

Research report

‘Exempt’ and supported accommodation

by Michelle Boath, Eleanor Baker and Helen Wilkinson

Department for Work and Pensions

Research Report No 714

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Michelle Boath, Eleanor Baker and Helen Wilkinson

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Summary

Introduction

The rules relating to Housing Benefit (HB) are complex and have changed over time. Several different methods of working out the eligible rent apply, depending on a claimant's circumstances, on their tenancy type, and when their claim for HB was made. When 'new scheme' rules for HB were introduced in 1996, the Social Security Advisory Committee (SSAC) was unhappy about their potential impact on the provision of supported accommodation. SSAC was concerned that the local reference rent, which limited the amount of HB payable, would have been used to restrict the rent of social and voluntary supported accommodation making it unviable. The special treatment of 'exempt accommodation' dwellings was included in the regulations to enable HB to meet the additional costs of providing this type of specialist housing.

The HB regulations relating to 'exempt accommodation' claims have not changed since they were introduced, although various Commissioner and Upper Tribunal Decisions have helped to clarify how they are interpreted. Whether a claim is treated as an 'exempt accommodation' claim and how much the maximum rent should be, is determined to varying extents by:

- the landlord and the type of services they provide;
- the claimant and their needs, e.g. are they a vulnerable individual?

All non-Registered Social Landlords (RSLs) 'exempt accommodation' claims must be referred to the Rent Officer, who will provide a Rent Officer Determination (ROD) of the maximum level of mainstream rent that would be appropriate for the accommodation provided. Those whose home fits the definition of 'exempt accommodation' have the amount of their rent that is eligible for help decided under the rules that existed before the 1996 changes, often called the 'old scheme' rules. Under these rules local authorities (LAs) must take account of the ROD as well as rent levels of suitable alternative accommodation when looking to place any restriction on the rent they will meet. Where the tenant is elderly, has children or is incapable of work the LA also has to consider whether it is reasonable to expect the tenant to move. LAs can claim back the total amount of HB paid under the ROD as subsidy from the Department for Work and Pensions (DWP), but only 60 per cent of the amount over the ROD for vulnerable claimants, and none of the amount over the ROD for claimants not classed as vulnerable.

Expenditure on 'exempt accommodation' claims has increased substantially in some LAs over recent years, however, the regular data sources available to the DWP did not provide the detail needed to understand the underlying reasons for these changes, and for the variation between LAs. DWP is currently carrying out a review of 'exempt accommodation', of which this research forms one element, to ensure that HB appropriately recognises those reasonable housing costs associated with providing specialist housing for certain vulnerable customers. The purpose of this research was specifically to assess the extent and costs of supported and 'exempt accommodation' within LAs, which, before this work was undertaken, was very poorly understood.

Research methodology

Our methodology comprised the following stages:

- a review of HB regulations and guidance relating to ‘exempt accommodation’;
- an expert workshop;
- fieldwork at 21 LAs;
- interviews with accommodation providers and other stakeholders.

We selected a random sample of LAs to participate in the fieldwork, based on a stratified sampling frame designed to ensure our sample was representative of caseload size and composition. Participation in our research was voluntary. At each fieldwork visit we collected information about a sample of HB claims for supported and ‘exempt accommodation’, randomly selected from lists of live claims. We also spent time with benefits managers or senior benefits staff discussing the issues surrounding supported or ‘exempt accommodation’ in their area. We also interviewed accommodation providers, both during fieldwork visits and separately, and larger accommodation providers discussed their rent-setting models with us.

Findings

Claimants living in ‘exempt accommodation’ fall into many categories – their common characteristic is that all are amongst the most vulnerable members of society. Different claimant groups can have very different needs in terms of the **time** for which they require supported housing. For example, those fleeing domestic violence may only require emergency accommodation for a period of a few weeks, while those with learning disabilities are likely to require ongoing support for life. In addition the **types and levels of support** they need also vary widely, as might be expected given the range of claimant groups. Much supported accommodation is provided by RSLs, but this is not generally treated explicitly as ‘exempt accommodation’ by LAs.

In terms of numbers it proved very difficult to obtain an accurate estimate, because current LA software systems record limited information about this particular type of claim, and the size of our sample in relation to the range of different LA circumstances was small. Using the data we collected at LAs we estimate around 40,000 people live in non-RSL ‘exempt accommodation’ in England, Wales and Scotland, with a further 130,000 living in supported accommodation provided by RSLs, although there is considerable uncertainty associated with these numbers.

The overall cost to the public purse of the **non-RSL** ‘exempt accommodation’ claims, over that of equivalent mainstream accommodation, is estimated to be £70-130 million, but again there is a large degree of uncertainty associated with these estimates.

Spending on ‘exempt accommodation’ has been increasing for two reasons: The additional costs of providing the specialist housing needs for ‘exempt accommodation’ claimants has risen above inflation since 2003/04, and the number of ‘exempt accommodation’ claims has also risen. There are valid reasons why the costs of supported and ‘exempt accommodation’ should be higher than mainstream accommodation, although in some cases the rents charged appeared to be unreasonably high.

At most LAs we visited we did not find any rents that had been restricted in our sample of claims. The lack of restriction reflected a belief that there was no basis on which to restrict rents, even where they might be considered high. This was generally because there was no suitable alternative accommodation available.

Trends in costs and spending differ across LAs due to variations in factors such as:

- numbers and proportions of claimants in supported or 'exempt accommodation';
- different types of provision of supported accommodation available in the area;
- activity of consultants in the area;
- level of scrutiny with which 'exempt accommodation' claims are treated.

The research was unable to estimate the numbers of people with higher housing costs and needs that are self-funded or are being met from a source other than HB. Most interviewees did not think this was a significant issue, but several identified cases where claimants are slipping through the net, because they are in accommodation that does not qualify as exempt. Generally, this is because the accommodation is provided by a 'for-profit' organisation, or the care, support or supervision is provided by a third party.

The way ahead

The key concerns expressed by LAs relating to the current system concern the uncertainty currently facing LAs, claimants, and accommodation providers, because of the complexity of the regulations and differences in interpretation in different areas. There is a feeling that the loss of subsidy for rents paid above the ROD results in a lack of equity. There is also concern that some claimants are treated unfairly because they slip through the net. The challenges of administering the system relating to 'exempt accommodation' are viewed by many as disproportionate to the overall burden on the public purse.

Interviewees expressed a desire for a simpler approach and for all 'exempt accommodation' claims to be migrated onto any new scheme (rather than adding another new scheme on top of the existing systems). Ideas included making the claimant exempt, rather than the accommodation, and implementing a system with either a cap on payments, or several bands based on Local Housing Allowance (LHA) plus a percentage to allow for increased housing needs. Many people suggested a role for Adult Social Care or Supporting People (SP) in determining which band claimants should be allocated to. More radical suggestions included moving administration of benefits for vulnerable individuals to a centralised team, or regionalised teams, to achieve economies of scale and increased expertise, or that only RSLs should provide supported accommodation as they are already subject to regulation.

The current system is complex and probably not amenable to minor modifications. There are, however, some potential short-term actions that may be worth exploring further. Suggestions included a national, standard pro-forma for presenting rent and service charges to simplify administration, and clearer definitions of the terms 'unreasonably high' and 'minimal care, support and supervision'.

1 Introduction

This chapter briefly summarises the history of the different Housing Benefit (HB) rules that can apply to different claims and claimants, describes the existing rules relating to ‘exempt accommodation’ claims, and outlines the need for research and the objectives of the work reported here.

1.1 A brief history of Housing Benefit

This section is intended to set the context for the remainder of the report; it does not cover all aspects of the regulations applicable to HB, or all HB schemes, but gives a general introduction to provide some background to the research reported.

There are three central pillars to HB:

- the means-test (looking at income and capital);
- liability (looking at how much someone has to pay in rent and what it is reasonable for HB to cover);
- occupation (making sure that the claimant is actually living in the home).

Local authorities (LAs) are responsible for assessing and paying claims for HB, but can reclaim a large proportion of the cost of HB payments from the Department for Work and Pensions (DWP) through subsidy.

The rules relating to HB are complex and have changed over time. Several different methods of working out the eligible rent apply, depending on a claimant’s circumstances, on their tenancy type, and when their claim for HB was made. We can identify three high level tenancy types:

- LA tenants;
- Registered Social Landlord (RSL) tenants;
- Private Rented Sector (PRS) tenants: landlords including Housing Associations that are not RSLs, and ‘for-profit’ landlords.

The maximum eligible rent for these tenancy types for HB purposes is determined in different ways. For LA tenants the eligible rent is based on the contractual rent¹ less any ineligible service charges. For RSL tenants, it is based on the contractual rent unless the tenant is ‘overhoused’² or the rent is considered unreasonably high by the LA. For PRS tenants, until 1996, the rent determined by the Rent Officer Determination (ROD) set the level of subsidy that the LA could claim on their HB expenditure. LAs could pay HB above the ROD but could not claim the additional amount in subsidy.

1.1.1 The ‘new scheme’

On 2 January 1996 the assessment of HB for deregulated tenancies changed (to what are sometimes call the ‘new scheme rules’), with the introduction of the **maximum rent**, along with a maximum 50 per cent top-up. This top-up was abandoned (but not for existing claimants) on 6 October 1997.

¹ i.e. the rent that the tenant is contractually obliged to pay.

² Overhoused refers to having more rooms than considered necessary.

The maximum rent was then the lower of the following RODs:

- the property specific rent (now known as claim-related rent);
- the local reference rent (which looks at the market rate for appropriately sized accommodation in the area);
- the single room rent where applicable (this applies to most single people under the age of 25, and is intended to cover the cost of living in shared accommodation).

This maximum rent determined the maximum HB that could be paid (subject to means testing) and was binding on LAs. However, some claimants were exempt from the maximum rent definition introduced in 1996:

- Existing claims: those people (referred to as ‘exempt claimants’ in this report) who claimed prior to the change in the rules continue to have their HB assessed under the less restrictive ‘old scheme’ rules for as long as they live at the same address. There is protection to cover some short breaks in entitlement and to allow this protection to be ‘inherited’ (eg following bereavement). If the claimant moves to a different address they move onto the current applicable scheme rules.
- ‘exempt accommodation’ claims (see below): the subject of this research; prompted by the response of the Social Security Advisory Committee (SSAC) to the introduction of the new scheme rules and applied to certain awards for HB made both before and since January 1996 (see Section 1.1.3).

1.1.2 Local Housing Allowance

On 7 April 2008 a new assessment method for HB was introduced which applies to most PRS tenants. PRS tenants making new claims, or existing claimants who move home, have their HB claim assessed under the Local Housing Allowance (LHA) scheme. Policy aims behind LHA included:

- increased housing choice for claimants;
- improved financial inclusion;
- increased transparency of maximum rents;
- reduced processing times for relevant HB claims;
- an end to the individual-based approach to making decisions about rents.

LHA is based on a flat rate which depends on where the claimant lives (the broad rental market area (BRMA)) and size of accommodation needed by the claimant and their household³. However, for ‘exempt accommodation’ claims, the pre-1996 old scheme rules for deciding subsidy and eligible rent remain in place.

1.1.3 ‘exempt accommodation’ claims

When the new scheme rules were introduced in 1996, the SSAC was unhappy about their potential impact on the provision of supported accommodation. The SSAC was concerned that the local reference rent would have been used to restrict the rent of social and voluntary supported accommodation making it unviable.

³ The maximum that is paid is the lower of the relevant LHA rate and the contractual rent and £15 per week.

The special treatment of ‘exempt accommodation’ dwellings was included to enable HB to meet the additional costs of providing this type of specialist housing. In the run up to the launch of the Supporting People (SP) programme in 2003/04, there were a larger number of claims for HB in respect of housing-related support under the Transitional Housing Benefit (THB) Regulations. These regulations had been put in place following a judicial review in 1997 around the appropriateness of paying for this support from HB⁴, and were designed to allow HB to continue to meet housing-related support costs until the SP programme was implemented. The level of these claims and awards (which were adjudicated by HB Officers) varied from authority to authority. Initial SP funding allocations to authorities were set in exact proportion to the levels of residual funding from other relevant grant schemes (including those paid by the Housing Corporation and Probation Service) as well as the annualised level of HB being paid (for which equivalent provision was required to be made under the new grant arrangements).

In 2003, support charges were stripped out of HB, when they became the responsibility of SP⁵. SP began on 1 April 2003, and brought together seven housing-related funding streams from across central government. It is administered through top-tier authorities, whereas HB is administered through lower-tier authorities, who also have many of the responsibilities around housing and homelessness (although in unitary authorities this is effectively the same LA).

Until April 2009, SP funding was ring-fenced; after that it was paid to LAs as a non-ring-fenced, named grant, and since April 2010 it has been included as a non-ring-fenced grant paid as part of the Area Based Grant. The programme is estimated to help around one million people at any one time, including approximately⁶:

- 815,000 older people with support needs;
- 39,000 single homeless people;
- 36,000 people with mental health problems;
- 10,000 women at risk of domestic violence.

1.2 ‘Exempt accommodation’ claims – the rules

The HB regulations relating to ‘exempt accommodation’ claims have not changed since they were introduced, although various Commissioner and Upper Tribunal Decisions have helped to clarify how they are interpreted. Whether a claim is treated as an ‘exempt accommodation’ claim and how much the maximum rent should be, is determined to varying extents by:

- the landlord and the type of services they provide;
- the claimant and their needs, e.g. are they a vulnerable individual.

1.2.1 The landlord

The two criteria that the landlord must meet relate to ‘not-for-profit’ status, and the provision of care, support or supervision. HB entitlement for an ‘exempt accommodation’ claim may be higher than for mainstream accommodation in many instances. To prevent private landlords from making

⁴ A Judicial Review in 1997 said that HB should not pay for support services see <http://www.publications.parliament.uk/pa/com200809/cmselect/cmcomloc/649/649we41.htm>

⁵ These comments apply to SP as it operates in England; SP in Wales, Scotland and Northern Ireland operate differently.

⁶ See <http://www.communities.gov.uk/housing/supportandadaptations/supportingpeople/>

unreasonable profits from this, the ‘accommodation provider’ has to fall into a ‘not-for-profit’ category, which means:

- county councils (in England only);
- housing associations (whether RSLs or not);
- registered charities;
- voluntary organisations.

In addition, HB claims for accommodation in resettlement places provided by people to whom the Secretary of State has given assistance by way of grant, in line with Section 30 of the Jobseeker’s Act 1995 (grants for resettlement places) are ‘exempt accommodation’.

The HB Regulations refer to ‘accommodation provider’, but there has been some debate about what this actually means. It should be interpreted as the landlord to whom the tenant is ultimately liable to pay rent. It does not include:

- a managing agent;
- an organisation responsible for brokering or facilitating the housing or care arrangements.

For a claim to be treated as an ‘exempt accommodation’ claim, the accommodation provider has to provide care, support or supervision to the tenant. The care can be provided on behalf of the accommodation provider by a third party, rather than being provided directly. A landlord involved in co-ordinating the care with social services does not qualify – in this situation it is social services who are seen as providing the care

There is no clear definition of care, support or supervision, and there is no specification about how much care, support or supervision needs to be provided. It has since been decided by the Upper Tribunal that it must be more than minimal. There is no requirement that all care, support and supervision be provided by the landlord. Increasingly, accommodation providers state that they are providing some level of housing-related support (above that of mainstream providers), while social services provide the tenant with the bulk of their care – this meets the requirements of ‘exempt accommodation’.

HB will not cover the cost of the care, support or supervision. This cost may be covered by SP, but there is no requirement for SP funding to be in place for a claim to be treated as an ‘exempt accommodation’ claim. Although there is no requirement in the regulations, it has since been decided by an Upper Tribunal that the tenant should actually **need** the care, support or supervision that is provided although in many cases there is no assessment by social services – simply the accommodation provider deciding that the tenant needs this support. However, the care, support or supervision must be **provided** – it is not sufficient that it is available if the tenant needs it.

1.2.2 The claimant

Applying a rent restriction to ‘exempt accommodation’ claim is made more difficult where the claimant is in one of the vulnerable groups.

Vulnerable tenants are those:

- 60 and over⁷;
- incapable of work;
- with a child.

⁷ This age trigger is due to increase in line with the increase in State Pension age (SPA).

The incapable of work category is determined by receipt of relevant benefits or a decision made by DWP, but there is an exception for pregnancy. In practice, 'exempt accommodation' claimants may fall into one or more of the following categories:

- ex-offenders;
- frail elderly;
- homeless families and older people with support needs;
- people with drug-/alcohol-related problems;
- people with HIV/AIDS;
- people with learning difficulties;
- people with mental health problems;
- people with physical difficulties;
- refugees;
- rough sleepers;
- single homeless people;
- travellers;
- women at risk of domestic violence;
- young people at risk of leaving care;
- under 18s pregnant or who have children.

1.2.3 Determining the eligible rent for an 'exempt accommodation' claim

For 'exempt accommodation' provided by RSLs, a Rent Officer referral only needs to be made if the accommodation is too big or if the rent is considered excessive. For the remainder, a Rent Officer referral is needed. The 'exempt' means that although a ROD is required, it is exempt from the rules that require the LA to restrict the maximum rent to this level. For vulnerable tenants the rent can only be restricted if the claimant could reasonably be expected to move, and suitable alternative accommodation at a lower rent is available.

If the claimant is vulnerable and it is reasonable to expect them to move, or if they are not vulnerable, the rent can be restricted to the rent level of suitable alternative accommodation in the area. For vulnerable tenants this accommodation must be **available**.

Once a claim is accepted as an 'exempt accommodation' claim, rent increases may be higher than for mainstream accommodation. The LA can restrict the level of the increase to the level of increases for similar accommodation in the area – if it can identify similar accommodation.

1.2.4 Subsidy

Where an LA pays above the ROD for an 'exempt accommodation' claim, the LA only receives 60 per cent of this extra expenditure back from DWP in subsidy – the remaining 40 per cent must be funded by the LA. Where the tenant is not in a vulnerable group no subsidy is paid on expenditure above the ROD. This should mean that LAs fully consider options for restriction in appropriate cases, which would not necessarily be the case if they were fully funded for this expenditure.

1.3 The need for research

There are a number of reasons why research is required. The definition of ‘exempt accommodation’ claims relies on the landlord being responsible for providing care, support or supervision to the tenant. The current requirement that this provision should be linked to the landlord does not sit well with wider Government policy on independent living. The Government’s Independent Living Strategy⁸ states that independent living includes having choice and control over the assistance and/or equipment that disabled people need to go about their daily lives. To support this, the strategy includes the promotion of increased personalisation of support, for example through individual budgets and direct payments. This allows, for example, individuals to recruit and employ a personal assistant directly, should they have funding, for example through the Independent Living Fund.

Where there is suitable alternative accommodation, rents may be restricted by reference to the costs of the alternative accommodation in some circumstances. Local authorities can also restrict rents where insufficient justification is provided for charges, for example if a cleaning charge for communal areas was included but there was not evidence that this cleaning was in place. (In some instances, LAs will negotiate with the landlord and reach agreement, rather than restricting the rent.) Where an appeal is received against the rent restriction, this can involve the LA in considerable additional work.

As noted above, the LA does not receive full subsidy in respect of ‘exempt accommodation’ claims. There may, therefore, be some incentive for LAs not to treat all ‘exempt accommodation’ claims as such in order to avoid losing subsidy.

The complexity of interpreting the HB Regulations following a large number of Commissioner and Upper Tribunal decisions, makes deciding whether an individual claim should be treated as ‘exempt accommodation’ complex. Prior to this research, it was believed that some claimants in genuine need might be falling through the gaps and not receiving the level of help with their housing costs that might be appropriate.

Expenditure on ‘exempt accommodation’ claims has increased substantially in some LAs over recent years. Where there is a lack of suitable, alternative accommodation which the claimant could move to (or where it is not considered reasonable for the claimant to move because of their vulnerability) there is no effective cap on the claimant’s rent. It is generally believed that the system is open to exploitation, particularly where profit-making organisations use a charitable vehicle to gain exempt status and established groups look to maximise entitlement to benefit.

The total costs of ‘exempt accommodation’ claims over and above RODs has increased further since the introduction of SP in 2003⁹. Some concern has been expressed that recent pressures on SP budgets have reduced the funds available for the support, care and supervision elements of an individual’s needs, and that some landlords may have sought to make up for losses of SP funding by increasing rents, or by reclassifying some support elements as housing-related costs so that they can be covered by HB. The costs of providing support, care or supervision cannot be included in an HB claim, but there is some concern that the boundaries between, for example, housing-related support and individual care and support are becoming blurred, and such costs are creeping into HB as service charges.

⁸ *Independent Living – A cross-government strategy about independent living for disabled people.* Office for Disability Issues. February 2008.

