scope for income maximisation based on innovative ways of controlling costs. It can be difficult to establish what the true profit involved in this arrangement is, and the spreadsheet modelling tool produced alongside this decision-tree will help you to do that. The management fee will normally be expressed as flat rate percentage of the weekly or monthly rent charged. To a large extent this is market driven and your percentage fee will relate to the going rate, unless you are able to make a case that you provide an enhanced service in some way or you feel able with certain landlords to charge a premium which reflects the wider social purpose behind your service – this obviously depends on their motivation for dealing with you. Some research into the local market would obviously however pay dividends.

5.3 Sub-Contracting /Partnerships

If you own or the lease the property (assuming the terms of the lease allow you to) you could obviously employ another agency to undertake all or part of the task of managing the property on your behalf. This could equally apply to the provision of associated support services. You might choose to do this if you feel that your capacity as an organisation to take on the whole management task is limited and the risk is too great. It may be that you know of an organisation that you regard as trusted experts in this field who may also be able to offer the services more cheaply because of economies of scale. They may also be “partners” of yours in a wider sense, and you may be providing them with services in return as part of a wider arrangements. One option is also that as a charity you establish a subsidiary that may be formed as a social enterprise and then you contract with that new entity to provide the housing services. We are not really able to go into detail on this here but in the longer-term it is certainly an option to consider.

This could apply to only part of the overall management responsibility – for example your earlier review of capacity issues as set out in para 2.5 might have led you to be concerned specifically about your ability to operate an out of hours response to your tenants, and it may be that you would therefore want to negotiate access to a local call centre / emergency response line to handle that.

5.4 Acting as “Lettings Agency”

If you want to keep your on going involvement to a minimum due to capacity issues, but want to potentially earn some money while making a contribution to meeting refugee housing needs, then another option is to effectively act as a socially-motivated lettings agency.

This would mean that your responsibility was restricted to finding the occupants and setting up the initial arrangements such that the occupancy agreement was explained and the rental payments set up etc. It might also be linked to a commitment to intervene and find alternative accommodation if something went wrong. It would not involve day to day management however. Such a package could be attractive for landlords under certain market circumstances – this would relieve them of some of their biggest concerns – finding the right tenant can be the biggest problem. It could also be income generating.

A number of local authorities are interested in this kind of initiative as part of an overall strategy to get access to housing for vulnerable individuals. Scale is the biggest issue here however, as for this to work you would need to build a relationship with a wide range of landlords. An initiative jointly with other voluntary sector organisations is therefore more likely to be viable.

Section 6 - Housing Management Issues

The responsibility of managing properties for rent is not something to be taken on lightly. You will need to put in place a number of processes and think through who is going to take responsibility for what to meet your responsibilities to your “tenants”, and the property owners. We highlight some of the key issues below for consideration

6.1 Allocations

All housing organisations need an allocation policy. This sets out how you are going to decide if you have more than one person needing an available space who to offer the accommodation to. This could be largely on a first-come first-served basis. This is obviously simplest but is possibly a recipe for disaster.

Most allocation schemes would have some concept of relative need i.e. give priority to those in the greatest need, however this is judged. This would normally be based in some way on those who are least likely to find their own suitable accommodation because of a lack of resources or some other factors that inhibit their capacity to do this. This requires some form of assessment to make this judgement. This is particularly necessary if you are going to go down the Exempt Accommodation route, as one of the criteria is that you have assessed that the individual requires the additional support that you have on offer. When one is looking at support as well as housing needs then allocation policies also frequently have a concept of the need being too great to be accommodated – i.e. someone needs more assistance, supervision or adaptation to the property than you can offer. Where operating shared housing you also have to take account of the other people that the person will be sharing with and the potential for clashes due to cultural or other behavioural reasons.

There are other issues to be considered. What happens if someone is asked to leave or causes other problems. Can they be housed again? Are you going to operate a waiting list? Is this feasible – can you maintain contact with people who you cannot house straight away? Is it fair to give people hope that they might be housed eventually if this is not a relatively likely possibility – maybe the waiting list should be limited in terms of size – but what happens if someone then comes along who you feel should have greater priority?

This all has to be hammered out and set down in writing (and kept under review).