⁹ Analysis presented later in this report shows a continuing upward trajectory since SP was introduced.

Prior to undertaking this research, the extent of these issues was not understood. The necessary data to understand the differences in costs between LAs and the reasons for this is not available from any of DWP's regular data sources. This research aims to examine the costs of 'exempt accommodation', how and why the rent charged varies from mainstream accommodation and explore why there is variation between LAs.

It is recognised that certain individuals may have higher accommodation costs arising out of their personal housing needs. DWP is currently carrying out a review of 'exempt accommodation', of which this research forms one element, to ensure that HB appropriately recognises those reasonable housing costs associated with providing specialist housing for certain vulnerable customers. DWP aims to create a transparent, fair and consistent approach to housing support for these tenants, coherent with the policies of other departments (e.g. Department of Health and Department for Communities and Local Government).

1.4 The research objectives

The overall objective of this research is to assess the extent and costs of supported and 'exempt accommodation' within LAs. The specific objectives are, as far as possible, to:

- find out how many people are living in dwellings that come within the definition of 'exempt accommodation' and other types of supported accommodation, which does not get classified under the exempt banner;
- find out how much is spent on 'exempt accommodation' claims in total and per claim, how this varies across the country and for different types of accommodation (hostel, sheltered housing, etc.);
- understand why spending is rising:
 - Has there been an increase in cases or just cost per case?
 - What is the nature of the accommodation and has this changed?
 - Which providers tend to be the most expensive?
 - Why is the accommodation more expensive than mainstream accommodation – what elements of the rent/service charge are different? Why are they more expensive, to what degree and how is this justified?
 - What type and level of care and/or support is most commonly provided and has this changed?
 - Where did claimants live before – has there been a large inflow from one particular type of accommodation, e.g. care homes?
 - What are the characteristics of the different claimants and have these changed over time?
- understand differences in spending between LAs and why it has not risen for some LAs. For example is 'exempt accommodation' provided by housing associations being treated as standard housing association expenditure in their subsidy returns?¹⁰;
- understand the increased use of private sector housing provision through a new 'private voluntary sector';

¹⁰ 'Exempt accommodation' provided by RSLs should be assessed differently from mainstream or standard accommodation provided by RSLs, but in practice may be assessed in the same way.

- find out how many people needing care or support have more expensive housing costs that are not currently covered by the definition of ‘exempt accommodation’;
- understand the ground level relationship between ‘exempt accommodation’ claims and SP funding. How many people living in ‘exempt accommodation’ also get support through SP teams and conversely, how many people being supported by SP receive HB, but in relation to non-‘exempt accommodation’?

It was recognised that it may be difficult to obtain the data to fully answer all these questions.

1.5 Structure of this report

The report is structured as follows:

- Chapter 2 describes the methodology;
- Chapter 3 presents findings on who lives in ‘exempt accommodation’, the nature of the accommodation and the type of support provided to tenants;
- Chapter 4 presents our analysis of the costs of ‘exempt’ and supported accommodation;
- Chapter 5 estimates the total amount spent on ‘exempt accommodation’;
- Chapter 6 discusses the way forward, outlining the concerns of interviewees relating to the current system and their suggestions for improvements;
- Chapter 7 presents our conclusions.

2 Methodology

In outline, our methodology comprised the following stages:

- a review of Housing Benefit (HB) regulations and guidance relating to ‘exempt accommodation’;
- organising an expert workshop;
- fieldwork at 21 local authorities (LAs);
- interviews with accommodation providers and other stakeholders.

We began by reviewing HB regulations and guidance on ‘exempt accommodation’. We then organised a workshop attended by a range of stakeholders to discuss issues surrounding supported and ‘exempt accommodation’ and to inform our research. This provided input to the design of the research.

We selected a sample of LAs to participate in our research. Appendix A outlines the sampling strategy used, which was random selection from a stratified sampling frame designed to ensure our sample was representative of caseload size and composition, with regard to the proportion of Private Rented Sector (PRS) claims, and the proportion of claimants of working or pensionable age. Note that participation in our research was voluntary, and several LAs declined to participate. It is possible that those who agreed to participate were more likely to have a higher number of ‘exempt accommodation’ cases, or to have higher rent costs for these claims. Some LAs who declined to participate told us that they had no ‘exempt accommodation’ claims. This may have introduced some bias to our sample, as discussed in Appendix D.

We piloted our approach at two LAs, before proceeding with the remainder of the fieldwork. Within each LA visited we discussed issues surrounding supported and ‘exempt accommodation’. Discussions were with either the benefits manager or a senior benefits officer with responsibility for such claims, or with both. The topic guide used for these discussions is included at Appendix B. Fieldwork was carried out between December 2009 and March 2010.

We spent much of our time at each fieldwork visit collecting information about HB claims for ‘exempt’ and supported accommodation. Where possible, we obtained two lists: one of active ‘exempt accommodation’ claims, and one for active claims for supported accommodation. We then sampled claims at random from these lists (using Excel’s random number generator function). However, in many cases it was not possible to obtain such lists. Sometimes LAs were able to produce lists of ‘old scheme’ cases as a proxy for ‘exempt accommodation’. Where a sampled case proved not to be exempt but simply a claimant who had not moved address for some considerable time, this was discarded. We found that most LAs did not or could not identify claims in supported accommodation. There is no requirement for systems to include a flag for support, as this is not paid for by HB, and so it was not possible to run queries to return lists of claims that were for supported accommodation not being treated as exempt. In some cases, benefits staff could identify some supported schemes, so that limited lists could be compiled based on addresses. The information collected is described at Appendix B. At no stage did we collect or record personal information such as names or National Insurance numbers.

During fieldwork information was recorded in an Access database. Data on subsidy were supplied by the Department for Work and Pensions (DWP) in Excel workbook format. Both Access and Excel were used to analyse quantitative data.

We also interviewed accommodation providers, both during fieldwork visits and separately. The topic guide used as a basis for discussion is included at Appendix B. Larger accommodation providers also discussed their rent-setting models with us.

3 Claimants, accommodation and support

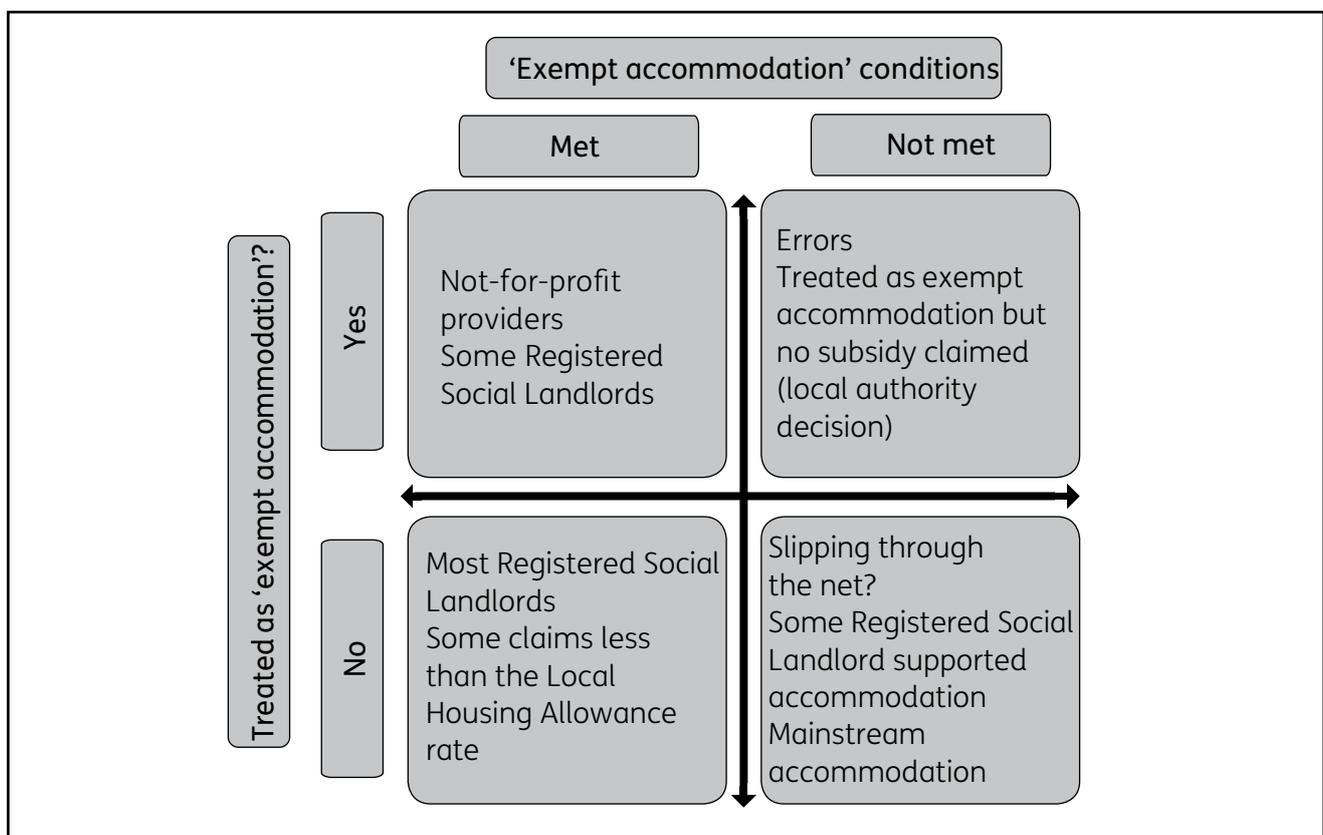
In this chapter we present the findings of this research focusing on claimants, accommodation and support.

3.1 Supported and ‘exempt accommodation’

The benefits managers we spoke to defined supported accommodation as accommodation where care or support was provided, and considered ‘exempt accommodation’ to be a subset of supported accommodation. One interviewee noted that there was no formal definition of supported accommodation, which can lead to the two terms (supported and exempt) being used interchangeably.

Figure 3.1 shows the types of claims classified by whether they meet the conditions currently required to be treated as ‘exempt accommodation’, and whether they are in fact treated as such, that is whether claims are referred to the Rent Officer where appropriate and the appropriate subsidy claimed.

Figure 3.1 Categorising claims for ‘exempt accommodation’



14 Claimants, accommodation and support

In the top left-hand box, we would expect to see all Registered Social Landlord (RSL) claims that meet ‘exempt accommodation’ conditions. However, because there is usually no obligation to refer rents for a Rent Officer Determination (ROD) where the accommodation provider is an RSL, it appears that many local authorities (LAs) do not explicitly treat these as exempt.

‘RSLs do count in theory as exempt, but they aren’t included in subsidy returns or referred to the Rent Officer unless the charges are very high.’

(LA benefits manager)

‘If an RSL has excessively high rents then we will look more closely at them, but in general an RSL that is also providing care support or supervision is not treated explicitly as exempt, but just like any other RSL.’

(LA benefits manager)

It is also possible that some non-RSL housing associations fall into this category – if they are treated as RSLs and therefore, not referred. We found two cases (see Table 5.2) where we could not verify whether the accommodation provider (a housing association) was an RSL, although in one case LA staff appeared to be confident that it was. We were also told that in the past few years there was a specific issue with a particular housing association providing supported accommodation, which was allegedly being treated as an RSL by several LAs, when it was not.

Note also that some claims where the conditions for ‘exempt accommodation’ are met are not treated as such because the rent is below the Local Housing Allowance (LHA) rate for the area.

‘The rent level of most accommodation [here] which may be technically exempt actually falls beneath the LHA rate, and is therefore not referred to the Rent Officer and formally identified or managed as ‘exempt accommodation’.’

(LA benefits manager)

Note that claims should not be treated in this way. Where the conditions for ‘exempt accommodation’ are met, and the accommodation provider is not an RSL, the rent should be referred to the Rent Officer, regardless of whether it is higher or lower than the relevant LHA rate.

In the top right-hand box of Figure 3.1, claims that do not meet ‘exempt accommodation’ conditions but are being treated as such on their systems, are effectively errors. We note, however, that there is a sub-group of such claims which are not errors as such, but where the LA has made a conscious decision to pay above the appropriate rate. For example, if the landlord is not a charity but is providing care, support or supervision, and the claimant is vulnerable, the LA may choose to pay the full rent rather than LHA. Such a claim should not be recorded as an ‘exempt accommodation’ claim, but in practice this mechanism provides LAs with a straightforward way of handling this sort of situation. The excess rent should not be paid for out of subsidy claims, so LAs may get an ROD for a non-‘exempt’ claim in order to ensure that they pay for the excess from their own budgets, rather than claiming from DWP. This is not strictly correct, since the ROD and the LHA will not be the same.

The bottom right-hand box of Figure 3.1 clearly covers most mainstream accommodation. Also included here are some claims in RSL-provided accommodation where some support is provided, but not by the landlord. In addition, this box includes claimants who may be ‘slipping through the net’¹¹. This is considered later.

¹¹ People who need care or support and have more expensive housing costs who are not currently covered by the definition of ‘exempt accommodation’.

3.2 The nature of ‘exempt accommodation’

The types of accommodation classed as supported are many and varied. For the LAs we visited, much of the accommodation the LA described as ‘supported’ (but not ‘exempt’) was sheltered accommodation for older people, comprising individual housing units (e.g. bungalows or flats) with additional communal areas¹².

Where benefits managers described the properties let by providers of ‘exempt accommodation’, these were typically larger detached properties with gardens, where residents each have their own bedroom and bathroom, with other rooms and facilities shared. Often these properties will include one or more rooms for carers, when round the clock care is provided. For residents with learning disabilities in particular, interviewees noted that the location of such properties was often important, for example, close to town centres, but not too close, and in relatively quiet neighbourhoods.

Benefits managers also mentioned hostel type accommodation, bedsits and individual houses for homeless families, and in some cases individual houses for single people. Some benefits managers mentioned purpose built accommodation, sometimes flats with communal areas.

Most of our interviewees did not believe that the balance of accommodation providers in their area had altered significantly in recent years. Where interviewees said that the balance was changing, reasons included:

- decrease in hostel-style provision;
- expansion of one or two providers;
- increase in provision for the physically disabled;
- non-RSL provision for the elderly with ‘hotel style facilities’¹³.

Around half of LAs said that the number of schemes or residential units was increasing. Of the remainder, most thought that the number of cases was essentially static, while one LA noted a modest decline as the result of the closure of one scheme, and a small number were not sure¹⁴.

3.3 Who lives in ‘exempt accommodation’?

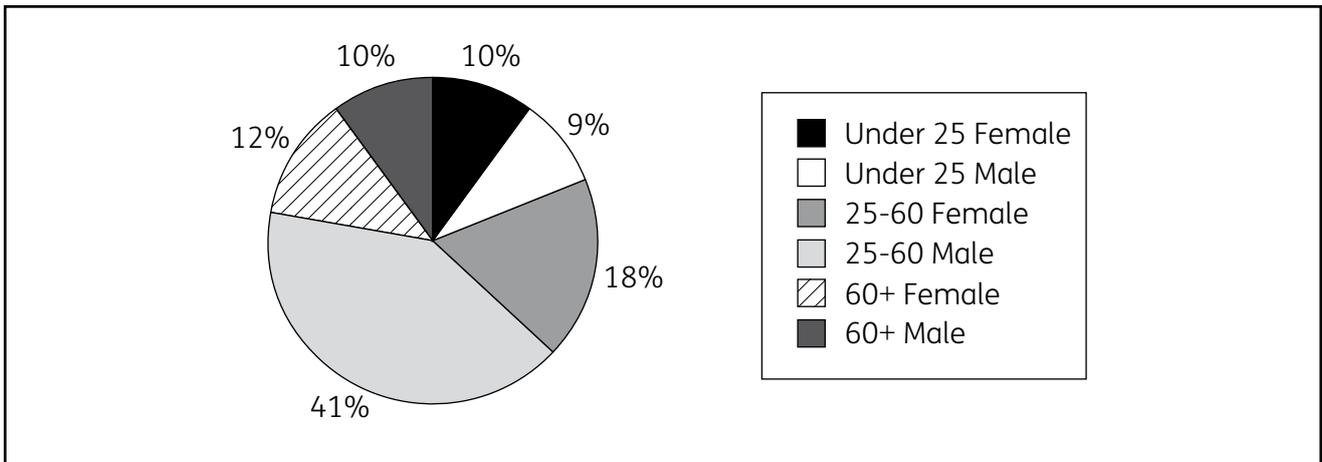
The information presented here relates only to the claims we sampled during fieldwork; for further detail see Appendix C. We collected data relating to 287 individual claimants in total. We have not weighted the data in any way, and would note that RSL-provided supported accommodation is almost certainly under-represented in our sample. As RSL-provided sheltered accommodation for older people appears to be more common in the north of England, Scotland and Wales, these areas may be slightly under-represented.

¹² Note that such accommodation is under-represented in our sample, owing to difficulties identifying claims relating to such accommodation on assessment software systems, as explained in Section 3.3.

¹³ These were described as housing associations, but not registered providers of social housing.

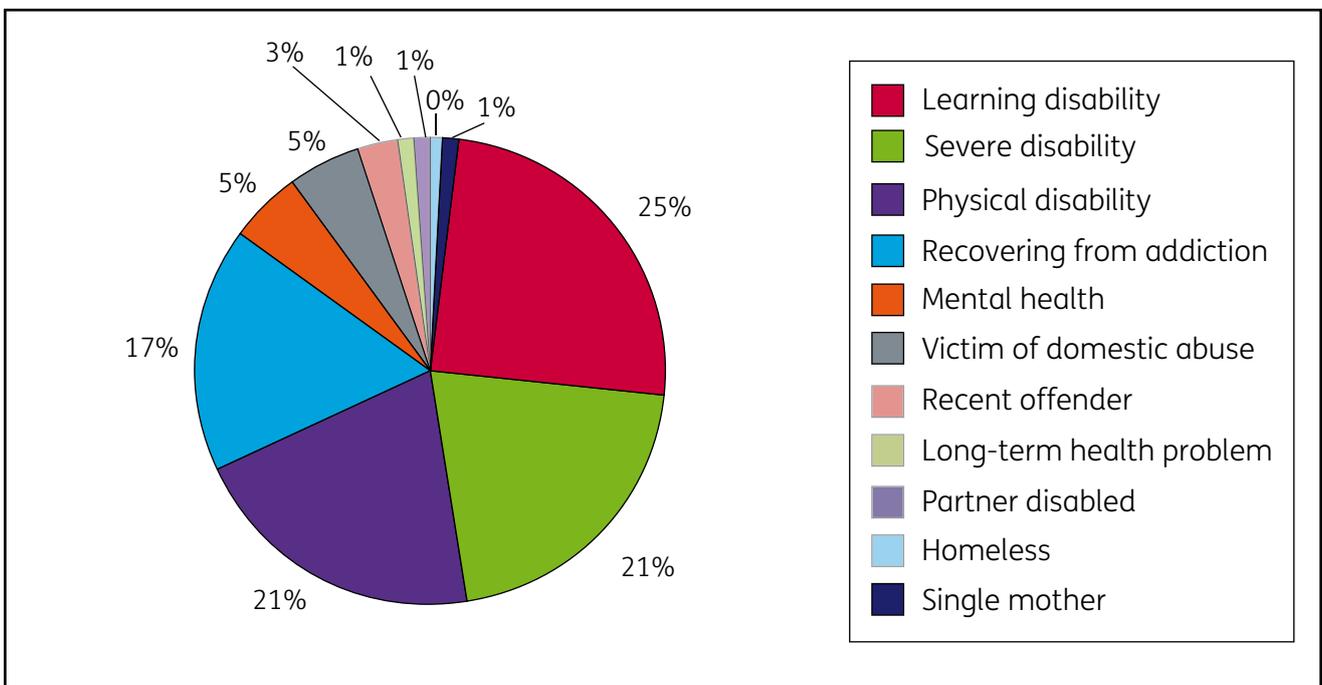
¹⁴ In one case this was because the LA could not clearly identify the cases that should technically be treated as exempt.

Figure 3.2 Breakdown of claimants in sample by age and gender



Men represented more than half of the claimants in our sample. Looking at the age profile of our sample (Figure 3.2) shows that the 25 to 59 age band includes twice as many men as women. Looking at the profile of our sample by needs (Figure 3.3) shows that more than two-thirds of those in our sample have long-term, ongoing needs. The largest group in our sample are those with a learning disability, then those with a severe disability (not specified as either physical or learning), followed by the physically disabled. Further analysis of the 17 per cent of our sample recovering from addiction shows that they are almost all male, which may help to explain the larger numbers of males in our sample, and in the 25 to 59 age group.

Figure 3.3 Needs of claimants in our sample, where known



Claimants living in ‘exempt accommodation’ therefore fall into many of the categories outlined in Section 1.2.2. Almost all LAs mentioned claimants with learning disabilities as a key group – which is consistent with the profile of our sample of cases – with many also mentioning those with mental health issues¹⁵. Other claimant groups mentioned by a large number of those interviewed included those with, or recovering from, alcohol or drug dependence, and women and children fleeing domestic violence. Other groups mentioned included the homeless, ex-offenders, older people, vulnerable young people, the physically disabled and teenage mothers.

Our observations of individual case records support the view that different claimant groups can have quite different needs in terms of the **time** for which they require supported housing. For example, women and children fleeing domestic violence may only require emergency accommodation for a period of a few weeks, while those with learning disabilities are likely to require ongoing support for life.

3.4 How many people live in ‘exempt accommodation’?

We visited a total of 21 LAs, across England, Wales and Scotland, and examined the information they held on claimants living in ‘exempt accommodation’ and other supported accommodation that they did not classify as exempt. Where possible we collected a random sample of ten to 20 exempt or supported claims from each authority for more detailed analysis. We collected fewer where the total number of claimants in ‘exempt accommodation’ was less than 25. The claim history was collected as fully as systems allowed, so in some cases individual claim data was collected going back to 2002/03. For supported accommodation not treated as exempt, random samples were rarely possible as such claims could not be identified from systems, but relied instead on local knowledge of the addresses of such schemes.

Data is presented in an anonymised form throughout, so LAs are identified only by an ID number. Table 3.1 shows the claims collected for each year in terms of the total number of claims, the number that we concluded had met the criteria for ‘exempt accommodation’ and the number for which we saw evidence for a Rent Officer referral.

Table 3.1 Sample of claims collected across all LAs visited

| Year | Total number of claims examined | Number of claims examined that met exempt criteria | Number of examined claims referred to Rent Officer |
|---------|---------------------------------|--|--|
| 2002/03 | 26 | 18 | 14 |
| 2003/04 | 30 | 21 | 22 |
| 2004/05 | 34 | 26 | 25 |
| 2005/06 | 39 | 27 | 26 |
| 2006/07 | 58 | 43 | 42 |
| 2007/08 | 98 | 67 | 68 |
| 2008/09 | 180 | 125 | 124 |
| 2009/10 | 323 | 238 | 214 |

¹⁵ Note that many LA benefit managers noted that some people with learning disabilities may also experience mental health problems, and fall into both categories.

It should be noted that the same claimant can have more than one claim registered in any given year, as we captured each relevant change of circumstances (change of address, Housing Benefit (HB) paid, or change in rent) as a separate entry in our database; each entry appears as a 'claim' in Table 3.1.

We made the following key observations:

- As noted earlier (see Section 3.1) most LAs do not, as a rule, classify accommodation provided by RSLs as exempt, even where considerable amounts of care, support or supervision are provided by the landlord; nor do they generally refer them to the Rent Officer. These dwellings are not normally included in any count of 'exempt accommodation'. In addition many LAs have little idea how much of the accommodation provided by RSLs in their area includes a care, support or supervision element.
- The data capture systems used by LAs do not, in general, provide tools to allow the identification of claimants living in 'exempt accommodation' because they are vulnerable and have a need for care, support or supervision (possibly a growing number), as opposed to those who have simply been claiming HB at the same address since before 1996 (a declining number). As these cases cannot be distinguished automatically, most LAs did not have time to separate them out manually for us in advance of our visit. This means that most counts of claimants are an estimate provided by the LA, based on their own estimates of how many of the overall 'old scheme' claimants fall into the category of 'exempt accommodation' (as they are being provided with care, support and supervision by their landlord) using the benefit manager's local knowledge. In some cases the LAs did not know how many exempt claims they had. This was because of recent merging of LAs, where systems had not yet been integrated. In these cases the LA did not have sufficient resources available to determine the figure for the purposes of our study.

Table 3.2 shows the best estimate data captured for the LAs visited. The percentage columns show what proportion of all HB claims in the area comes from:

- claimants living in 'exempt accommodation'; and
- claimants living in supported accommodation provided by RSLs which generally meets the requirements for exempt, but is not usually treated as such by LAs.

We found very few examples of providers of supported accommodation, other than RSLs and other landlords eligible to be 'exempt accommodation' providers.

The table shows that even where we visited and had access to all the data available at an LA, there were still three authorities where we could not obtain estimates of how many claimants in their area were living in exempt or supported accommodation. Almost half of authorities were unable to provide any estimate of how many people live in 'exempt accommodation' provided by RSLs in their area, and of those that did provide this information, most of the figures are rough estimates as these numbers are not captured systematically. Note that LAs have no means of identifying supported accommodation that is not exempt, and we were advised of only one example of a Private Rented Sector (PRS) 'for-profit' provider of supported accommodation.

The table also shows that those living in 'exempt accommodation' represent a very small proportion of all HB recipients, although they are often some of the most vulnerable. From the available data there appears to be no correlation between the numbers in non-RSL 'exempt accommodation' and those HB claimants in RSL-provided supported or 'exempt accommodation'. This will depend on locally available provision and the needs of claimants, which both vary widely across authorities.

Table 3.2 Numbers of claimants in exempt and supported accommodation

| LA | Total number of HB claimants in 'exempt accommodation' excluding those in RSLs | Total number in supported accommodation provided by RSLs | Percentage of HB claimants in 'exempt accommodation' excluding those in RSLs % | Percentage in supported accommodation provided by RSLs % | Percentage of HB claimants in supported accommodation provided by RSLs or 'exempt accommodation' % |
|-------|--|--|--|--|--|
| LA 1 | 180 | 1,680 | 1.7 | 15.5 | 17.2 |
| LA 2 | 40 | 726 | 0.7 | 13.3 | 14.1 |
| LA 3 | 22 | 830 | 0.6 | 21.7 | 22.3 |
| LA 4 | 160 | 100 | 2.3 | 1.5 | 3.8 |
| LA 5 | 156 | 400 | 1.7 | 4.4 | 6.1 |
| LA 6 | 72 | N/A | 0.7 | N/A | N/A |
| LA 7 | N/A | N/A | N/A | N/A | N/A |
| LA 8 | N/A | N/A | N/A | N/A | N/A |
| LA 9 | 100 | 400 | 0.8 | 3.2 | 4.0 |
| LA 10 | 73 | N/A | 1.2 | N/A | N/A |
| LA 12 | 70 | 250 | 1.0 | 3.7 | 4.8 |
| LA 13 | 49 | 0 | 0.8 | 0.0 | 0.8 |
| LA 14 | 10 | N/A | 0.0 | N/A | N/A |
| LA 17 | 903 | N/A | 2.3 | N/A | N/A |
| LA 19 | N/A | N/A | N/A | N/A | N/A |
| LA 20 | 61 | 104 | 0.9 | 1.5 | 2.4 |
| LA 21 | 53 | N/A | 0.4 | N/A | N/A |
| LA 24 | 14 | 85 | 0.2 | 1.2 | 1.4 |
| LA 25 | 25 | 0 | 0.4 | 0.0 | 0.4 |
| LA 26 | 90 | N/A | 0.4 | N/A | N/A |
| LA 27 | 132 | 200 | 1.0 | 1.4 | 2.4 |

N/A = Not available.

Using a simple mean and multiplying by the total number of LAs gives an estimated total of just over 40,000 people living in 'exempt accommodation' not provided by RSLs across England, Wales and Scotland. Due to the small sample size and large variability within the sample, there is considerable uncertainty around this estimate.

We know that our sample is biased in favour of LAs with some 'exempt accommodation' claims – 12 LAs of the 33 in total we approached, chose not to take part in the research, with some stating they had very few or no 'exempt accommodation' claims in their area. We have looked at this potential bias (see Appendix C). Four of the non-participants claimed no subsidy above ROD for both 2008/09 and 2007/08, and also claimed to have no 'exempt accommodation' cases. Of these four, one is a large, urban LA with a high claim load so this may be an error of some kind. Two others claimed less than £1,000 for the year 2008/09 and a similar or lower amount in 2007/08, which could amount to less than a single claim across the whole year. If we assume that five out of every 33 LAs (approximately 15 per cent) have no 'exempt accommodation' claims then we estimate that the actual number of 'exempt accommodation' claims excluding those in RSL-provided

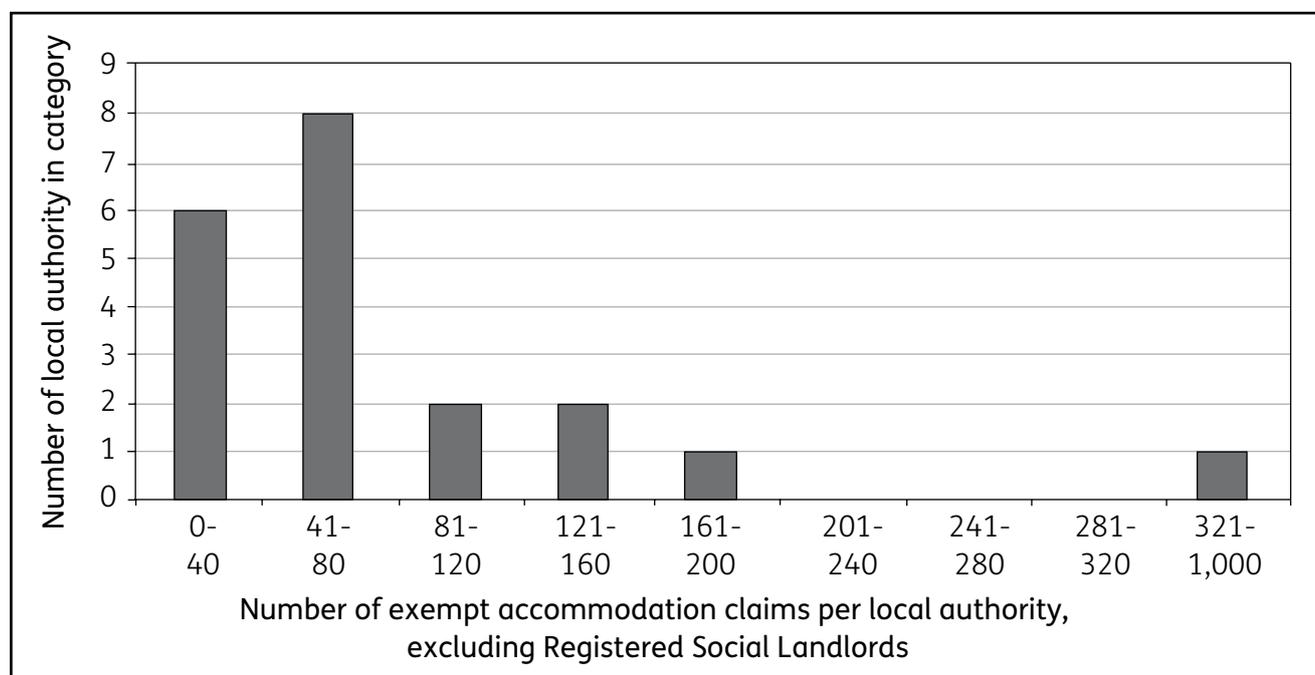
accommodation may be less than 40,000 (again, the uncertainty associated with this estimate is relatively large).

We considered refining our estimate by weighting the sample according to the original categories used to select our random sample of LAs (see Appendix A). However, the samples in each category are too small to allow for any meaningful estimates to be obtained.

Alternative methods of weighting the sample could have been according to the LA Office for National Statistics (ONS) classifications or by type (i.e. Metropolitan, Unitary, etc.), but because the sample of LAs was not chosen on this basis, it did not cut across all the categories so weighting in these ways was not possible.

From these calculations, we would, therefore, estimate the total number of non-RSL ‘exempt accommodation’ claimants in England Scotland and Wales as being in the region of 40,000. As can be seen from the sample LAs these claimants are not evenly distributed across the country – some LAs have large numbers and some have none or very few (see Figure 3.4). The median number of ‘exempt accommodation’ claims in our sample is 65 with an interquartile range of 62.5. This variation may explain some of the differences in reports of how onerous LAs find dealing with ‘exempt accommodation’ claims. We examine reasons for this variation in Chapter 4. It should also be noted that we have taken the estimated numbers of ‘exempt accommodation’ claimants provided by LAs effectively at face value. We do not have a separate, independent way to verify the accuracy of these figures.

Figure 3.4 Variation in total numbers of ‘exempt accommodation’ claims, excluding those from RSLs, in sampled LAs



Using the same method as above, but applying it to the far less well understood data on RSL-provided ‘exempt accommodation’, we have estimated that the total number of people living in ‘exempt accommodation’ provided by RSLs is 130,000. This may include some forms of sheltered accommodation where care, support or supervision above minimal is provided. However, not all sheltered accommodation falls within the ‘exempt accommodation’ rules; for example, the care, support or supervision provided may be minimal. Note that we had fewer data on which to base this number, and so the estimate should be treated with considerable caution.

We do not have any estimates for the number of people who need care, support or supervision but are currently housed in other types of accommodation, for example, with private landlords who are not charities, or where an organisation other than the landlord provides the care. LA benefits systems do not hold information of this type on their claimants.

3.5 Care, support and supervision

The **types and levels of support** also vary widely, as might be expected given the range of claimant groups. Many interviewees talked about the variety of levels of support, from two:one (two carers to one tenant) 24-hour permanent assistance with living for some residents, to low level support on a temporary basis for vulnerable young people or ex-offenders.

'The range of care and support is extensive, and can be broken down into several levels:

1. 24-hour sleep-in support
2. Intensive high-level support
3. Life skills
4. Sheltered housing
5. Floating support for general needs.

Since 2003 more of our claimants have moved into level 5 [floating support].'

'In terms of what the landlord provides, or arranges, it's usually low to medium tenancy support. Care is usually dealt with quite separately.'

'Ranges from temporary support for people who are rehabilitating themselves from prison to permanent day-to-day care for older people who have had a learning disability all their life.'

(Quotes from LA benefits managers)

A small number of interviewees noted that there is a small stream of tenants moving from residential care, or NHS accommodation, to care in the community. The NHS campus reprovisioning programme¹⁶ was mentioned by some interviewees.

'There is an emerging number of cases, still small, where tenants have moved from residential care homes to highly supported care in the community, often requiring 24-hour care and a spare bedroom, and so expensive rents.'

'As campus reprovisioning nears completion, it is individuals with higher care and support needs who will be placed in accommodation – for example, people who need a two to one care ratio [two carers for one individual].'

(LA benefits manager)

A few benefit managers had little knowledge of the type and level of support, attributing this to the introduction of Supporting People (SP) funding. Most saw limited information relating to support in documentation provided in respect of HB claims, and information on the cost of support was

¹⁶ This programme is moving people with learning disabilities from NHS campus accommodation (long term NHS-provided care in NHS owned/managed housing) to accommodation in the community. This was set out in the White Paper *Our health, our care, our say* which said that NHS residential accommodation should be closed by 2010.

seldom present¹⁷. Several benefits managers and accommodation providers mentioned floating support¹⁸ as an increasing trend, particularly for older residents in RSL accommodation, which might be mainstream accommodation. Such support is typically quite separate from the provision of accommodation, and seldom arranged or provided by the landlord (and thus does not meet the requirements for ‘exempt accommodation’ claims).

‘From 2003 support costs went into Supporting People – so we have no visibility [of the costs] any more.’

LA benefits manager

3.5.1 Separation of care from support

Separate provision of care was noted by several interviewees. The provision of care is often handled quite separately from the provision of accommodation, in line with policies on independent living, choice and control. Several interviewees told us that some of the landlords did not attempt to provide care because this was commissioned separately, but instead provided support or supervision to comply with the conditions which qualified them as ‘exempt accommodation’. This may represent an incentive to provide support or supervision that may not be needed. Where claimants are getting their care from elsewhere, bona fide providers of accommodation, who are meeting specific housing needs of these vulnerable individuals and therefore, require a higher rent to cover their costs, can only have these costs covered by HB under ‘exempt accommodation’ rules if they provide support or supervision. As noted in Section 1.2.1, although the regulations do not specify that the tenant should actually need the care, support or supervision, it has since been decided by an Upper Tribunal that the tenant must need the care, support or supervision provided. However, in many cases there is no assessment by social services, simply the accommodation provider deciding that the tenant needs this support.

‘New providers seem to be adapting their business model to meet the criteria for ‘exempt accommodation’.’

‘Care is usually dealt with separately [from the landlord].’

‘It is not always clear whether the tenant needs support, or whether support is provided to justify the exempt [accommodation] status.’

‘...the tenant gets intensive care organised separately, and has an appointee. The landlord provides tenancy support – they cannot get exempt status on the basis of care, so they have to provide support.’

(Quotes from LA benefits managers)

3.6 Where did claimants live before?

Several LAs told us that there had been no large inflows, and so could not identify any particular type of former accommodation. Of these, a few believed that they had a reputation for restricting rents, which they thought made providers less likely to develop schemes in their area. Several

¹⁷ Note that claimants may not be aware of support costs, as the majority of SP services are delivered through contracts with providers, not individuals.

¹⁸ Floating support refers to support that is not based at a particular site, or tied permanently to individuals on a fixed schedule or timetable, but is provided as and when individuals need it. It can be used to provide intensive support in the short-term, and then ‘float’ to someone else who needs it.

other LAs mentioned residential care homes as a particular source of residents now in 'exempt accommodation', with a few mentioning large mental health institutions that closed several years ago. Those who thought that cases were rising often mentioned closure of care homes, and a small number of stakeholders mentioned current activities under NHS campus re-provisioning, where individuals with learning disabilities are moved from long-term NHS care to homes in the wider community.

Interviewees also noted that older people moving into sheltered accommodation generally moved from mainstream accommodation, as had women fleeing domestic violence, those homeless as a result of relationship breakdowns, and many of those seeking help for substance misuse. Prison was also noted as former accommodation.

Several LA benefits managers mentioned issues around substance abuse programmes. Many people in exempt and supported accommodation will have moved from elsewhere in the same area, those on substance misuse programmes may have moved from an entirely different part of the country, and may move to another location once their treatment programme is complete. These LA benefits managers believed that the lack of full subsidy in these cases was an unfair burden on local council tax payers, as the funding was not supporting what they considered to be local needs, but needs imported from elsewhere.

3.7 Are people slipping through the net?

Are there people who need care or support and have more expensive housing costs who are not currently covered by the definition of 'exempt accommodation'? Around half of the LAs we visited did not think that this was an issue in their area, and those that identified some examples of people who are slipping through the 'exempt accommodation' safety net did not believe this was significant. For example, where an individual in PRS accommodation has an occasional need for a carer to sleep over, this would not be reflected in their LHA rate – they would not receive an amount to cover an additional bedroom. People who need additional space, for example to house health-related equipment such as breathing apparatus might not be in accommodation meeting 'exempt accommodation' regulations. There is, however, scope for discretionary housing payments (DHP) to help meet additional costs for such individuals¹⁹.

One district council told us that support staff from the county council find accommodation for tenants on the basis of suitability, sometimes with private landlords. In these cases, although a high level of care and support may be provided, this is quite separate from the landlord, and the landlord is a private sector landlord so the claims must be paid as LHA, which may not cover all the costs. Another LA told us of a group of people with learning disabilities who had been in a residential care home which closed. The residents moved into a part rent/part purchase scheme which is partially supported by HB, but is not treated as exempt because the care provider is quite separate from the landlord. A few LAs mentioned schemes where private landlords provided both accommodation and care and support, but as they were not charities or non-profit organisations, the tenants received LHA. In some cases DHP can be used to assist in these cases.

¹⁹ We note that in the June 2010 Budget the Government announced that 'from April 2011, Housing Benefit claimants with a disability and a nonresident carer will be entitled to funding for an extra bedroom'. http://www.hm-treasury.gov.uk/d/junebudget_complete.pdf

Accommodation that does not fit the rules

'We have two small former care homes, and back [before] Supporting People funding came in, they were advised to deregister. However, they are private landlords, profit-making, and so do not fit the definition of 'exempt accommodation'. They remain on local reference rent because they don't fit the old scheme rules as the HB claims were made after the cut-off date. And Supporting People funding has reduced. One of the properties has quite a low LRR because the owner knocked two rooms together to make a more useful living space. They are nice homes, looking after tenants with learning disabilities. If they were RSLs we would look and say, "those rents are reasonable" and pay. But we can't. One home is now in financial difficulties, and the landlord is thinking of closing it.'

(LA benefits manager)

In some instances, schemes are amended to fit the regulations, as described below. See also the box in the next section.

Changing a scheme to fit the rules

A for-profit organisation provided care and support for people with learning disabilities. It intended to work with an accommodation provider but could find no suitable accommodation so became a landlord. However, as a for-profit organisation it was not eligible for 'exempt accommodation' status, and residents currently receive HB only up to the level of the Rent Officer determination, and must make up the remainder of their rent from other benefits. However, the organisation is now working to set up a new arrangement with an RSL; the RSL will lease the property from them, and become the landlord for the tenants. The for-profit organisation will then provide care on behalf of the RSL, and the scheme will be treated as 'exempt accommodation'.