6.2 Mixed tenure – refugees and people without recourse to public funds

The basic assumption behind this document is that it is for organisations who already house people without recourse to public funds and are looking at the possibility of housing refugees with status as well. One housing issue that does need to be decided is as to whether to keep these 2 groups entirely separate. Technically there is no reason why this is essential, although if only some inhabitants in a shared property are paying rent Housing Benefit may well seek further reassurance that the rent payers are not subsidising those who are not paying as this would be seen as an abuse of the HB system.

The main grounds on which to decide whether this is a good idea or not is on purely management grounds. Does the potential advantages of mutual support outweigh the potential disadvantages of a clash of interests. Generally the advice would be to maintain a separation, if for no other reason than what is being provided to each group is substantially different – short-term shelter while their situation is resolved as against a medium to long term home. The possible exception to this is in relation to the use of a version of the “support tenant” model, where one refugee is given a tenancy in a house which otherwise is used by NRPF migrants, but on the basis that they accept certain responsibilities to provide support and/or help to “manage” the accommodation in some way.

6.3 Forms of agreement – tenancy or licence?

If you are acting as the landlord then you will issue the occupancy agreement and have to decide on its form. This could be either a tenancy (an assured shorthold tenancy) or a licence to occupy. These two forms of agreement have very different implications in terms of the rights they provide to the person living in the accommodation and the practices that you as a landlord need to follow. It must be understood that the question of tenancy or licence is not a choice that you can exercise – it is a conclusion that legally follows from the nature of the letting. One thing is for sure that just because you call an agreement a licence it does not make it a licence and you may still be creating a tenancy in law with all that follows from that.

The decision about whether you are creating tenancies or licenses is something that you should take legal advice on from a solicitor who has specialist knowledge in landlord and tenant law. Broadly speaking it is around whether you are handing over “exclusive” occupation to any part of the premises. So if someone shares a room they cannot have exclusive occupation and are not a tenant. Equally if you as landlord require unrestricted access to someone’s room for the purposes of administering care, delivering regular services such as cleaning or protecting the resident’s welfare for some reason or you require them to move between rooms on a regular basis then you may have a case that the letting is in fact a licence. The norm is however that you are creating tenancy if this is a standard letting whether in a self-contained unit or a shared house, regardless as to whether the occupants have additional support needs or not.

6.4 Enforcing terms of occupancy

It is inevitable that sometimes things will go wrong and the behaviour of some of the people you house will leave you with little choice but to take action to prevent a continuation of such behaviour or seek to remove them from the premises.

There are a number of ways of minimising the risk of problems. This can include the provision of clear information about what is expected of residents, undertaking full risk assessments and implementing risk management plans that can assess and then control the potential for problems to occur, and providing opportunities for mediation – both informal and formal – when difficulties

between residents occur. There are additionally a number of avenues that can be explored in terms of legal action to prevent nuisance or harassment from occurring or re-occurring, and sometimes this may be preferable to trying to remove someone from the premises.

If you do want to remove someone for their sake and/or the sake of others then there are due legal processes that you must follow. A tenancy can only be ended by court action, only on particular grounds, and only after a proper notice has been issued. This can be a lengthy process without guarantee of success, and this has to be factored in to any cost-estimate – particularly as a drawn out attempt to gain possession can mean that you are unwilling to let accommodation in the same house until it is resolved. If you issue a time-limited shorthold tenancy then you can terminate it once the period has expired assuming you issue the right notice sufficiently in advance of the date. A court order is still required but this is effectively a rubber-stamp and not contestable. In the case of tenancy when you issue a notice you are issuing a notice of seeking possession –they are still legally a tenant with all their rights intact once the notice has expired – the decision to proceed with an eviction is effectively a separate decision at that point

A licensee has no right to carry on living in the accommodation once the permission to stay has been removed. They do however have a common-law right of notice that this permission is being withdrawn, and without this you may be acting illegally if you take any steps to remove them. The notice period only has to be reasonable, and if they are causing trouble this can be as little as 24 hours. Once it has expired they have no right to stay, but it is still likely to be an offence to physically remove them, and you may still need to take legal action to get an officer of the court to remove them – this can be expedited and heard the same day potentially if there is perceived to be a danger of serious harm occurring otherwise. In most cases however they will leave of their own accord. The practice of changing the locks when someone is out is probably acceptable. However any property left in the premises remains theirs and you are legally obliged to return it to them. Also if subsequently the court determines that the letting was in fact a tenancy then you will have carried out an illegal eviction and this is a criminal offence. All the more reason to be sure that you are legally entitled to issue a licence.

All this adds up to a requirement not only to take legal advice before drawing up the form of agreement but to ensure that you have ready access to legal assistance at any juncture, should it be necessary. This obviously has cost implications and should be budgeted for.

6.5 Voids and Bad Debts

Voids (un-let accommodation) and bad debts (unpaid rent) represent losses of income whether you are acting as the landlord or the landlord's agent and are frequently avoidable if proper processes are put in place.

Voids can be kept to a minimum if you operate allocation processes that ensure a tenant is ready at short notice to replace someone who leaves. It is also important to have methodical processes to check the condition of a room before re-letting and arrangements in place that you can quickly do whatever is necessary to bring the accommodation back to an acceptable standard of repair and equipping.

Bad debts can be kept to a minimum if you have processes in place to monitor the accumulation of any debts, and ways and means to intervene to help the resident bring these bad debts back under control. This can sometimes mean that taking action to remove someone is less desirable because once they have left they will never pay off their debts, while as long as they are given time to pay

have an incentive to try and clear the debts in order to keep the roof over their head. This is obviously a matter of judgement.

Estimating an allowance for voids & bad debts is a key part of budgeting for such projects.

Section 7 - Property Maintenance Issues

7.1 Property Standards

As a responsible landlord you should aspire to provide a decent living environment for your tenants whoever they are and whatever the form of housing that you are providing. If you are acting as the landlord's agent it would be right to have a minimum standard in terms of the condition of the property that you are prepared to act as the agent for. It is worth thinking through and recording what you feel these standards consist of.

If you are using a property that meets the criteria for a house in multiple occupation (HMO) then there are some legal minimum standards that apply. An HMO has to have at least 3 unrelated people living in the property under separate letting agreements, and this should involve some degree of sharing of facilities (kitchens, bathrooms etc). The minimum standards include fire safety measures such as detectors in every room, annual gas safety checks, electric safety checks every 5 years, adequate facilities for cooking and washing and keeping all communal areas clean and in good repair. Certain HMOs - have to be registered with the Council and provided with a licence – those with 5 or more people living in them and those of 3 stories or more. Properties owned or managed by not-for profit Registered Providers (RSLs) will not normally be required to register with the Council. A Council can cast the net wider in terms of which properties need to be licenced. The Council will establish its own standards and particular attention will be paid to ensuring safe means of escape, but they will also look at how the property is managed. Not to register when it is a requirement would be regarded as an offence. A Council may decide that because of the existing numbers of HMOs in an area they are not prepared to allow any more properties to be licenced in that area, regardless of the conditions or the intended beneficiaries.

It is obviously important at an early stage to find out the attitude of the relevant local authority to these matters, as this will have implications for the type of property that you would be prepared to take on. Any property that has not previously been used as an HMO is bound to need adaptation, and there will be a cost in this to be offset against the income to generated. It also may be the case that the property owner will require the property back in the original condition at the end of a lease period (if they ultimately want the property used as a single family dwelling).

7.2 Property Maintenance

Responsibilities for property maintenance will vary significantly depending on the nature of the relationship with the owner of the property. You may have responsibility for any combination of internal decorations, minor repairs, maintenance and servicing of fixed equipment (heating systems etc.) external grounds (gardens), external decoration, more major structural repairs.

There are a number of ways in which you can meet your maintenance responsibilities however as follows:

- Employing contractors as and when you need them
- Keeping contractors on some kind of retainer or exclusive deal relationship
- Using RSL / LA in-house contractors
- Service contracts /insurance policies

- Employing your own maintenance staff
- Using volunteers
- Using residents to maintain their own accommodation

In reality the best strategy may be a combination of all of the above – different solutions for different elements of your responsibilities.

It is also important to factor in to your calculations the need to keep property conditions under review and have a formal process for inspecting the property from a safety and maintenance point of view and be clear about the responsibilities for taking action when a problem is identified.

7.3 Furnishing and equipping the properties

Under the circumstances you are likely to want to be letting furnished accommodation as it is unlikely that the potential tenants will have any of their own furniture. There will be choices as to how complete this furnishing and equipping should be, down to very small items of kitchen equipment and cutlery and the items that make something a home rather than just somewhere to live. You also need to consider whether you wish to allow for / encourage tenants to provide some of the furniture themselves – this will help them build up the resources if they hope to move into longer-term accommodation subsequently. This will however raise safety issues e.g does the tenants own furniture have to meet fire-retardance standards, how do you avoid clutter obstructing means of escape etc.