3.8 Relationship between 'exempt accommodation' and Supporting People funding

We were not able to identify how many people living in 'exempt accommodation' also receive SP funding, or conversely, how many people who get support through SP receive HB for non-'exempt accommodation'. LAs have no reason to record this information, and proprietary software systems do not include flags for SP. Costs of support are not routinely recorded. In many cases, benefits teams have little or no contact with support planning teams, although as might be expected there is more liaison at unitary authorities. In some instances, potential difficulties might be avoided if there were better liaison. For example, one LA benefits manager talked of housing problems following the withdrawal of SP funding from a scheme, which might have been smoothed had the housing and benefits teams been consulted.

However, anecdotal evidence from our research suggests that SP funding is not in place for all those in 'exempt accommodation'. This may be because SP is non-statutory and services are provided based on local needs and priorities.

'Some no longer receive Supporting People funding but the landlord still provides support... Supporting People is now more difficult and bureaucratic to apply for, so some landlords no longer bother to claim.'

(LA benefits manager)

Supporting People funding lost – now seeking exempt status

One LA told us of a home for young people with learning disabilities which lost its SP funding (apparently due to ‘*overprovision of this sort of accommodation in the area*’). The landlord said he could no longer provide the accommodation and leased the property to a charity that could provide the accommodation, as it could meet the landlord conditions for ‘exempt accommodation’. The charity employed a consultant and has increased rents. If the scheme goes ahead on the proposed basis the LA will have to find £80,000 per year to fund HB (this is the amount of HB paid that would not be covered by subsidy).

‘One of our landlords lost Supporting People funding – a different organisation won the contract, but the landlord says he is providing support from his own funds, and it is hard to prove they are doing anything wrong.’

‘We have two major providers for (a particular claimant group) – one gets Supporting People funding, one does not.’

(LA benefits managers)

A new development for older people was built by a housing association (not an RSL). The scheme did not meet the criteria for SP funding, and the LA thought that care and support were minimal and so did not treat the claims as ‘exempt accommodation’ claims. The housing association employed a consultant to help tenants claiming HB with appeals against the LA’s decision, as they believed they should have ‘exempt accommodation’ status. The Tribunal overturned the LA decision.

We asked LA benefits managers about their interactions and exchanges of information with support planning teams, either within their authority or at county level. Most of the district LA interviewees told us they had little or no contact with support planning teams²⁰. Examples of contact were letters received at LAs asking whether HB was in payment for individuals, and communications from the LA to SP teams asking whether SP funding is in place. A few LAs seemed to have moderately good links, for example, regular liaison meetings. However, even then, one LA stated that the HB team was not involved early enough in planning for new schemes, so that:

‘...social services and the provider can effectively finalise a scheme and then expect HB to pick up most of the bill.’

(LA benefits manager)

A small number of unitary LA benefits managers also said that they had no or little contact with support planning teams, but most had some or regular contact. A few had regular meetings with all teams within the authority with some responsibility for care, while at one LA contact was limited to contact from support planning when they were planning a new scheme, to establish how the HB team would treat the accommodation, so that revenue could be predicted.

²⁰ Note, however, that support planning is most often done by providers and not by the LA.

4 Understanding the costs of 'exempt' and supported accommodation

In this chapter we present the findings of the research relating to the costs of 'exempt' and supported accommodation. We look to see if costs are rising, whether 'exempt accommodation' is more expensive than mainstream accommodation, and if so why, how costs are made up and drivers of variability across local authorities (LAs). In Chapter 5 we have tried, from the data we were able to obtain, to estimate the total costs of 'exempt accommodation'.

4.1 Are costs rising?

4.1.1 LA views on increasing costs

While some of the LAs we visited said that the costs of 'exempt accommodation' claims as a whole were not increasing other than broadly in line with inflation, most believed their costs were rising. Interestingly, in a few cases where benefits managers thought that benefit paid out in respect of 'exempt accommodation' claims had increased only modestly, subsidy data²¹ indicated relatively high increases in the total costs in excess of Rent Officer Determinations (RODs). This may in part be due to timelags between local rents increasing, Rent Officer referrals (which may not be synchronised with these) and Rent Officers increasing the amounts in the ROD, which would lead to an increased excess. Where benefits managers thought costs had risen, this was consistent with subsidy data.

Where costs were perceived to be increasing, almost all interviewees said that increases in the cost per claim were driving the increase, with around half of interviewees also indicating that the number of such claims was increasing. Among the reasons given for increases in costs per claim were:

- providers increasing rents above the rate of inflation, particularly where there is a lack of suitable alternative accommodation;
- communication between providers – where providers know that others have submitted large rent increases that have been paid, they may be more likely to submit large increases;
- benefits managers perceive increased marketing activities by consultants seeking to help providers 'maximise revenues' to be associated with large rent increases. Frequently providers hand responsibility for submitting rent increases and liaising with the LA to consultants. Where LAs restrict rents, consultants often then take responsibility for handling appeals on behalf of the provider;
- several benefits managers believe that as funding for support services has declined, costs for rent and services have increased, with providers redefining some support as a housing-related service.

²¹ Department for Work and Pensions (DWP) provided subsidy data from 2002/03 to 2008/09.

‘There can be a blurring of what is charged for support and what is charged for eligible services. There is a budget for the services – Housing Benefit – but only limited money for support so there is an incentive to shift services from one definition to the other.’

‘We think they roll support costs into their management costs and administration costs. They know what charges are eligible and ineligible, and they use that information.’

‘[We think] they include some ‘support’ related costs in rent, for example, classing wardens as security when they are actually support.’

4.1.2 Evidence for changes in case numbers and cost per case

LAs do not systematically collect data on numbers of ‘exempt accommodation’ cases in their area. We had some difficulty obtaining data from the LAs that we visited on current numbers of cases, and there is no historical data kept locally or centrally. In addressing the question of whether ‘exempt accommodation’ costs are rising due to rising case numbers or rising costs per case, or a combination of both factors, we need to draw some conclusions from the broader evidence available.

4.1.3 Approach

To try to determine if the number of cases is increasing we have looked at evidence from subsidy returns. To try to understand what has been driving changes in overall costs of ‘exempt accommodation’ (in particular the element above the ROD limit both in total and per case) we have explored the following trends:

- average weekly Housing Benefit (HB) paid per claim by LAs on claims in our sample referred to the Rent Officer;
- average weekly amount over ROD limit paid per claim by LAs;
- comparison between overall costs per LA below ROD limit and those above given on subsidy returns;
- core rent rises compared with service charge rises over time.

We have also examined whether the presence of consultants may be driving any cost increases and trends in core rents.

4.1.4 Findings – case numbers: evidence from subsidy returns

When Supporting People (SP) was introduced in 2003, it was expected that the number of exempt claimants would decline over time, as those who had pre-1996 HB claims moved off HB, moved address or their claims ended for other reasons. Costs were, therefore, also expected to decline with time. However, there is concern that costs associated with ‘exempt accommodation’ claims have risen, and we were asked to investigate this. Unfortunately, there is no straightforward method of distinguishing between subsidy claims associated with ‘exempt claimants’ (those with pre-1996 claims) and those associated with ‘exempt accommodation’ in the subsidy returns that LAs make to the Department for Work and Pensions (DWP). At a local level this is also difficult as many LA systems do not distinguish between these two types of claim. We have, therefore, carried out some further analysis on the changes in subsidy returns over the period since 2002/03 to see if this can shed light on the issue.

We obtained a full set of subsidy return data for all LAs in England, Wales and Scotland from DWP for the years 2002/03 to 2008/09 (unaudited). The relevant sections of the subsidy returns are known

as ‘Cell 96’ and ‘Cell 97’. Cell 96 gives the total amount of HB paid for ‘exempt accommodation’ above the ROD where the claimant is considered vulnerable. These costs are split between the LA and central government, with the LA paying 40 per cent of the cost and central government 60 per cent. Cell 97 gives the total amount of HB paid above the ROD where the claimant is not considered vulnerable according to the appropriate definition, and for which the LA therefore receives zero subsidy. This is a far smaller group than the vulnerable claimants accounted for in Cell 96.

Figure 4.1 shows the changes in costs associated with ‘exempt accommodation’ under the various subsidy headings associated with it, across all LAs. The figure includes one chart showing all the different costs together, on the same scale. It also contains separate charts to show the trends in more detail.

For each claim there is an amount under the ROD limit and an amount over the ROD limit. The ROD limit will probably change broadly in line with inflation or perhaps below it if there is pressure to reduce housing costs. After taking housing inflation into account, the way the amount of total subsidy under the ROD limit changes should give us an indication of how the total number of cases (‘exempt claimants’ and ‘exempt accommodation’) has changed²². Figure 4.1 shows that total costs across all UK LAs under the ROD limit (the dashed black line) have declined during the period (over the same period, housing costs have increased by approximately 19 per cent²³). This suggests that the total number of cases has declined. There is no anecdotal evidence to indicate that ‘exempt accommodation’ claims have declined, but we know that ‘exempt claimant’ numbers must have declined. The decline in costs under the ROD limit is likely to be due to this drop in ‘exempt claimant’ numbers.

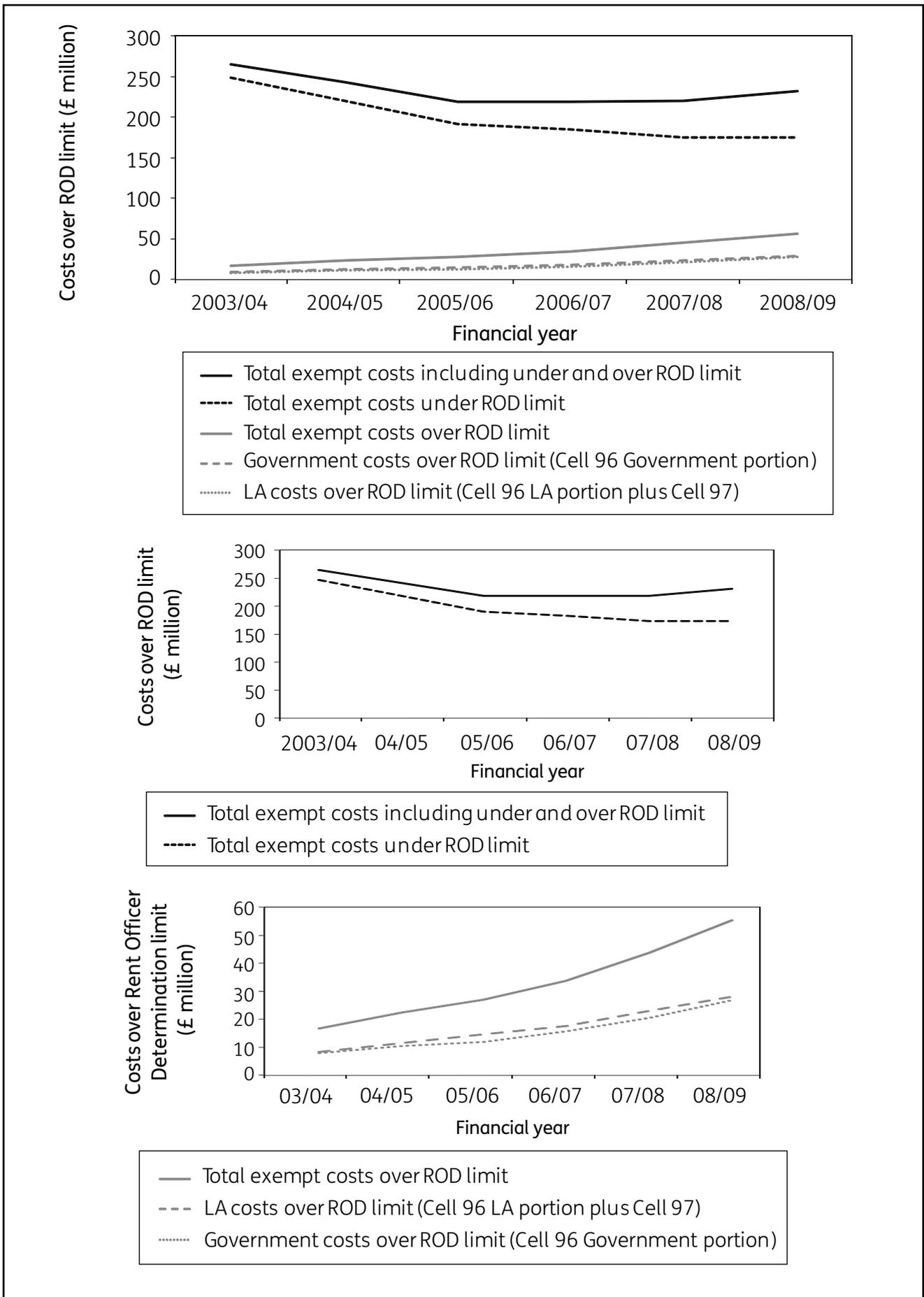
By contrast, the costs above the ROD limit (the solid grey line in Figure 4.1), which are mostly attributable to ‘exempt accommodation’ claims, have risen sharply; by 225 per cent during the period. There are two contributory factors that could explain this increase: a rise in claim numbers and a rise in costs per case.²⁴ Evidence from our sampled claims shows that cost per case in excess of ROD rose by 85 per cent during the period (see Section 4.1.5). This suggests that there may have been up to a 75 per cent increase in the number of ‘exempt accommodation’ claims. We conclude that **there has been a significant increase in the numbers of ‘exempt accommodation’ claims since 2003/04.**

²² We do not have a direct measure of the actual numbers of cases year by year.

²³ Using 2003 Q3 and 2009 Q3 indices from CPI 04:1 Actual rents, from the Office for National Statistics (ONS).

²⁴ In addition it is possible that there are time lags between local rents increasing and Rent Officers increasing the amounts in the ROD, at least for the annual referral – we have some anecdotal evidence but no quantitative evidence for this.

Figure 4.1 Total of all UK LAs 'exempt accommodation' subsidy costs



4.1.5 Findings – cost per claim: analysis of sampled claim data

The following figures show average weekly HB costs per referred 'exempt accommodation' claim across all the LAs we visited.

Figure 4.2 Mean weekly HB paid per claim for sample of claims referred to Rent Officer across all LAs visited

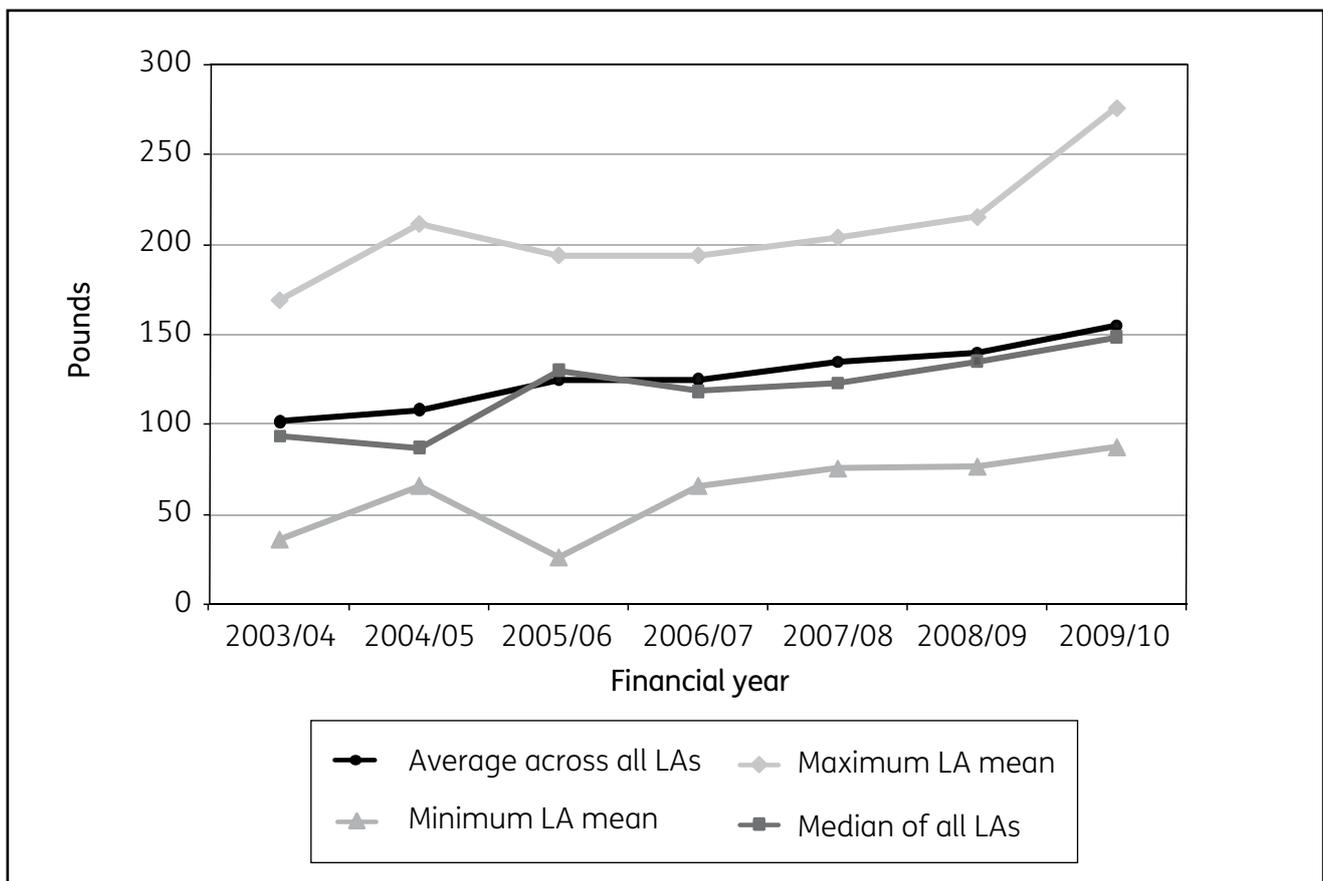


Figure 4.3 Mean weekly HB paid above ROD per claim for sample of claims referred to Rent Officer across all LAs visited

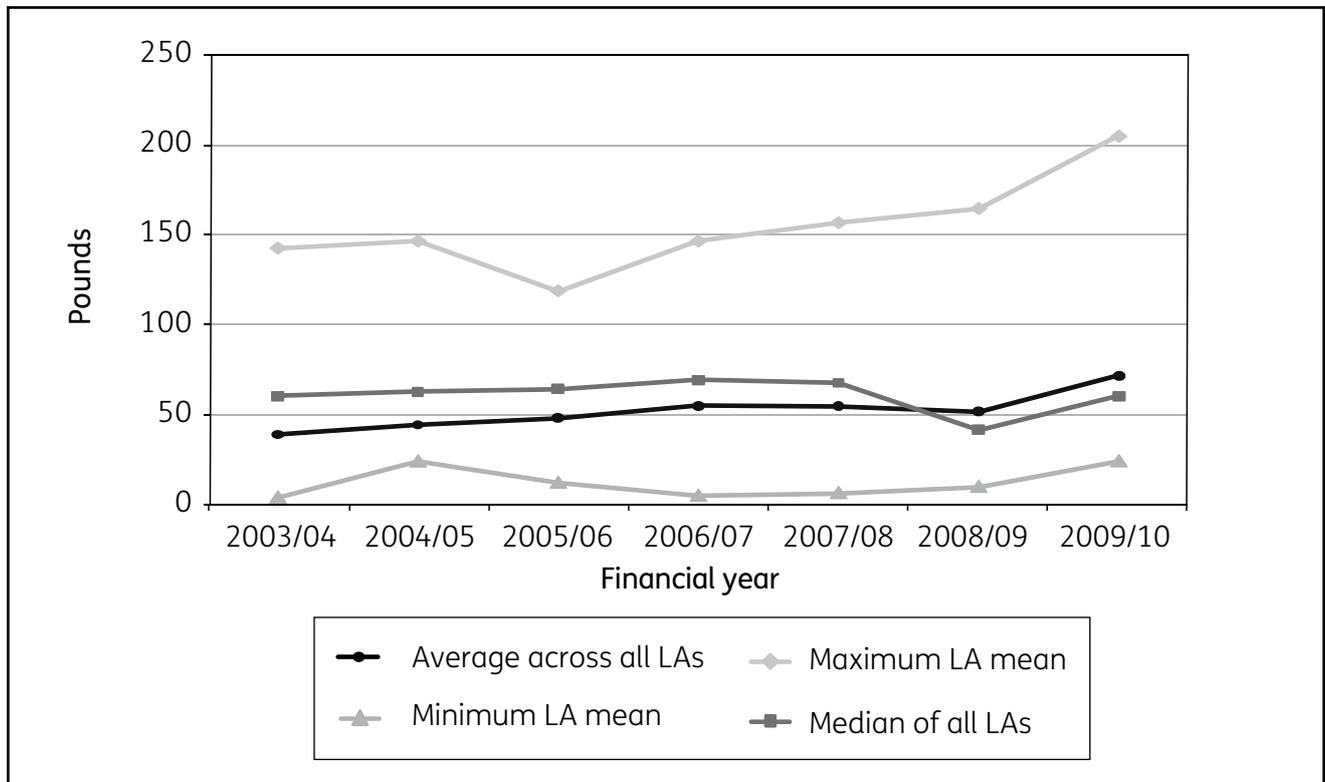


Figure 4.2 shows the range of average weekly HB costs per referred 'exempt accommodation' claim across all the LAs we visited. The bold black line shows the mean (average) across all the LAs. The upper and lower lines show the maximum individual LA mean and minimum individual LA mean in each year, as an indicator of the range and variability of mean costs per 'exempt accommodation' claim across the LAs visited. After support costs were taken out of HB, housing costs alone averaged £102 per week in 2003/04 across the LAs sampled. These had risen to an average of £155 per week by 2009/10, a rise of 52 per cent over a six-year period, during which rental inflation²⁵ would have produced an increase of 19 per cent. However, the graph clearly illustrates that 'exempt accommodation' housing costs vary widely across authorities.