What you provide as landlord and how you are going to source the furniture and equipment is obviously a critical question, with significant cost implications. You may be able to obtain very cheap or free furniture through local furniture stores or adroit use of resources such as Freecycle. But similarly you may also want to ensure that some furniture and equipment is new or nearly-new or obtained from commercial sources. Your decision should take into account that as a residential landlord you are required to ensure that any furniture supplied meets fire safety standards, that electrical equipment you supply is safe to use, and if you supply gas-fired equipment you are required to obtain a gas safety certificate for it. All such equipment should be regularly checked and maintained by a CORGI-registered contractor. You will also need to factor in the fact that in rented accommodation things need to be replaced more quickly and all equipment needs to be regularly checked and serviced.

Section 8 - Provision of Support

8.1 What is support ?

We mean here support beyond and above what an ordinary but good landlord would provide, aimed at ensuring that the individual tenant is able to maintain their tenancy in the short-term and is satisfactorily housed in the longer term. There are therefore 2 focuses for this support;

- Ensuring that the tenant is able to manage their tenancy includes support to pay their rent, get on with their neighbours, and be able to use all the facilities.
- Ensuring that they are able to access satisfactory housing in the future includes support to maximise their income through employment or benefits, learning how to budget, build up social networks and understand their housing options.

The important distinction is here between “support” and the provision of housing management or the delivery of a housing service. This distinction is key to making a successful case for exempt accommodation in particular and a Housing Benefit claim in general. To be classified as exempt

accommodation “support” has to be needed and available to the tenants as a condition of living in the accommodation and yet also **cannot** be funded through the rental charge, while at the same time you may be required to justify the additional costs of managing the property and providing the services in order to justify the level of rental charged. While it is key it is also far from a black and white matter. As a result you will find plenty of contradictory advice, examples of terminology used in different ways by different people, and widely-different interpretations by people responsible for making decisions based on these distinctions.

We believe that within the current framework it is impossible to give a clear and unequivocal answer to the question – “what is support as opposed to housing management”. On the other hand we also believe that you have to adopt and act on the basis of a definition that you then seek to use and argue for consistently. There is a danger otherwise that you will find yourself arguing that the same kind of activity both justifies a higher level of rent **and** justifies that you provide additional services beyond and above those charged to the rent i.e. “support”. This will undermine your credibility with Housing Benefit officers.

We attempt here therefore to provide a definition of these terms in relation to Housing Benefit.

The delivery of housing services is relatively straightforward, although the detail needs a lot of attention. The provision of housing services includes anything additional to the right to occupy the property that is provided as an integral condition of the tenancy e.g. furniture, cleaning, provision of alarm services etc. Some housing services are however eligible for housing benefit and some are not. The basic rule of thumb is that a service that is provided to all tenants as a group simply because they are tenants is eligible, and eligible services can involve staff time in providing them. If you provide a service to an individual tenant specifically within their own personal space (that they have the right of exclusive occupation over) or to them as an individual because of their specific needs (rather than as a tenant per se) then this service charge is ineligible for Housing Benefit. So a charge for providing laundry facility to be used by all tenants is eligible but a charge to pay for the cleaning of a tenant’s personal room is not.

Housing Management includes anything that any good landlord would have to do that is directly to do with the letting of, or maintaining the “fabric” of the accommodation. This includes making the property ready for letting, maintaining the property, inspecting the property, preparing, issuing and enforcing occupancy agreements, reviewing, collecting and accounting for the rent.

On a similar basis to housing services however there is an expectation that HB-eligible housing management as part of the rent is restricted to those activities, which are provided to all tenants because they are tenants. This can however legitimately take more or less time and resource dependent on the tenants’ needs or circumstances. So explaining an occupancy agreement is a legitimate housing management task in all circumstances and if it takes longer because all the tenants are unfamiliar with how tenancy agreements work then it would be legitimate for the additional time to be charged to Housing Benefit as housing management. On the other hand a service which, involves helping a tenant to claim benefits in order to meet their rental charge, would probably be regarded as “support” because it is triggered by individual circumstances or needs not by definition following on from being a tenant. This would therefore not be eligible for HB.

It should be stressed that this is a matter of interpretation and even using this definition will lead to grey areas.

8.2 Models of Support Package

Within the definition provided support could focus on some of the following:

- Claiming relevant benefits
- Cultural familiarisation i.e. finding out and understanding how basic systems such as banking, the allocation of public services work in the UK
- Familiarisation with the area and its facilities, services and opportunities
- Acquiring the resources to make a long-term home – furniture etc.
- Developing employability skills such as language, ability to present relevant previous experience to potential employers etc.
- Assistance with job searches
- Advice and information of various kinds
- Dealing with debts and learning to budget effectively
- Assistance in looking for long-term housing that is appropriate, suitably adapted etc
- Building social networks that increases long-term independence and resilience
- Re-building confidence, trust etc.

Support can be provided in various ways :

- One to one mentoring
- Group work sessions
- Providing access to resources such as internet, telephone lines
- Skills-based training
- Providing opportunities to develop and practise skills e.g. in maintaining their own living accommodation
- Practical assistance e.g. transport or storage facilities
- Financial assistance

Support “sessions” can take place in the property or elsewhere.

Support services can use paid staff, staff sub-contracted from other agencies, social work placements, volunteers with specialist skills or generic volunteers with time and interest. Support can include mutual support from other service users.

You need to think through what the need for support is and what might be the capacity for delivering this within your organisation and your network of contacts. You could provide the necessary support funded elsewhere, and provide landlord services within normal rent regimes entirely separately. If you want to claim that the accommodation is “exempt” however then it will be necessary to show why the person needs to live in the exempt accommodation in order to receive this support.

8.3 Using volunteers or paid staff

In order to make the provision of accommodation for refugees pay sufficiently well to generate a surplus to help fund destitution work, it is quite likely that you will need to use volunteers in some way or other. This could be to provide some or all of the following services:

- Maintaining properties
- Basic admin
- Mentoring Service Users

- Providing advice
- Providing tuition / running groups

You should remember however that volunteers do not come cost-free. Real costs include the time and other costs involved in recruiting volunteers, providing advice and guidance, training, supervision and monitoring, and expenses such as travel, phone etc. You may also want to treat volunteering opportunities as part of a package to offer volunteers – linked to training and the acquisition of experience – maybe linked to some form of accreditation or qualifications.

Within this general approach service users and former service users are also an important source of volunteer labour that should be considered.

It is very unlikely that you can operate as a landlord or as a support provider with volunteers alone. Expanding this way is likely to involve an expansion of paid staff resources. Any task that involves a rapid response might be inappropriate for a volunteer

8.4 “Support Tenants”

One option that should be considered is providing support through a “support tenant”. This is an arrangement in which someone is provided with accommodation (for free or on a reduced basis)– in the same property or in the near vicinity – in return for a commitment to make a certain number of hours available to provide advice, assistance or supervision to the other tenants. This might appeal to students or to people who have gone through the asylum seeker system successfully themselves.

If following this model it is possible for the other tenants to be charged on an Exempt Accommodation basis, but for the support tenant to pay an ordinary (or reduced rent), but you may be required to demonstrate that the exempt tenants are not subsidising the cost of the support tenant in any way.

8.5 Establishing and Meeting Support Needs

Having put a broad support package in place and decided how to staff and resource this, you will also need to put in place a process to ensure that you meet individual needs. This is good practice but also will be an expectation if you are proceeding with an Exempt Accommodation claim. The main elements of this are :

Eligibility Criteria – You need to define who the service is targeted at and who you will give priority to – in terms of the risk they are under and the assistance they need. This has to be sufficiently clear and precise to enable you to make a decision between competing individuals. This obviously needs to dovetail with the housing allocation policy discussed in para 6.1.

Needs Assessment – You then need a formal process of assessing actual applicants that identifies their needs and any risks that they may create. This will need to encompass any information needed to make the decision per se but also the decision about allocating rooms in specific properties.

Support Plan – This follows from the Needs Assessment and should set out the outcomes that the tenant wishes to achieve e.g. find a job, make links with a particular community organisation, build up store of furniture to move into long-term accommodation, organise for their family to join them etc and who is going to do what to make this happen. This has to be the product of a genuine agreement between the service user and the “staff” member concerned.

Review – It is important to be able to demonstrate that this Support Plan is kept under review and that as a result a new Support Plan is drawn up and agreed

It is possible that the individual may be the subject of receiving support from another agency and may as a result already have a support plan. In which case it is probably important to ensure that this plan is based on a three-way discussion. Such an arrangement is generally acceptable in relation to an EA claim as long as there is genuinely an element of support being provided by the landlord.