Figure 4.3 shows how the amount of HB paid above the ROD limit has changed over time across all the sampled claims collected. The upper and lower bands give the highest and lowest LA means in each year, to indicate the range of variability across the sampled LAs. The mean amount over the ROD in 2003/04 was £38, while in 2009/10 it had risen to £71, a rise during the period of 85 per cent. This indicates that the additional housing costs rose considerably more rapidly than the ROD limit.

This is consistent with the views of LA benefits managers and indicates that 'exempt accommodation' costs are genuinely rising more rapidly than both inflation and than non-exempt housing costs.

²⁵ Using 2003 Q3 and 2009 Q3 indices from CPI 04:1 Actual rents, from the ONS.

4.2 Why is 'exempt accommodation' more expensive than mainstream accommodation?

The fact that claims are generally in excess of the ROD and our comparison of mean HB paid on referred 'exempt accommodation' claims with one-bed LHA rates (Figure 4.22) demonstrates that rents for 'exempt accommodation' are often higher than mainstream rents. There is a range of reasons why this could be the case.

4.2.1 Views of LA benefits managers and other stakeholders

Benefits managers we spoke to identified a number of reasons to explain why 'exempt accommodation' is more expensive than standard accommodation. While some of these reasons relate to the accommodation needs of tenants, some relate to their suspicions about the motivations underlying the behaviour of some providers. While we asked only one question – that in the title of this section – answers provided could be considered as addressing two different questions:

- 1 Why should 'exempt accommodation' be more expensive?; and
- 2 Why is 'exempt accommodation' more expensive?

Overall, those we spoke to – both benefits managers and accommodation providers – believed that there are many valid reasons why accommodation for vulnerable people is and should be more expensive than mainstream accommodation, but that some providers are charging high rents and service charges that are not always justified.

Rent-setting philosophy: For mainstream accommodation in the private sector, rents are driven by the market. Generally, landlords set rents in response to market forces, driven by supply and demand. For 'exempt accommodation', core rents and service charges appear to be set by a cost plus approach. Rent-setting models vary, but providers generally assess the cost of providing the accommodation and set their rents based on this.

Location and nature of properties: As noted above, several LA benefits managers told us that properties were often large detached houses with gardens, in carefully selected locations to meet the needs of residents; particularly those with learning disabilities. Often, 'exempt accommodation' is of higher quality than mainstream housing stock. They may need to be close to amenities but not too close, in relatively quiet neighbourhoods, and might be close to public transport routes. These factors can mean that they are in areas with relatively high property purchase prices, leading to higher rents.

Development costs: Frequently, costs are incurred in addition to the purchase price or leasing costs for a property to ensure that the property is suitable for the intended occupants. While development costs might also be incurred for mainstream accommodation, for supported accommodation particular adaptations may sometimes, but not always, be required. Both LA benefits managers and accommodation providers told us that accommodation schemes are generally developed and provided in response to demand, often commissioned by adult social care. Accommodation providers told us that adult social care departments typically specify particular adaptations required. Depending on the needs of the residents, adaptations might include, for example:

- handrails and ramps;
- secure cupboards;
- widened doorways;

- solid walls (to reduce subsequent damage, and so repairs);
- non-slip flooring;
- removal of potentially hazardous planting;
- wet rooms, or specialist baths and hoists;
- rise and fall kitchen worktops;
- conversion of garage to additional room for carer.

In some cases, accommodation is tailored to the particular, individual needs of the client – for example, we were told of one property where flush lights were fitted and walls were modified to provide for recessed radiators, as one of the residents would otherwise pull down light fittings and attempt to lever fittings from the walls.

Some residents need care on a 24-hour basis, which means that additional space for a carer's room is needed. When we visited LAs, there had been recent tribunal decisions relating to whether this should be considered part of the housing needs of the resident, or part of their support needs, and therefore, whether the cost of accommodation for carers should be paid for from HB. The decisions do appear to have influenced how some LAs are interpreting regulations; during later fieldwork, we encountered instances of accommodation providers including a carer's room in service charges, and LAs paying these charges. Note that in the June 2010 Budget the Government announced that from April 2011 HB claimants with a disability and a non-resident carer will be entitled to funding for an extra bedroom.

This may become more important in the future, as there is some evidence from LAs and from accommodation providers that the need for 24-hour care is increasing, and for two to one care (two carers to one individual) for some individuals with more challenging behaviours. As the NHS campus re-provisioning programme continues, one accommodation provider noted that the needs of the individuals remaining to be rehoused were higher than those who have already moved into the community.

We have examined the impact of client needs on charges in more detail below.

Increased wear and tear: Most LAs and accommodation providers spoke of increased wear and tear, on the building fabric, fixtures, fittings and furniture and white goods. This might result, for example, from behaviours associated with learning disabilities. This results in an increased frequency compared with mainstream accommodation of:

- replacement of kitchens and bathrooms;
- internal and sometimes external decoration;
- repairs and maintenance;
- replacement of white goods and furniture.

However, benefits managers think that sometimes these charges are higher than they should be, although not always sufficiently high to provide an incentive to challenge them, given the likelihood of an appeal being submitted and the costs of the work required to deal with such appeals.

'Costs for repairs and decoration are high. We haven't restricted them because the work and expense for us to restrict those costs – and then to defend the decision at appeal – would cost more than paying them.'

'One provider is arguing that furniture needs to be replaced every three years – they say this is according to guidance from the TSA²⁶, we have argued it should be every five years and have asked for evidence of the guidance, but we haven't been shown any yet.'

(LA benefits managers)

Increased repair and maintenance costs: Accommodation providers may incur additional costs for training, repair and maintenance staff. For example, there may be a need to ensure that staff understand the importance of taking extra care with tools and equipment, and how to respond to unexpected behaviour.

There are also instances where a breakdown that would not be an emergency in mainstream accommodation is of much higher priority in supported or 'exempt accommodation' and therefore, attracts higher costs. For example, where a fault of some sort leads to loss of laundry facilities, and bed linen must be laundered frequently (perhaps due to incontinence, for example) then the fault must be dealt with much more quickly than would otherwise be the case.

Voids: Voids may be lower than for mainstream accommodation, as accommodation is often commissioned to meet needs identified by adult care services. However, in some instances voids can be higher, resulting in some risk for accommodation providers. This is because properties may have particular adaptations suitable for only particular tenants, and in the case of tenants with learning difficulties, it may be particularly important in a shared house that all the tenants can 'get on' with each other, so if a tenant vacates a room, it may take some time to fill that room again.

Management costs: LA managers recognised that in many instances, the housing management costs relating to supported and 'exempt accommodation' are necessarily higher than for mainstream accommodation. This may be because tenants have chaotic lifestyles, or because they need more housing-related support than tenants in mainstream accommodation, or because, for example, there are more management costs associated with organising more frequent repairs or refurbishment. Tenancy-related support costs can be high, and can include, as one benefits manager put it, *'mediating between volatile tenants'*. Other tenancy-related support can include helping residents deal with anti-social behaviour, as well as what might be considered more mainstream assistance, such as applying for HB.

Some benefits managers believed that where residents had appointees, and one-to-one care, that tenancy-related support was not necessary, and was provided by landlords simply to meet the requirements of 'exempt accommodation' status, because of the requirement in the legislation for the landlord, or someone acting on his behalf, to provide care, support or supervision. Where all care, support and supervision is provided separately from the accommodation, the accommodation is not eligible for exempt status. Note that although the terminology is 'exempt accommodation', the decision is largely based on who the tenant is and what the landlords does. Thus, in theory

²⁶ The Tenant Services Authority (TSA) was set up in December 2008 and the full range of its regulatory powers came into effect on 1 April 2010. It is the independent regulator for social housing in England, and works with landlords and tenants to improve standards of service for tenants and residents. There are a number of standards set out in the Regulatory Framework for Social Housing in England, and the TSA ensures that registered social landlords meet them. These standards include specific requirements for rents and rent increases. The TSA replaced the Housing Corporation.

in one house shared by a number of tenants all claiming HB, some might be treated as ‘exempt accommodation’ claims while others might not. In practice, we found that all claims tend to be treated as exempt (in terms of how much HB is paid to the claimant) if any are – although the LA may only flag some claims as for vulnerable claimants and so may only claim subsidy for the amount of HB paid above the ROD for some of the claims²⁷.

Other service charges: Other service charges that were mentioned by LA staff as contributing to higher total rents than for mainstream accommodation were gardening and grounds maintenance charges, communal services, security costs and concierge charges. Stricter compliance with safety regulations was also mentioned.

Consultants: Most of the LAs we visited talked about consultants and their effect on rents for ‘exempt accommodation’. Many gave examples of high rent increases, accompanied by a new presentation of the rent breakdown, and new categories of service charges introduced. LAs know that consultants are involved because accommodation providers typically hand over liaison with the LA to the consultants. LAs appear to find the regulations that should moderate rent increases difficult to apply, and particularly where consultants are involved are very aware that if they restrict rent increases the accommodation provider is very likely to appeal against the decision.

‘...[an accommodation provider] charged £89 per week in 06/07, that went up to £92 in 07/08, then they got consultants in and in 08/09 they put the rent up to £135 per week.’

(LA benefits manager)

Some of the accommodation providers we talked to also told us that they had increased their rents following work on their behalf by consultants. LAs tend to consider this as rent maximisation by accommodation providers. However, some accommodation providers talked of not knowing what they could legitimately include in rent and service charges before working with consultants.

‘...higher rents seem to coincide with independent consultants being brought in, and accommodation providers talk to each other, so once one gets a high increase through, their peers submit higher increases too. We are concerned that this is a first step in increases – we know from colleagues elsewhere where consultants have been active for a long time that rents are going up and up and up, and we have only had them here for two or three years.’

‘...some consultants are coming onto the scene...and people are getting better at maximising rent.’

‘...consultants are presenting well developed proposals for increasing rents that are hard to challenge...’

‘Consultants could call ‘exempt accommodation’ providers and offer to increase their income – they are asking for 25 per cent of any increase for a period of three years. One organisation reported this to (us) (and did not take up the offer!).’

‘...most of the rents are reasonable...we did have a one-off case involving [an independent consulting firm] but other than that, costs aren’t really rising...’

‘...consultants drive rents up. [An independent consulting firm] used to market saying “we can take on any HB section in the country and win”.’

(Quotes from LA benefits managers)

²⁷ The entitlement for each tenant might be the same, but the subsidy claimed in relation to each of the claims could be different.

The following case studies describe examples of LAs’ experiences of consultants.

Case study: A small local authority’s experience with consultants

A consultant approached the ‘exempt accommodation’ providers in a small LA. One of the providers, a charity, employed the consultant who produced a report indicating that rents could be increased from around £120 per room per week to around £340 per room per week (normal LHA rates are around £70 for a room). The consultant claimed to have used a ‘scientific methodology’ to arrive at this figure, and produced a detailed breakdown of eligible service charges.

The charity then raised its rents to this level, at which point the LA asked the charity to justify this very high rent increase. The charity was unable to provide the authority with sufficient evidence to substantiate the increase, but continued to demand it, apparently having been convinced by the consultant that the LA would have to pay. The potential costs to the authority were very substantial, particularly as they feared that if this rise was allowed, the charity would expand and the other exempt providers in the area would also follow suit, potentially resulting in a very significant increase in local costs. The LA took advice from DWP, and employed its own independent consultant to scrutinise the charity’s claims.

Ultimately, it decided to withdraw HB support from the charity’s tenants. This was a difficult decision because the charity itself was considered to be doing good work, and the tenants were a vulnerable group. The HB team ensured that the chief executive of the authority was aware of the situation and supported their actions. The charity decided to dispense with the services of the consultant and negotiated a fair rent with the LA to cover the costs associated with providing the accommodation. Rents increased to around £140/£185 per room per week (depending on the property) but were kept much lower than had been originally proposed.

A particular issue for ex-offenders in move-on accommodation?

One LA told us of a provider of accommodation for residents such as ex-offenders, intended to be temporary, move-on accommodation while the individuals were supported in finding employment, and learning to budget, for example. The intention is that residents ‘find their feet’ and then move into mainstream accommodation. The original intention of the provider was said to have been to keep rents low so that residents could pay their own rent once they found work, before moving on. However, recently, consultants had been employed by the provider to help set rents, and rental charges were increased by approximately 50 per cent, at four weeks notice to tenants. The LA is concerned that tenants in work – even with HB – will find it difficult to afford the increased rent and will have to seek alternative accommodation, thus losing the support they are provided with at the move-on accommodation. If only those out of work can afford to live there, it will not serve its original intended function.

Continued

Another LA also expressed concern over the resettlement of offenders.

‘The system should be aiming to fully rehabilitate ex-offenders, helping them back into work, and supporting them as they start work and manage their own finances. ‘exempt accommodation’ for these people has rents that are so high that if they find work they can no longer afford to live there, so as their need for support continues they cannot access it as they are forced into mainstream accommodation. Either that or they never get back into full-time work and never leave supported accommodation. Move-on accommodation should have lower rents so that these people can access support while getting back into society.’

Borrowing costs: One LA manager noted that small providers may have higher costs as they do not benefit from the economies of scale of larger providers, and may have higher borrowing costs. Two national providers (one a Registered Social Landlord (RSL), one a registered charity) of supported and ‘exempt accommodation’ we spoke to also incur higher borrowing costs than might be expected. This is because they manage interest rate risk by borrowing at fixed rates, or using interest rate swaps to swap variable rates to fixed rates. Currently, they are paying more in interest than might a standard private landlord letting mainstream accommodation, but they have increased certainty that their rent model is sustainable and that they will be able to continue to provide accommodation long term for their tenants.

On the other hand, there are reasons for higher borrowing costs unrelated to long-term sustainability. Some LAs told us of cases where landlords had bought properties on short-term mortgages (e.g. ten years) and were charging rents based on full recovery of mortgage payments. In some instances, landlords are leasing properties whose owners have purchased them on similar bases and who are charging high lease costs to recover these high mortgage payments. Those who expressed a view – both LA staff and accommodation providers – believed that 20 years was a reasonable period over which to recover the costs of purchasing and developing a property.

‘We have had one or two cases recently of landlords wanting to buy four or five bedroom properties to house two or three vulnerable people and then claim HB to pay off accelerated mortgages. They talked to us beforehand and we indicated that we might refuse the claims on the basis of excessively high rents.’

(LA benefits manager)

‘We have a scheme where the owner has bought the property on a ten-year mortgage – he says his financial adviser recommended it.’

(LA benefits manager)

Rent-setting models using short-term mortgages result in very high rents – we think return periods should be no less than 20 years.’

(Accommodation provider)

Lack of suitable alternative accommodation: Most benefits managers told us they found it difficult to find suitable alternative accommodation, and that accommodation providers ‘know we cannot restrict rents’. They felt that some providers used this, together with knowledge of which service charges are eligible and which are ineligible to put forward increases that were difficult to challenge. This also applies to some new schemes.

Supporting people funding: Some benefits managers suspected that as SP funding has reduced, rents have increased. Some managers clearly believe that support costs are being pushed into HB, presented in ways that make it difficult to challenge rents, such as increasing service charges for management and administration. As noted above, benefits managers generally believe that providers know they cannot restrict rents easily, and that HB is ‘...an obvious target’ for those looking to recoup costs (see below).

‘There can be a blurring over what is charged for ‘support’ versus what is ‘eligible services’ that are associated with the accommodation. There is a budget for the services [‘exempt accommodation’, HB] but only limited money for ‘support’ so there is an incentive to shift services from one definition to the other.’

‘The Supporting People budget has decreased...and I think people are trying to recoup costs through the Housing Benefit scheme.’

‘We think they roll some costs we think of as support into their management costs and administration costs.’

‘Loss of Supporting People funding is a big issue for organisations, and they are looking for any way to make up the shortfall – HB is an obvious target.’

‘One landlord said he had to put the rent up because Supporting People were not paying as much.’

(LA benefits managers)

4.2.2 Justification provided for higher rents and for service charges

In many instances, where accommodation providers are planning a new scheme they liaise with the LA and provide information on proposed rents and service charges. The degree to which these are justified by the provider varies, and is usually presented in response to queries from the LA. Accommodation providers we spoke to told us that service charges were set at levels intended to cover the costs they incurred for those services. For example, historic data on costs incurred was used to predict costs over the next 12 months, and cost data was reviewed on a regular basis.

Some managers believe that some providers break service charges down into many categories so that relatively small charges can be attached to each category that are difficult to argue against and restrict. In our sample of cases at the 21 LAs we visited, we found around 400 different descriptions attached to service charges. We have provided the full list of the approximately 400 service charge descriptions we collected during our sampling in Table E.2. The service charges we found can be considered under a number of overall categories. We discuss these further in the next section.

We noted that in some LAs, particularly where the LA perceived that ‘exempt accommodation’ rents and service charges were not excessive, and were not increasing, there was a tendency to review service charges simply to determine whether the type or category was eligible, without any particular scrutiny of whether the charge was excessive in the context of the scheme. For example, communal fuel or utility charges were investigated in some detail in some LAs, and simply accepted as eligible charges in others.

This should be viewed in the context of the current economic climate, which has led to an increase in new claims for HB and Council Tax Benefit (CTB), and so an increased workload for LAs. Where ‘exempt accommodation’ claims represent a small fraction of the caseload and subsidy losses are not perceived to be high, some LAs may have limited incentive to challenge rents and service charges, particularly when workloads are high.

At a majority of the LAs we visited, we did not find any rents that had been restricted in our sample of claims. In some cases this was because negotiations had taken place over the levels of rents and service charges, and these had been agreed before the claims were submitted. However, in many cases, the lack of restriction reflected a belief that there was no basis on which to restrict rents, even where they might be considered high. This was generally because there was no suitable alternative accommodation available. In a small number of cases, benefits managers did not feel competent to decide whether it was reasonable to expect someone to move.

In another, a benefits manager noted that while there might be suitable alternative accommodation, all rents in the area were similarly high, in the manager’s view because the small number of providers and their knowledge of the system was driving an upward trend in rents and service charges.

Where LAs were concerned that rents and service charges were high (and were concerned about the levels of subsidy losses), but there was a lack of suitable alternative accommodation to use as a basis for restricting rents, they appeared to look in more detail at the service charges included, and the justification for these charges.

Restricting charges for communal areas

In one LA, we were told of a scheme where approximately half of the total fuel bill was allocated to communal areas (and so to an eligible service charge for HB purposes). The property comprised a number of individual bedrooms with a shared living area and kitchen and laundry facilities. The communal areas were therefore limited to hallways and landings, and the building entrances, and so the responsible LA officer considered 50 per cent of the total bill to be high. A visit to the property revealed that the communal areas contained no heating appliances or radiators, and a total of four lighting points. The LA restricted the communal fuel charge element of the rent, and after an appeal agreed a lower charge with the landlord.

4.3 What is included in rents and service charges?

There is no standard template for accommodation providers to present the core rents and other services charges that go into the overall housing costs for their tenants. We found considerable confusion and widely varying practice amongst both providers and LAs. There are a number of reasons for this:

- 1 Many smaller charities have few staff with financial expertise. Charities may have a poor understanding of their own financial model, where their costs are and how much of these are housing costs. They may not know which of the services they provide can be classified as purely ‘housing’ costs and which are ‘support’ costs – in many cases the same member of staff provides both and they need to work out how to allocate time and therefore costs to each type of task. We found several examples where HB staff were working with charities to educate charity staff on the HB rules so they could ensure their clients submitted correct HB claims.
- 2 There is variability in what charges are incorporated into core rent and what is separated out as eligible service charges on top of core rents. Even where LAs were diligent in examining service charge costs in detail, they sometimes did not take account of the fact that some of these charges may have been double counted as they might also be included in core rent (for example, voids).