One of the support-options that you might consider is to employ another agency to provide the support on your behalf. In which case the paperwork and processes used may well be theirs.

8.6 Paying for Support?

Support cannot be funded through the HB-eligible rent. You have therefore to be able to demonstrate that this is the case by showing how it is funded.

Essentially this can be a combination of using staff and other resources that are already funded plus donations of time or money from other sources this can include.

- Charitable trust funding
- Donations
- Seconded staff
- Other contracts
- Personal service charges or other payments made by the recipients

Section 9 - Setting the Rent - Rent Regimes

Modelling the financial viability of the project can start with establishing the likely income. The principal source of income is going to be the rents charged. This will depend upon the rent regime that is likely to apply. There are 3 main regimes as follows:

9.1 Local Housing Allowance

If your tenants are likely to require Housing Benefit and the accommodation is classified as private sector (all landlords but not for profit Registered Providers) the rent you charge will normally be determined by what is referred to as the Local Housing Allowance. This is the maximum flat-rate amount that Housing Benefit will contribute if a client is eligible for assistance. It is determined by a combination of factors including the size of the accommodation, the age of the claimant, and the “broad rental market area” that the property is located in. It is intended to include any HB-eligible service charges. The actual Housing Benefit received will depend on the individual’s means test, and will be reduced if it is considered that the accommodation is larger than required (in terms of the number of bedrooms).

9.2 Registered Provider rents

This refers to not-for-profit RPs. The Local Housing Allowance does not apply here. RPs have set their rents (not including service charges) by a set formula for a number of years – this relates to the size of the accommodation, the relative earnings level by local authority and the perceived capital value of the property. There is also an allowance for supported housing having slightly higher rents. Service charges are then set on top of this figure on a scheme by scheme basis.

This is quite a technical area that is not necessary to understand in full. The fact is however that on the whole the total rent chargeable is quite likely to be higher than the Local Housing Allowance – particularly because the service charges fall outside the core rent calculation. Housing Benefit

Officers are likely to focus on the service charges – to ensure that they are eligible for HB and that they are based on something reasonable.

9.3 Exempt Accommodation

If you are looking to provide supported accommodation then certain categories of this accommodation is exempt from the current HB rules restricting eligible rents and has to be considered under regulations that used to be in force.

These “old regulations” state that if certain conditions apply as set out in the next section then the Council can only reduce the rent that they regard as eligible for HB purposes if it is unreasonably high compared with suitable accommodation elsewhere or if the place is larger than reasonably needed. They can refer to a decision by a rent officer in making this judgement, but if anyone in the household is in a “protected category” then the alternative accommodation must be actually be available at the time of the claim and it must be reasonable for the claimant to move. For the latter group this would be particularly difficult for an HB officer to demonstrate. “Protected categories”, however are where the tenants are over 60, have responsibility for a child or be judged incapable of work. Most refugees that you may be housing are not likely to fall into one of these categories. The comparison still has to be to suitable alternative accommodation however, and you may need to argue as to what constitutes suitable alternative accommodation i.e. make the case that you are providing supported housing and that the only relevant comparisons are to other supported housing that provides an equivalent level of support to meet equivalent needs.

Local authorities have to refer the exempt accommodation rents of landlords (other than not for profit RPs) to the rent officer service. The rent officer service is unlikely to take into account the level of additional services that you would claim to provide, and is therefore likely to produce a market-based rent based on the accommodation only. If the Council approves the rent you suggest therefore they will only receive 60% subsidy from central government for the difference between the rent officer determination and the eligible rent. They therefore have an incentive to either claim that the accommodation does not meet the criteria for exemption or that there is suitable alternative accommodation that is cheaper overall or in relation to specific elements of the charge.

In order to facilitate this process you will be expected to produce a breakdown of how the charge is constructed and in particular the specific service charge elements, which are still subject to the usual criteria as to what constitutes an HB-eligible service charge and what does not.

In summary in considering an exempt accommodation claim the HB office has to go through the following steps :

- a) Does this letting meet the criteria for Exempt Accommodation
- b) Are the charges all eligible for HB ?
- c) Is there suitable alternative accommodation providing an equivalent level of service to which the charge or elements of the charge can be compared ?
- d) If so is the charge as a whole or any included element reasonable ?
- e) Even if the answer is No, is the applicant in a protected category and if so is the suitable alternative actually available and is it reasonable for them to move ?
- f) Is the individual entitled to HB based on the means-test and if so how much ?

Exempt Accommodation rents tend to be much higher, and will normally range within the order of £130 to £300 per week.

9.4 Specified Accommodation

Some other forms of supported accommodation do not meet all the criteria under the exempt accommodation rules, but might now be classified as “specified accommodation” – notably if the landlords are local housing authorities and/or any support provided is provided by an agency that is not the landlord or the landlord’s agent. This does not affect the rent regime for now, but is important for the future because there the claimants will continue to be entitled to Housing Benefit once Universal Credit has been introduced. Among other things this means it will be easier for landlords to make the case that Benefit payments are made direct to the landlord.

9.5 Personal service charges

In all forms of accommodation there are potentially some elements of the charge that are not eligible for Housing Benefit and have to be paid by the individual whatever their benefit status. These are the charges for personal services as explained in the first paragraph of this section. The only constraint on the level of these charges is one of affordability – what can tenants afford to pay. In establishing these charges account should be taken of this factor, but also in some cases charges will be expected to be based on an accurate apportionment of costs e.g. a personal charge for fuel would be expected to reflect the relative usage in private space as opposed to communal.

Section 10 - Exempt Accommodation requirements

If you wish to go along the Exempt Accommodation route then you need to ensure that your proposed set up meets the following criteria.

It should be emphasised that none of this is entirely cast in stone in that the regulations are open to a considerable degree of interpretation. These criteria should therefore be taken as a guideline and advice taken in specific individual cases. There are very likely to be actual cases of “exempt accommodation” where one or more of these rules appear to be broken – this could be due to lack of scrutiny, ignorance on the part of Benefit officers or simply a different interpretation

10.1 Landlord must meet criteria

The landlord must be a County Council, housing association, registered charity or voluntary organisation.

A body may be regarded as a housing association even if they are not a Registered Provider.

A social enterprise could be regarded as a voluntary organisation. It would generally depend on the arrangements for making “profit”. Essentially a voluntary organisation is a “not for profit” body.

If the owner of the property does not fall into one of these categories then the organisation acting as landlord has to be able to demonstrate that they have the right to charge rent and undertake lettings in their own name rather than the name of the owner. This would normally involve a lease (which may be called a tenancy).

10.2 Claimants must need support now

Claimants must be in need of some form of support. You need to be able to demonstrate that this has been assessed and that the potential is there to distinguish between potential applicants who do and those who do not have that (or sufficient) need. The support has to be current. You should not be able to claim that someone had support needs when they moved in x years ago and this justifies an exempt accommodation claim – they need to have those needs now. Support needs can be defined in many ways.

This could make it difficult to retrospectively make an exempt accommodation claim for people who have been living in your accommodation for some time, unless you can show that as a result of them not having had support previously they had been struggling to maintain their tenancy.

10.3 The support can only be delivered effectively if they live in supported accommodation

In order to meet any challenge that the claimant could move to cheaper accommodation and still receive the support that they require, you need to be able to show that living in the supported accommodation is the only way they can receive the support required.

10.4 Support must be provided by landlord or landlord's agent

If you are the landlord you either have to provide the support yourself or employ another agency to provide this support under some form of contract to yourselves.

If you are the agent of one of the allowable property owners and then this arrangement could meet this requirement.

10.5 Support must be more than trivial

This is a reference to tribunal decisions. A support package that is available and is delivered is required, with the ability to demonstrate that individual tenants have support plans in place, which demonstrate that some of the needs at least are being met by you as landlord. Generally, “signposting”, however elaborate would not be considered enough.

10.6 Support must be funded other than through the eligible rents

If you are providing support you need to be able to demonstrate how you are paying for it in order to show that it is not being funded through the eligible rents. You can make a charge as part of the rent if you wish but this will be treated as ineligible for HB.

Section 11 - Getting Housing Benefit Agreement

The process of getting agreement from the Housing Benefit Office is potentially more of an art than a science. It would normally makes sense to clarify the principle of such an arrangement first. Strictly speaking however the decision is on an individual claim basis. A specific individual claim might be seen as meeting the criteria, when the next one in the same property might not. This does not often happen but it is possible. Housing Benefit can agree to pay exempt level rents even if one person in a property does not meet the criteria, but if they do they will lose all central subsidy for the difference between the eligible rent payable and any rent officer determinations.

Equally Benefit decisions can be reviewed and at a point Exempt Accommodation status might be withdrawn from an individual claimant and their eligible rent return to Local Allowance levels.