- 3 There is no standard breakdown of service charges. Where LAs request detailed breakdowns from accommodation providers, the accommodation providers often use details of e.g. individual maintenance contracts, bills etc and simply present these averaged over the property or scheme. This results in an enormous number of different individual types of charges.

To make sense of the myriad individual service charges we collected, we have grouped them together. First we rationalised the 400 individual descriptors into 100 more standardised ones. We then grouped these under the following headings:

- 1 Elements that should form part of core rent (including, for example, a range of landlords’ insurance, voids, bad debts, annual maintenance contracts).
- 2 Communal housekeeping (including cleaning communal areas, caretaking, refuse management).
- 3 Communal utilities (for example fuel, sewerage, water for communal areas).
- 4 Facilities provided (including furniture, white goods, security systems).
- 5 Management and administration.
- 6 Maintenance, servicing and repairs (covering furnishings, electrical testing, repairs of any equipment provided).
- 7 Ineligible service charges.

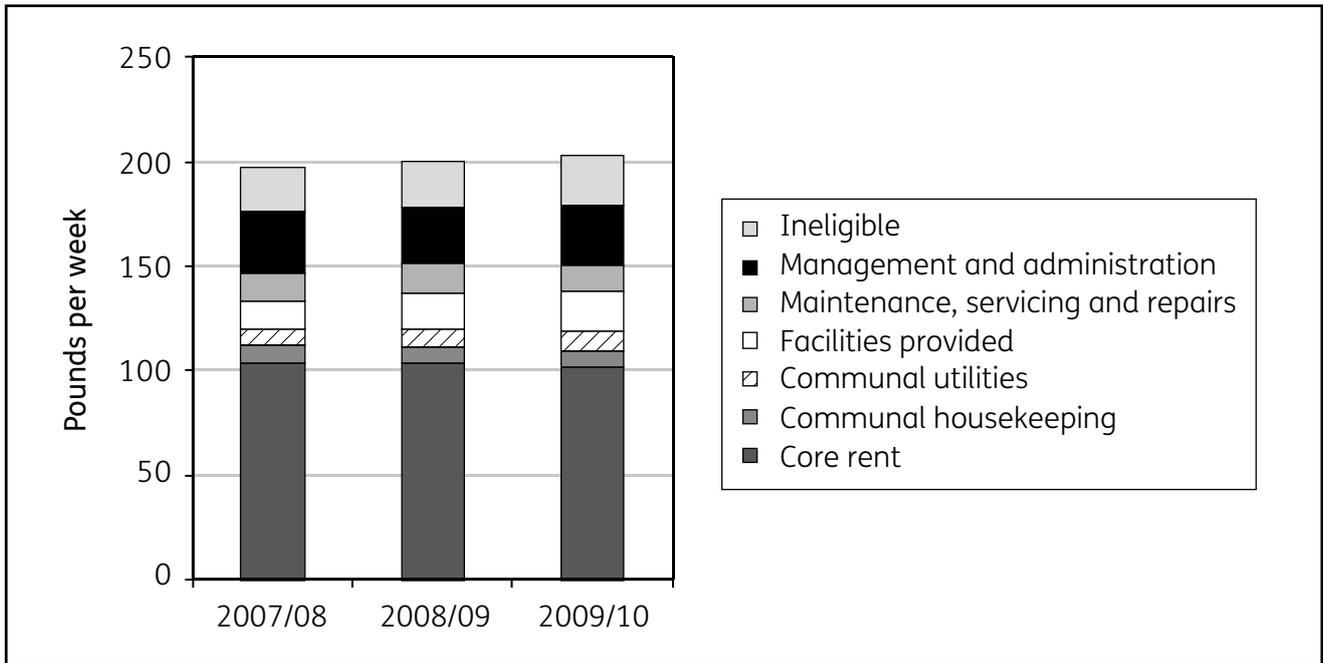
In some cases in this analysis we have grouped charges that appeared separately as service charges on HB claims under the heading ‘core rent’, where we believe these should have been categorised as core rent²⁸, this allows more meaningful comparison of rents and service charges. The full details of the individual service charge descriptions that have been grouped under each of these headings are provided in Table E.1.

4.3.1 Overall rents and service charges

Figure 8 shows mean rents and service charges for the last three financial years for claims in our sample, grouped as described in Section 4.3, to indicate the general composition of rents. (For previous years there are few data points.) As the chart shows, core rents comprise around half of the total rent, while management and administration costs generally form the highest category of service charges. The chart shows a slight increase in mean rent since 2007/08.

²⁸ Note this differs from the ‘Core Rent’ compared to ‘Eligible Service Charge’ analysis, where we used the core rent values that the LA had been provided with.

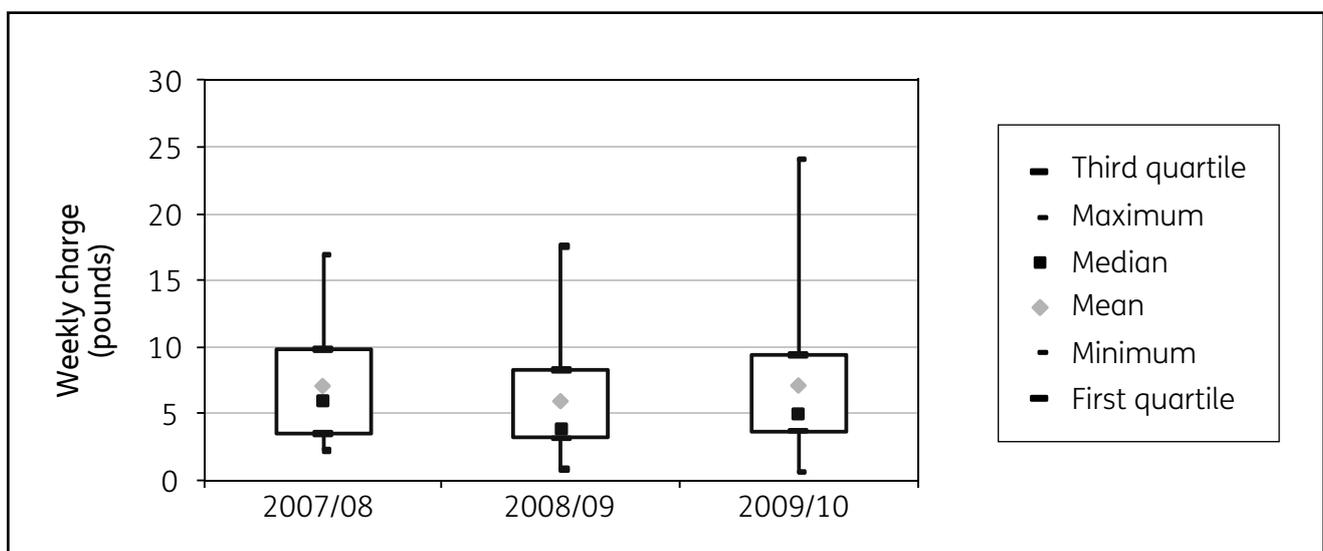
Figure 4.4 Mean rents and service charges for our sample



However, there is considerable variability of the levels of service charges across claims. To explore this, we have selected five of the most common service charges for some detailed analysis. We have tracked the change in charge per claim over the last three financial years for each of these charges for single claimants only (to eliminate the impact of larger accommodation requirements for couples or people with dependants). The findings are shown in Figures 4.5 to 4.9.

In all five service charges examined, there is no clear trend upwards in terms of means and medians. However the maximum claims do tend to be increasing.

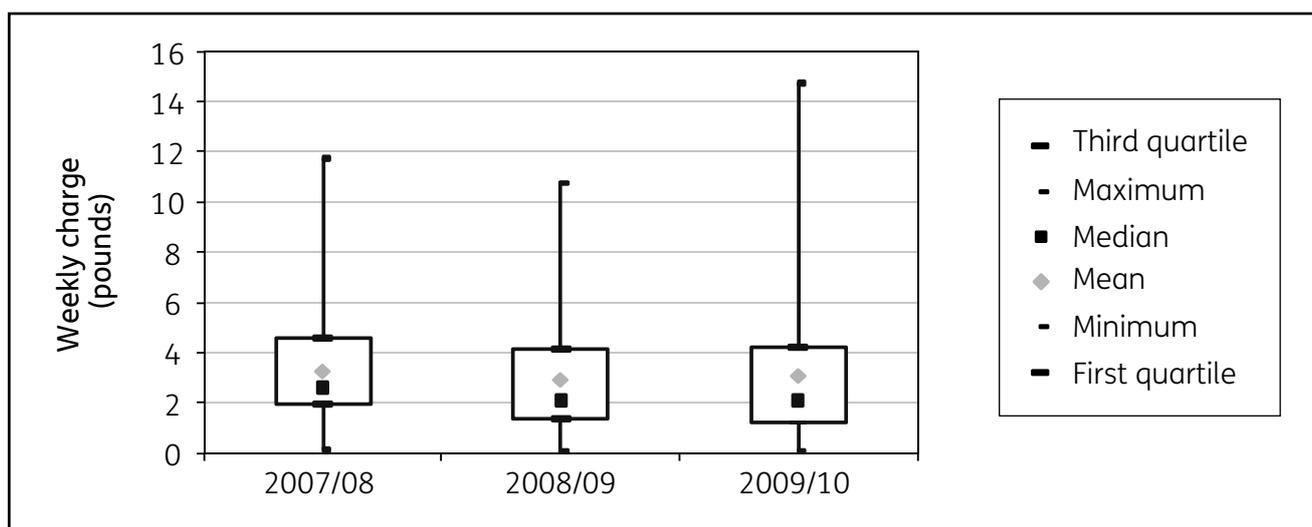
Figure 4.5 Communal fuel charges, single 'exempt accommodation' claimants, sampled claims



It is interesting to note that the ranges in all cases are rather large. For fuel charges (Figure 4.5) for 2009/10, the median is around £5 per week, while the interquartile range is also around £5. However, the maximum that a claimant has been charged for the communal fuel used in their residence is £24 per week. This is more than three times higher than the mean charge. A wider point that should perhaps be considered is that many Registered Social Landlords (RSLs) are moving towards the use of communal heating schemes to reduce carbon footprints, as part of the ‘green agenda’. Sometimes called ‘area heating schemes’ they offer greater efficiency than individual heating schemes and so reduced carbon emissions, as well as lower energy costs for tenants. However, such schemes may not sit well with current HB regulations as any costs attributable to heating a claimant’s property will be ineligible.

Combined charges for gardening, window cleaning and grounds maintenance (Figure 4.6) are typically around £2-£3 per week. However the interquartile range is also £3 and the maximum any claimant is being asked to pay for these services is £15 – five times higher than the mean charge.

Figure 4.6 Combined gardening, window cleaning and grounds maintenance charges, single ‘exempt accommodation’ claimants, sampled claims



Cleaning of communal areas (Figure 4.7) is again typically £4-£6 per week, with an interquartile range of £7. One claimant was paying over £30 per week for communal cleaning – it was not obvious from the details of the claim why so much communal cleaning was needed.

Provision of communal furniture and white goods (Figure 4.8) cost, on average, £10 per week in 2009/10. The interquartile range here is £7, but again the maximum claim is extremely high – over £30 per week.

Finally we looked at buildings maintenance and decoration. Here a similar picture emerged (Figure 4.9). Claimants were typically being charged £10-12 per week, but in a small number of cases costs around £60 were being charged.

Figure 4.7 Communal cleaning charges, single 'exempt accommodation' claimants, sampled claims

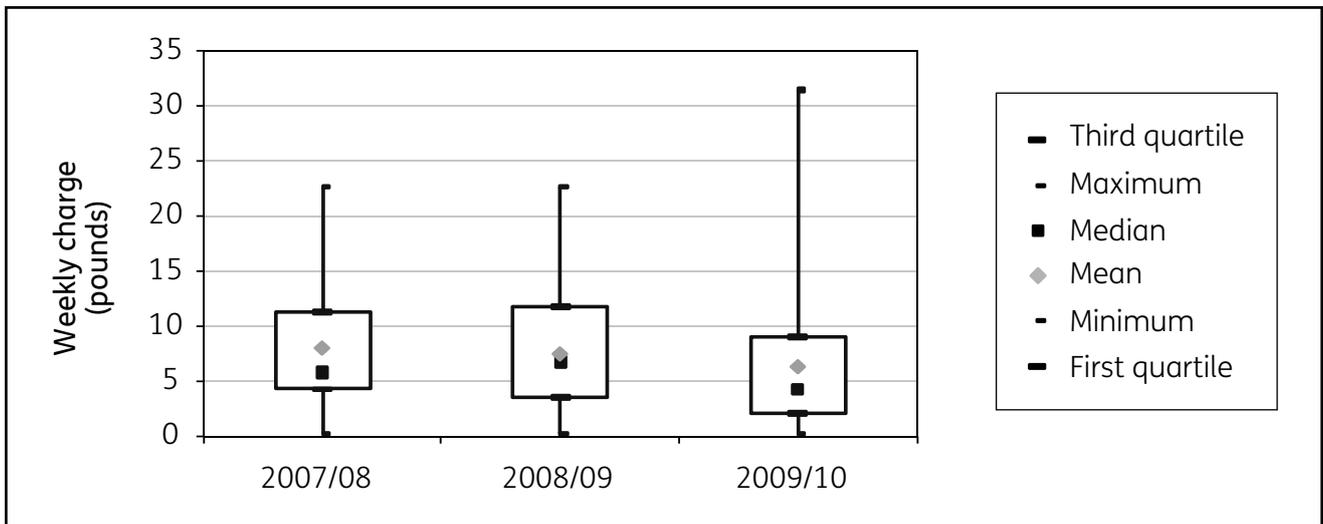


Figure 4.8 Combined communal furniture and white goods charges, single 'exempt accommodation' claimants, sampled claims

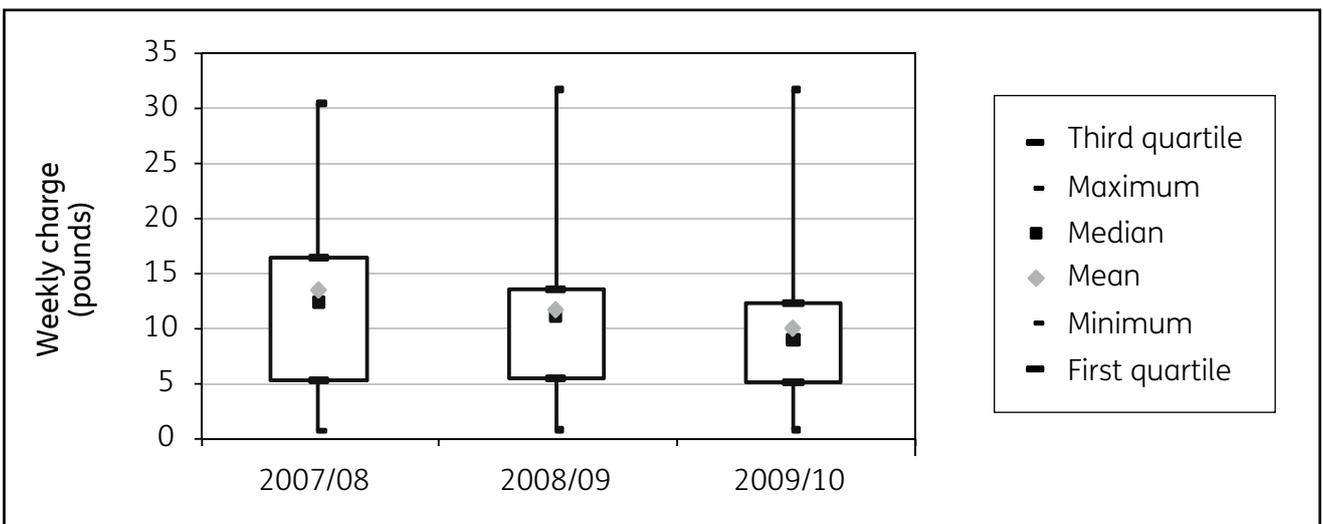
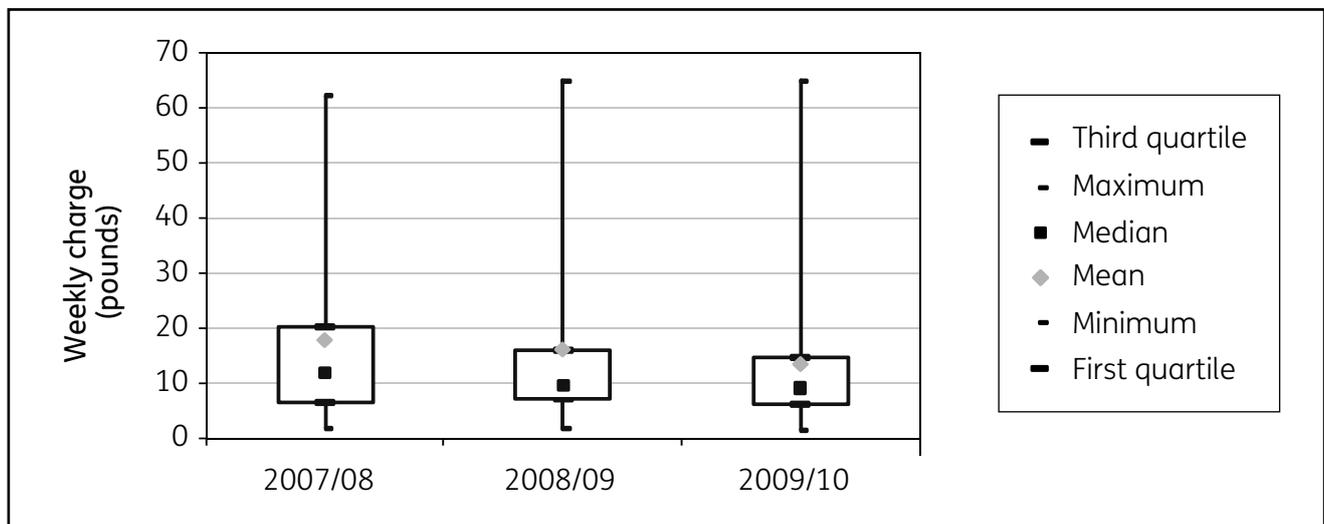


Figure 4.9 Buildings maintenance and decoration, single exempt accommodation claimants, sampled claims²⁹

4.3.2 How do charges vary by claimant type?

We have examined whether the particular special needs of the claimant are driving the amounts (and types) of service charges that are included in their housing costs.

It seems sensible to assume that the facilities provided will depend on the needs of claimants depending on the nature of their vulnerability – for example, adaptation of flats for people with physical disabilities. However, to see whether and how this affects the costs of housing provision we have analysed all the claims from 2009/10 for which we had some information about the needs of claimants.

Figure 4.10 shows the mean core rents and service charges by group for claimants with different needs. Again, these have been based on the groupings described in Section 4.3 and shown in Appendix E. The highest core rents seen were for people with learning disabilities. This agrees with the qualitative information we have received about the special needs of some of these claimants, for example, the importance of the location of their home (e.g. near to amenities) and adaptations that may be needed for them to manage in their own home. The range of these core rents is also very wide (Figure 4.11). However, the range of other service charges is relatively narrow for these claimants.

²⁹ These are the costs that LAs were paying when we sampled the claim, and so reflect charges accepted by the LA as reasonable. There may be a few cases where these charges are the subject of an appeal, so charges ultimately paid by the LA might increase.