If it is perceived that someone's need for support is likely to be short-term (and this will be true with refugees unless there is some other disability or long-term health condition involved) then part of the Housing Benefit approval process might focus on your plans in terms of timing – is this seen as a stepping stone to achieving greater independence and does that involve someone being asked to move to different accommodation or to support being withdrawn while they stay in the same accommodation? This is obviously particularly important if a key part of your support package is aimed at improving people's employability and helping them thus to find work.

Technically it is possible for different tenants in one shared house to have different statuses and be charged different rents. It is more difficult however because you will need to be able to demonstrate that the service received is different and that one is not cross-subsidising the other. This is not really an issue if there is a high degree of self-containment.

As there is so much room for interpretation in the decision the decision is not only about the application of the Regulations. There is a distinct political sub-plot. Decisions can be and are guided by political questions in terms of what the Authority wants to encourage or discourage and then be justified after the event on a number of different grounds. Getting political buy-in to your plans can therefore be key to being successful. If the Authority does not see your proposed service as having a contribution to make to strategic priorities then the claim may well fall, however much you seek to follow these guidelines.

It can sometimes help to also be part of a network of agencies working together in partnership. This can facilitate sharing of what works and what does not. It can also make the plans more robust and increase the chances of securing LA support.

Section 12 - Estimating and Managing Costs

Once you have been able to estimate the likely income the next phase of planning and choices is clearly around managing the costs of the project. Generating a surplus is not only about getting approval for a certain level of income but also finding ways of controlling costs without compromising quality. The choices and options that have been explored through this paper clearly have a significant bearing on this. This covers some of the following issues

Property Costs - Where you are sourcing the property from will make a significant difference. Gifted properties might have nil-costs. Other options might not involve paying a full market rental.

Salary Costs - How much you can do with volunteers, what levels of staffing you will need and how much you set salaries at are all questions that impinge significantly on this

Furniture Costs – Can you furnish the properties with a reliable supply of second-hand goods

Utility Costs – Are there ways of keeping these under control

Maintenance Costs – Take account of what condition the property is in, the length of the arrangement with the owner, and the responsibilities that you have for maintenance and repair within your agreement with the owner. Consider which the most economical choices are in terms of how you meet these responsibilities (see para 7.2)

Section 13 - Horizon scanning

13.1 Universal Credit and Local Authorities

The majority of the current Housing Benefit system will be subsumed into Universal Credit(UC) when it is finally introduced. For most claimants benefit to cover housing costs will be a part of their Universal Credit entitlement. This has a number of implications for landlords. Under normal circumstances benefit will be paid a month in arrears and will be paid to the individual direct into a bank account. Claims will normally be submitted on-line, payments of benefit will depend on sticking to the claimant commitment (which is dependent on actively seeking work). The sanctions applied to UC are potentially very harsh and if for example someone does not attend a job interview without good reason their benefit will be suspended. They will then not be able to pay their rent until it is reinstated.

There are exceptions to all of the above. There are for example circumstances in which landlords can receive direct payments on a short-term basis, and there are ways of appealing against sanctions. The former will be part of what is referred to as the local support framework and local authorities have a responsibility to develop this and the criteria that will be applied. In most areas this is still being developed and it is still open to voluntary organisations to try and influence this /be a part of the conversations. This is another reason why it is important to try and talk to your local LA about your plans and participate in the local networking with housing and community groups in your area.

At the same time helping people to avoid sanctions, appealing against them when informed and assisting people to manage their way through them will become a key support task in the future.

People living in exempt accommodation will not at the point of the introduction of UC see their Housing Benefit disappear, but will continue (for the time being) receive their HB from local authorities as now. This might be seen as a further incentive to get lettings regarded as exempt accommodation, but it should be pointed out that those remaining claims for EA status are likely then to come under more intense scrutiny.

In the long-term the Government has said that it would like to transfer the additional money being claimed through HB on Exempt Accommodation to local authorities as some form of grant. If this is the case then LAs will probably be required to send it on the support needs of vulnerable people. However they will probably not be required to target it at the groups who previously lived in exempt accommodation. The combination of severe austerity programmes impacting on local authority budgets and the new statutory duties for people with lower care needs than those currently funded by the local authority means that there is a strong likelihood that they will want to focus these resources elsewhere. It is therefore all the more important to develop your projects in line with the local authority and other active voluntary groups in the community (see para 2.6).

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