Figure 4.10 Means of core rents and service charge groups per claim for different claimant needs

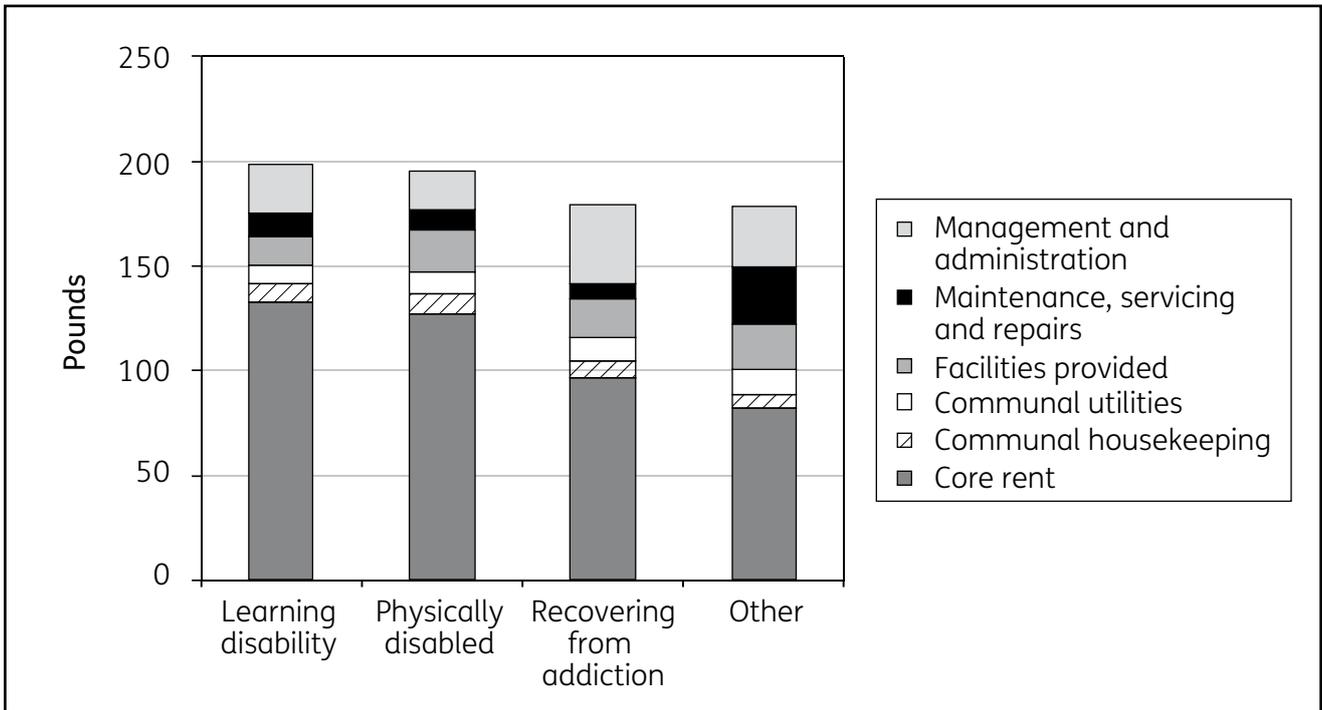


Figure 4.11 Core rent and service charges per claim for claimants with learning disabilities, 2009/10

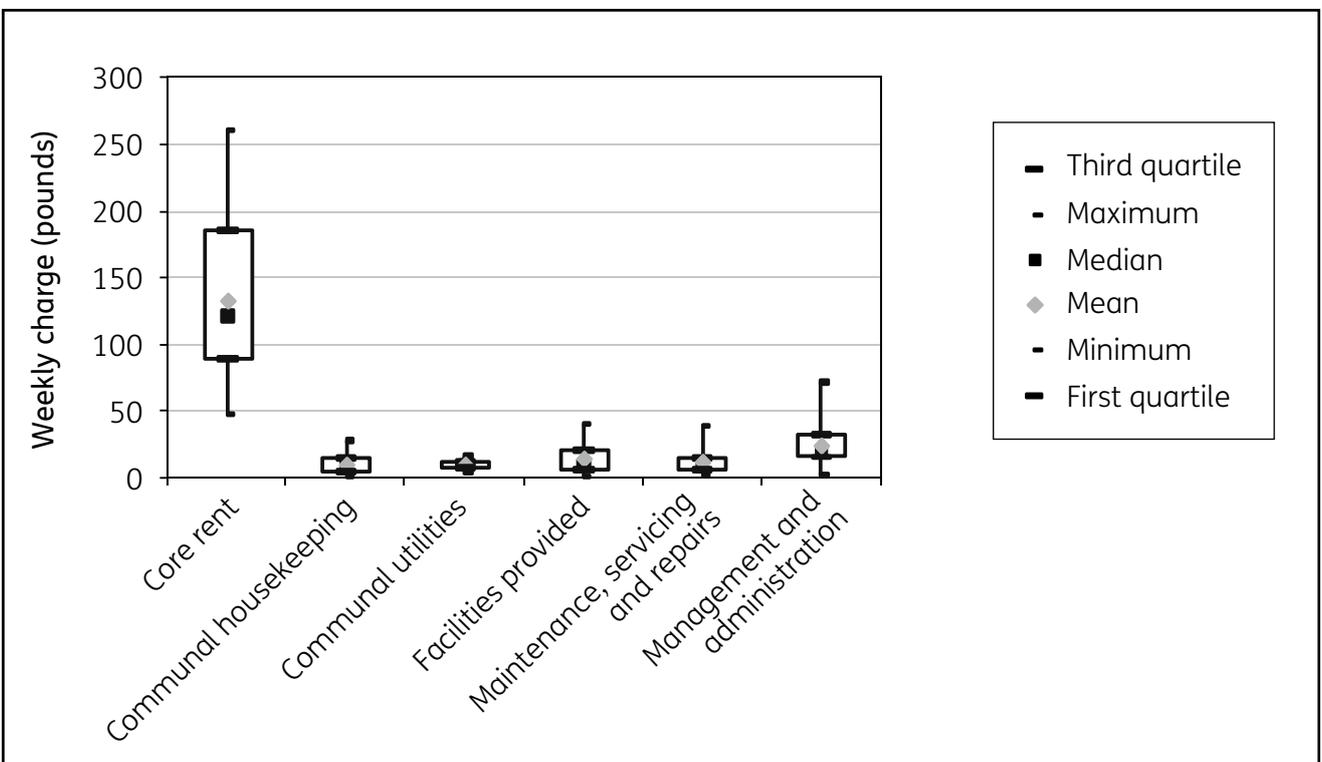
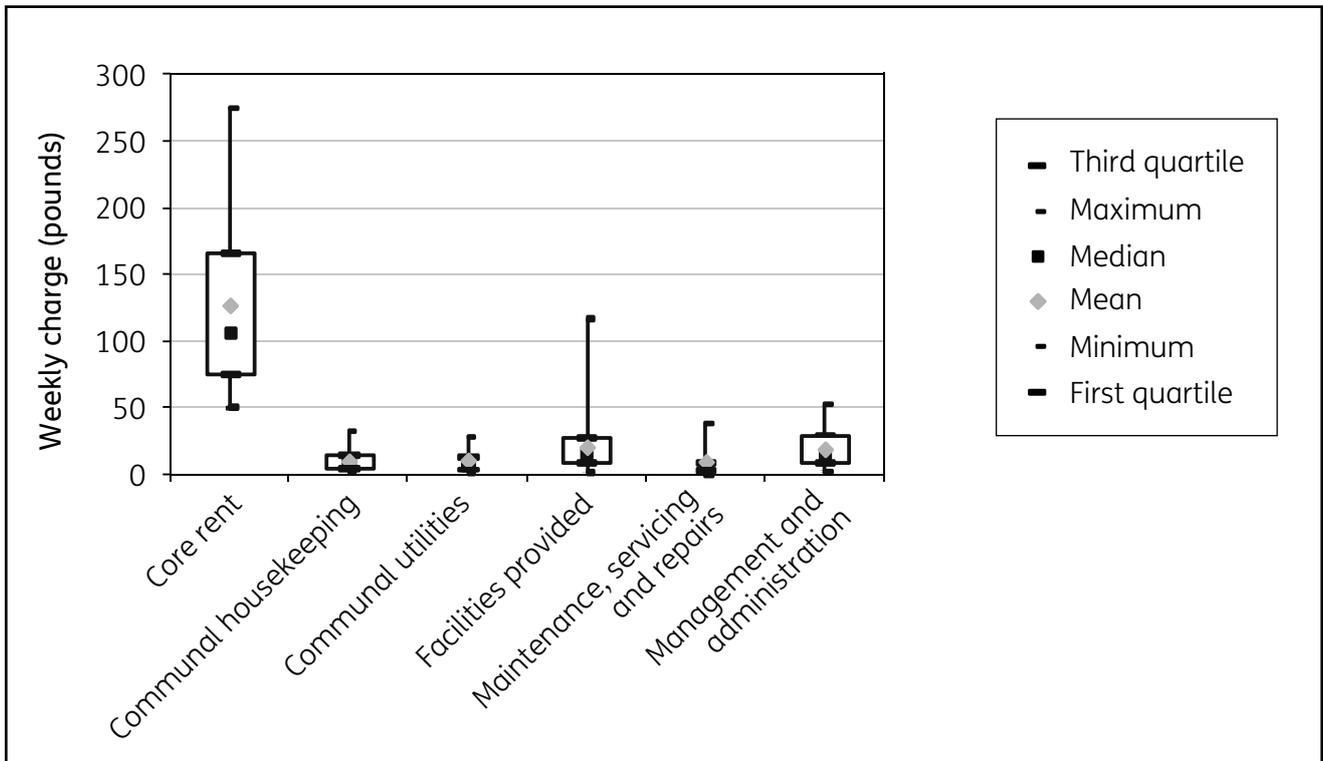
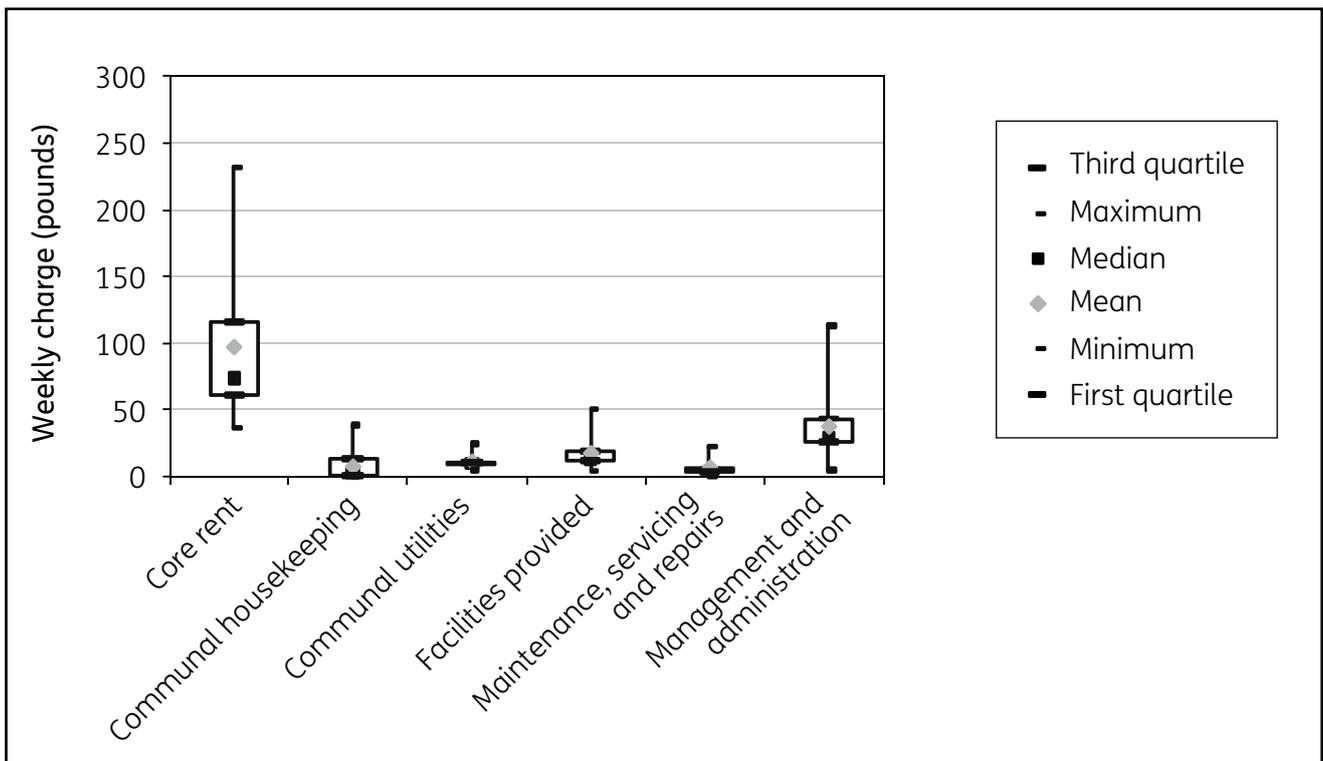


Figure 4.12 Core rent and service charges per claim for claimants with physical disabilities, 2009/10



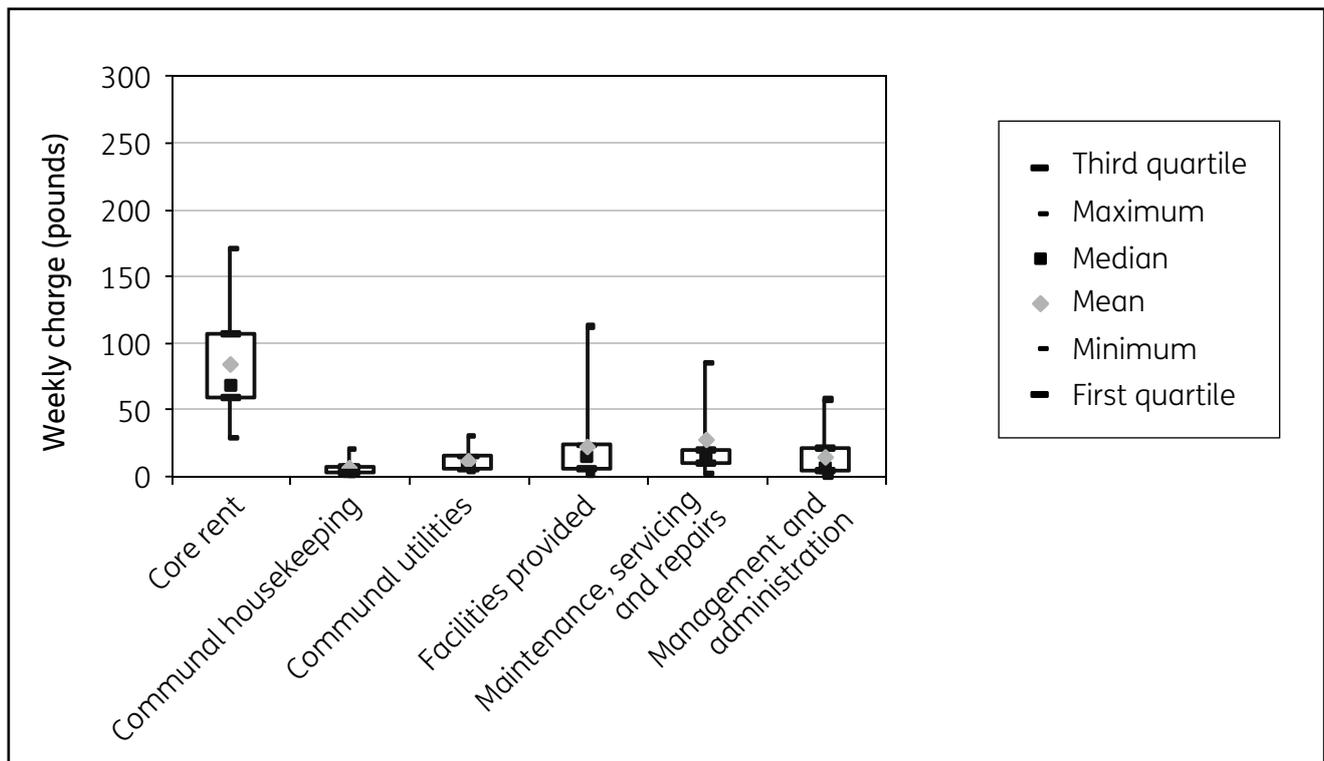
People with physical disabilities also have high core rents. This is consistent with adaptations that may be needed to enable these claimants to live independently. Ranges for other service charges (Figure 4.13) are small apart from the range for the facilities provided for these claimants, which is again consistent with what we would expect.

Figure 4.13 Core rent and service charges per claim for claimants recovering from addiction, 2009/10



Claimants recovering from addiction have relatively low core rents compared with the claimants with learning or physical disabilities, with a smaller interquartile range, indicating that it may be more reasonable to have a fixed rate for this group (Figure 4.13). Other service charges are generally low, with the exception of management and administration charges. This agrees with the views of providers of this type of housing – that these claimants can require considerable management attention in order to maintain properties, to support tenants to maintain their tenancy, and in some cases to arbitrate between tenants with anger management issues to prevent damage to the property.

The category for claimants with other needs includes recent offenders, victims of domestic abuse and people with mental health problems. Here again the core rents are relatively low, with a smaller range than for other categories of claimant.

Figure 4.14 Core rent and service charges per claim for claimants with other special needs, 2009/10

4.3.3 Summary

A very large number of individual service charges are levied on 'exempt accommodation' claimants. We were able to rationalise and group these into a smaller set of charges for analysis.

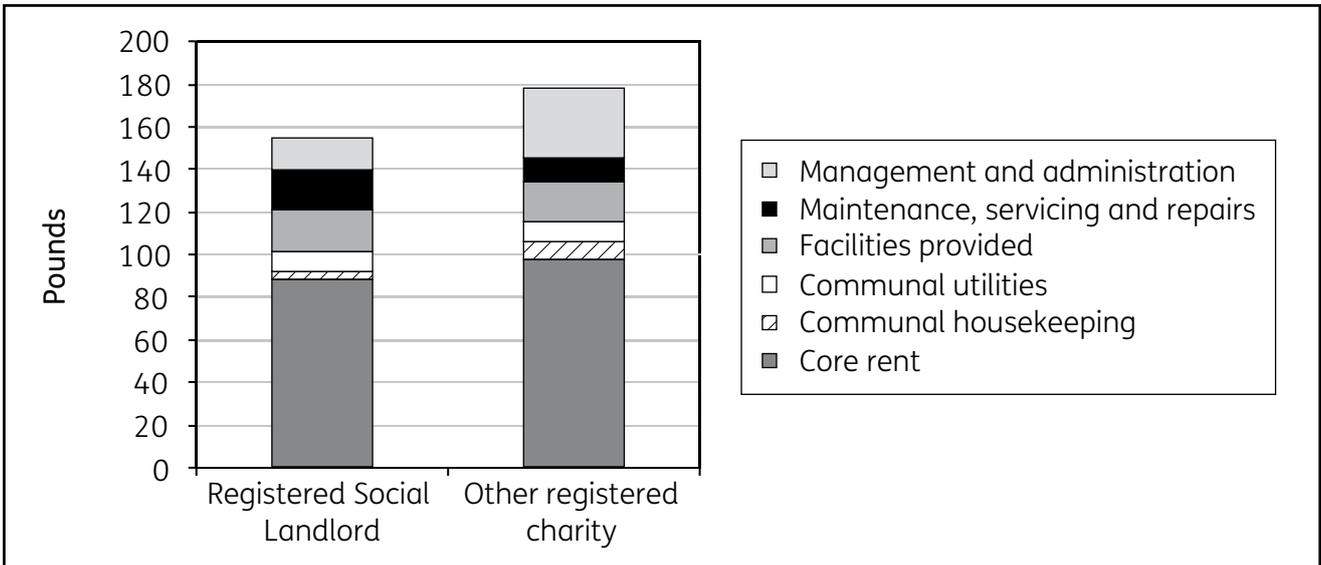
While it is true that individual housing costs vary considerably across claimants living in 'exempt accommodation', we can identify some trends that are related to the type of claimant. Claimants with physical or learning disabilities tend to live in housing with higher core rents. Those with physical disabilities have higher facilities service charges, while those with learning disabilities tend to have higher management service charges. Claimants recovering from addiction tend to have lower core rents, but higher management and administration service charges.

Looking at specific individual service charges shows that for a given charge type, such as fuel for communal areas (which includes gas and electricity charges for heating and lighting those areas), there is a very wide range of charges levied. The means and median charges examined show no statistically significant upward trend over time, but the maximum charges do show such a trend. The maximum charges we found in our sample are often many times higher than the mean or median charges, however, when we examined the individual claims we could find no specific justification to support these very high examples.

4.3.4 Rents and service charges by landlord type

We have compared the mean rent breakdowns for 'exempt accommodation' RSLs and other charitable 'exempt accommodation' providers for 2009/10 as shown in Figure 4.15.

Figure 4.15 Comparison of 2009/10 mean rent breakdowns for 'exempt accommodation' provided by different landlord types



Looking in a little more detail at core rents and eligible service charges for the data we have gathered shows that median core rents for RSL-provided supported accommodation are generally lower than for other accommodation providers, as shown in Figures 4.16 and 4.17. Interquartile ranges and maximum core rents observed are also lower.

Figure 4.16 Core rents for non-RSLs

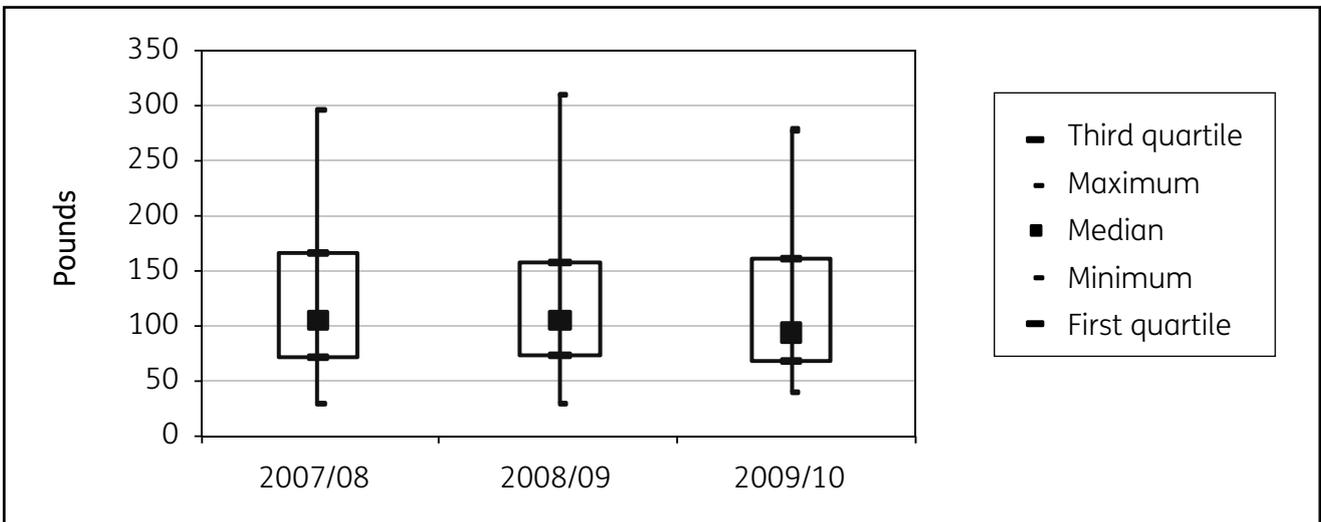
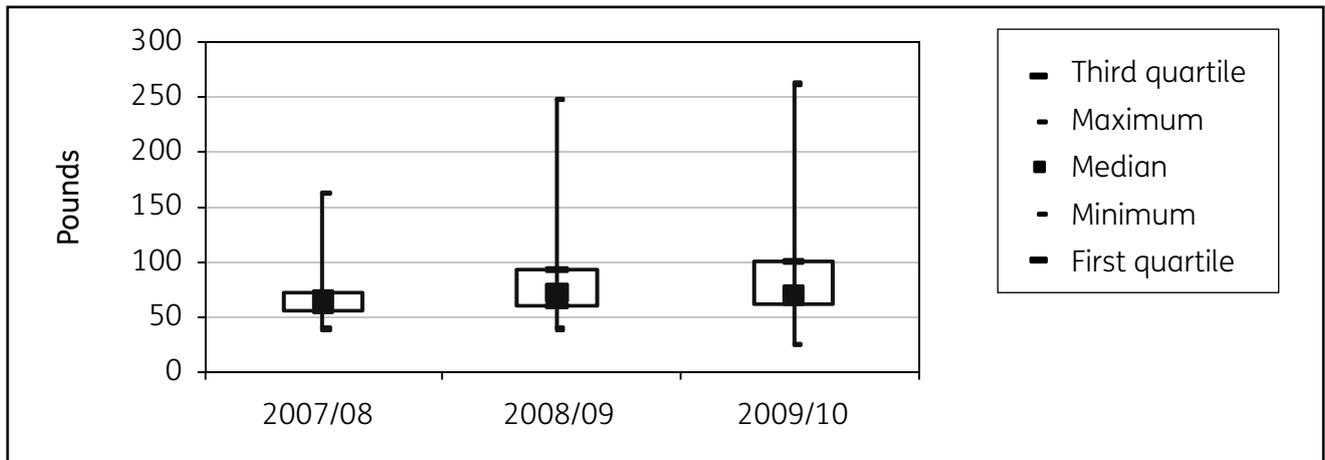


Figure 4.17 Core rents for RSLs



Eligible service charges are shown in Figures 4.18 and 4.19. It is interesting that Figure 4.19 seems to show a recent increase in the service charge element of RSL rents; medians, maxima and interquartile ranges appear to have increased. This is consistent with what we were told qualitatively by a small number of LA benefits managers, that they thought that RSL providers of supported accommodation, while charging relatively low rents as rent levels are regulated, are increasing service charges, for which levels are not regulated, although RSLs are provided with guidance. Focusing on the medians and interquartile range, the service charges for other providers, while still higher than those for RSLs, do not seem to show the same trend, although the maximum has risen.

Figure 4.18 Eligible service charges, non-RSLs

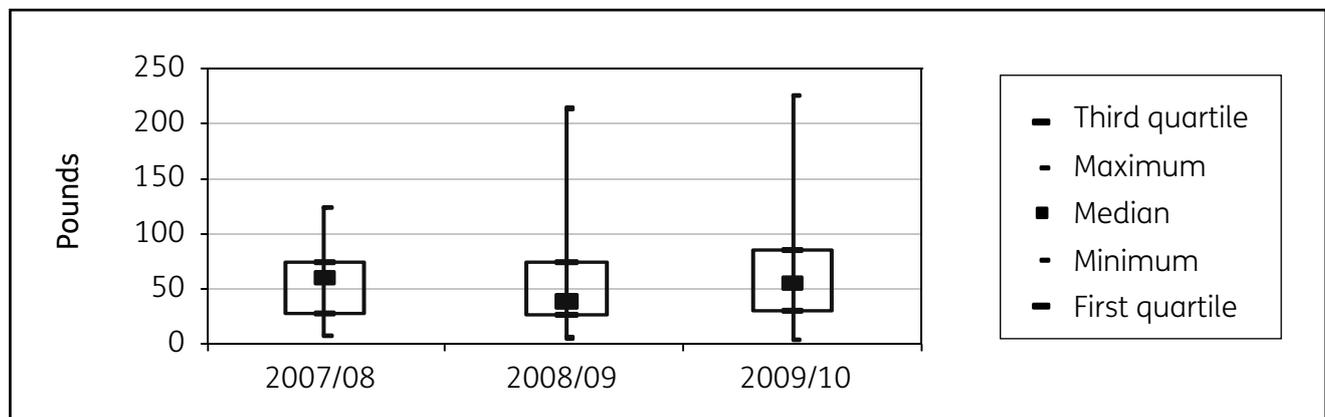


Figure 4.19 Eligible service charges, RSLs

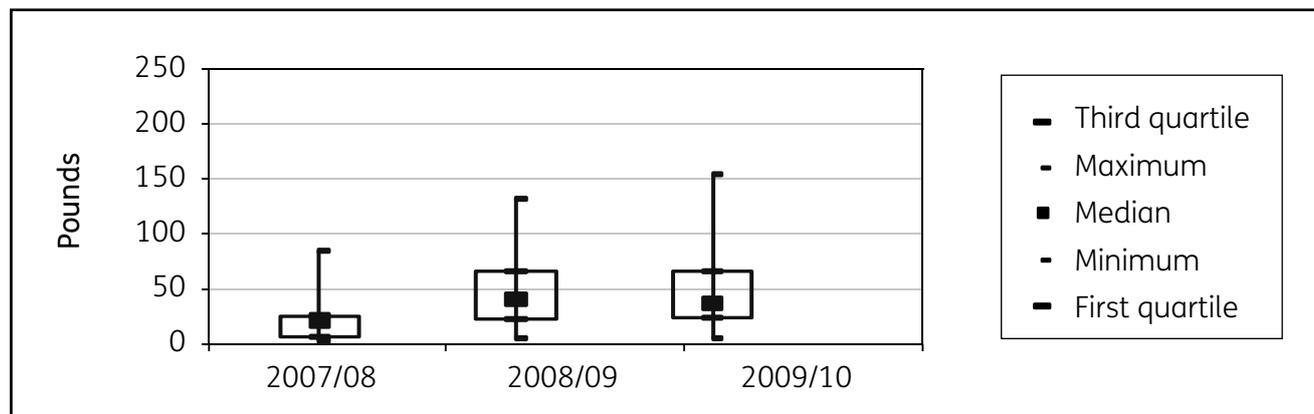


Table 4.1 shows a breakdown of the types of accommodation providers for which we collected data during our sampling. This indicates the number of different individual accommodation providers we came across, as well as the total number of claims, across all years, that we collected from each provider type (note this is a much larger number than the number of unique claimants, as discussed in Section 3.4). It should be noted that on a small number of occasions a claimant went into and out of ‘exempt accommodation’ and we collected data on an intermediate, non-‘exempt accommodation’, claim as well for completeness – these account for the ‘Private Landlord’ claims we collected, where the landlord was not a charity. In addition, as discussed above, some non-‘exempt accommodation’ claims have been treated as ‘exempt accommodation’ by a small number of LAs and these have also been captured and are counted in our database.

Table 4.1 Breakdown of accommodation provider types for collected claims

| Accommodation provider type | Number of individual providers for whom data collected | Total number of claims collected from each provider type |
|------------------------------|--|--|
| LA owned property | 2 | 4 |
| Other housing association | 6 | 25 |
| Other voluntary organisation | 2 | 10 |
| Private landlord | 12 | 65 |
| Registered charity | 82 | 456 |
| RSL | 64 | 227 |

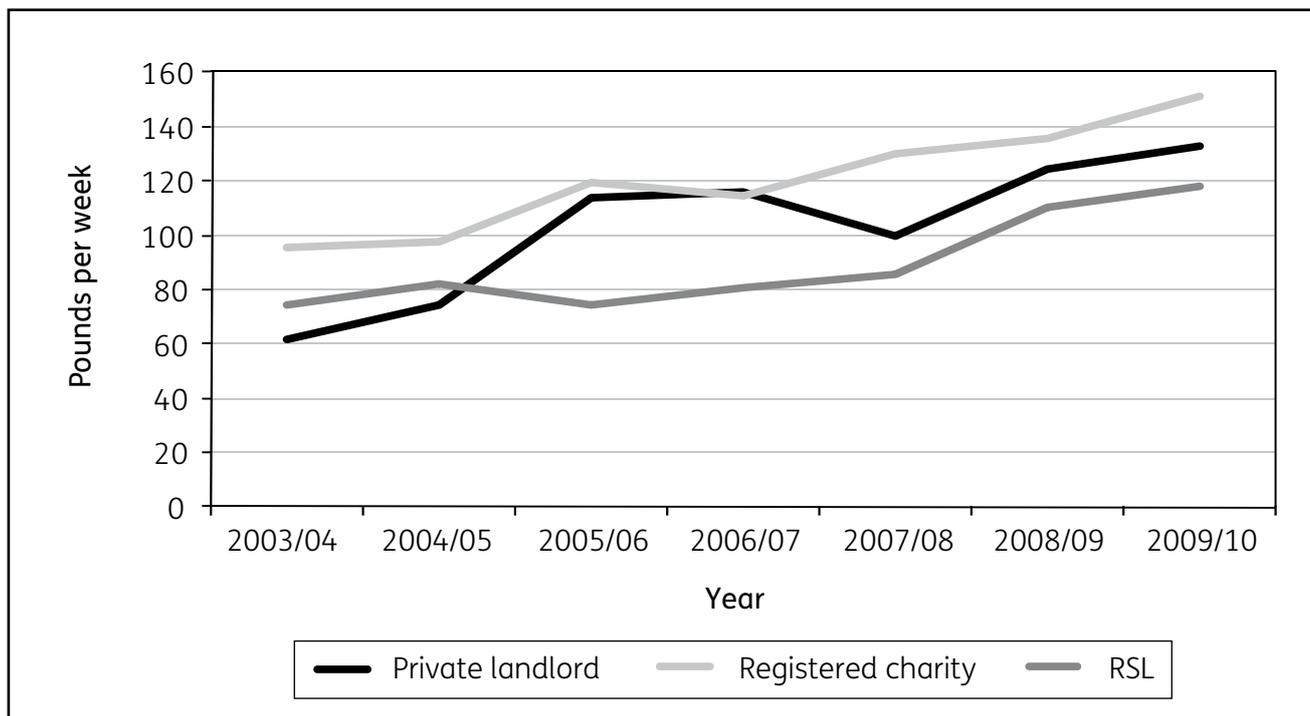
Figure 4.20 Trends in HB costs by landlord type – all sampled claims

Figure 4.20 shows the trends in 'exempt accommodation' HB costs by type of landlord for all sampled claims. (We have not included the first three accommodation provider types as the numbers of sampled cases are small.) These include those claims which LAs have not explicitly treated as exempt because the landlord is an RSL providing care, support or supervision (where no ROD referral has been made). Notable features are:

- the RSL average claim costs are lower in every year apart from 2003/04 (where the data are scarce) than any other landlord type;
- claim costs for private landlords were rising rapidly and dropped in 2007/08, perhaps as a result of the credit crunch which we know in some areas had reduced rent rates – they are now starting to rise again and remain higher than RSL claims;
- private registered charities' claim costs are typically higher than RSL costs, and have followed the same trend over time;
- unregistered housing associations, of which we came across six, and other voluntary organisations (two) appear to have much higher costs than are typical of other providers, but caution is needed as the numbers are small.

4.4 What explains differences in spending between local authorities?

The previous section indicates that there are differences between LAs. In some LAs spending on 'exempt accommodation' has risen, in others it has not – examination of individual subsidy returns confirms this. There are many potential explanations for this, discussed below.

4.4.1 Impact of consultants

The possible impact of the activities of consultants, which might affect differences between LAs, is discussed earlier. We have looked for quantitative evidence of this but do not find any clear evidence. It is possible that the increases in upper quartile rents and service charges may reflect the influence of independent consultants.

4.4.2 'Exempt accommodation' treatment of housing associations

It might be that some LAs are treating 'exempt accommodation' provided by housing associations³⁰ as standard RSL expenditure in subsidy returns. There do seem to be differences in how supported accommodation provided by RSLs is treated by LAs. In some LAs our sample cases included no examples of RSL-provided supported accommodation that had been referred to the Rent Officer. While some LAs did refer some 'exempt accommodation' RSL rents to the Rent Officer, many LA managers told us that they had not referred any RSL rents to the Rent Officer, but that they would if the rent was excessive. (It was not clear to LAs, however, what was meant by excessive in the regulations – some interviewees noted that they would like guidance on what should be considered excessive.) Thus, at these LAs, all expenditure for accommodation provided by RSLs would be treated as standard expenditure in subsidy returns.

'We don't refer RSL rents to the rent office – rent levels are all going up so there is no justification for it.'

'If an RSL has excessive rents we may look at it more closely, but in general any RSL that is also providing care, support or supervision is not treated as exempt, but just like any other RSL. They are regulated in other ways to ensure that rents are not excessive, they are not usually a problem.'

(LA benefits managers)

At others, we found several examples of RSL accommodation subject to the same scrutiny that would be applied to any other 'exempt accommodation' claim, and examples of referrals of such accommodation to the Rent Officer. One interviewee told us that RSL core rents were reasonable, as they were regulated, but that RSLs were subject to guidance on the levels of service charges and these were rising more quickly than rents.

'We restricted the rent (in a shared ownership case) as the TSA says initial rent should not exceed three per cent of the share of the equity. We restricted the service charges as well – we refused to pay communal area charges as there were no communal areas. The landlord said he was surprised at the rent being restricted, because they are an RSL.'

(LA benefits manager)

³⁰ Many housing associations are RSLs, but many are not. For 'exempt accommodation' claims, housing associations that are not RSLs should have their rents referred to the Rent Officer.

Thus, it appears from our interviews with LA benefits managers that in many LAs only accommodation provided by unregistered housing associations, charities and voluntary organisations is considered as ‘exempt accommodation’, while accommodation provided by RSLs is generally not referred to the Rent Officer, as explained in Chapter 3.

During our claim sampling exercise we checked the status of accommodation providers using evidence on LA systems (e.g. scanned copies on documentation management systems), and by referring to websites³¹. We found no evidence of any systematic error in the treatment of providers. In two instances we found housing associations that did not appear to be RSLs being treated as RSLs. In one or two instances we found other errors, which appeared to be genuine, that had not yet been picked up by Quality Assurance (QA) checks³²; these related to incorrect entry of numbers rather than incorrect status of accommodation providers.

4.4.3 Reputation for restricting rents

A few LA interviewees believed that accommodation providers tended not to increase the numbers of schemes in their area because the LA had a reputation for challenging rents and service charges, and restricting rents where possible. We were told by some LAs that they knew of other LAs where benefits departments applied guidance less strictly, and so where accommodation providers might be more likely to site schemes.

‘Some LAs don’t challenge anything – they just pay.’

‘Some LAs don’t scrutinise things much – they just find out whether the scheme is getting Supporting People funding, and if it is they class it as exempt and pay.’

(LA benefits managers)

4.4.4 Level of scrutiny of claims

There are differences in the amount of attention paid to ‘exempt accommodation’ rents and service charges. As noted earlier, in some LAs it appears that service charge types deemed eligible are simply accepted, whereas in other cases individual service charges are examined and justification sought. This may reflect whether an LA perceives the level of spending on, or subsidy loss for, ‘exempt accommodation’ to be an issue, and whether the effort that would be required to scrutinise charges in detail is considered worthwhile.

‘We haven’t restricted them because the work and expense for us to restrict these costs, then defend the decision at appeal would cost more than paying them.’

(LA benefits manager)

Some LAs felt that they did not have sufficient guidance or knowledge on what should be included in core rent and what service charges should be eligible. Some felt that justifying the levels of service charges required access to accommodation providers’ detailed accounts, which was rarely possible.

³¹ For example, the TSA website www.tenantservicesauthority.org, the Charities Commission www.charity-commission.gov.uk and the Office of the Scottish Charity Regulator <http://www.oscr.org.uk>

³² For example, in one instance a scheme with several rooms had an unusually high Rent Officer figure, equal to the actual rent charged. This was an error, and on noting this, the LA immediately checked all claims at the address. The error only applied to one claim, for one room, and would have been picked up during checking of subsidy reports.

4.4.5 Private sector provision

We found some evidence for a 'private voluntary sector'. The definition of 'exempt accommodation' is such that while the landlord must be an RSL or non-profit-making organisation, the owner of the property involved can be a profit-making organisation, and the organisation providing care, support or supervision can be a profit-making organisation. In the former case, the landlord who provides accommodation for those claiming HB can lease the property from a private landlord who can make a profit.

While in some cases it might be possible for some individuals or organisations to make a profit deriving from property that has an 'exempt accommodation' claim relating to it, profit is not necessarily the key motivation for providing accommodation. For example, we spoke to one accommodation provider, a registered charity, which had been operating for some time and owned some property in its own right. However, to meet demand, it had leased properties from commercial landlords which it then rented to tenants with learning difficulties and mental health issues. Those commercial landlords make what might be considered a normal commercial profit.

Another accommodation provider noted that if additional housing is to be provided then it must be found from somewhere – purchased with the assistance of grant funding, donations to charities, or commercial loans, or leased from existing property owners.

One LA told us of a new scheme where a voluntary organisation acted as landlord and leased the property from the owner. The lease costs were high because the owner was seeking to recover mortgage payments, and had taken out a loan over a period of only ten years, resulting in high mortgage payments. One individual worked both for the voluntary organisation and the owner of the property.

Another LA told us of a non-profit organisation which leased a property from another organisation – the same people were in charge of both organisations. The non-profit organisation paid high lease charges for the property – leading to high rent – which it then let to a single individual with 24-hour one-to-one care needs met through an arrangement entirely separate from the tenancy. In addition to a carer, this individual had an appointee. The LA believed the tenancy to be contrived, but lost on appeal. It also believed that support was de minimis, but again lost on appeal. The LA has challenged various aspects of service charges related to the claim as well. In addition, the LA has had discussions with the claimant's appointee, and now believes it has a good understanding of the nature of the accommodation requirements of the claimant, so now intended to restrict on the basis of suitable alternative accommodation. It expected an appeal to be submitted.

'A new charity appeared, a registered charity, and it leases a property from a private landlord. We restricted the rents to the Rent Officer Determination because the property is sub-standard.'

'The charity says that support and services are provided free by volunteers. HMRC are interested in this case, as charitable status has tax advantages, and because there don't seem to be any actual payments from the charity to their landlord, and there doesn't appear to be a lease between the main landlord and the charity. The charity is appealing one of the cases, and we are waiting for a tribunal date.'

(LA benefits manager)

4.5 Is there evidence of the impact of consultants?

It has been argued by some (for example, some LA benefits managers) that consultants have had a significant influence in increasing rents and service charges for 'exempt accommodation' in some areas. In this case we would expect LAs where consultants have been active to show higher per case costs than LAs where no consultant activity is reported. Unfortunately, we do not currently have data for all LAs on whether consultants have been working in their area. Figure 4.21 shows the difference between 'exempt accommodation' costs and LHA rates by LA. We have used the one-bed LHA rate for comparison purposes as the vast majority (89 per cent) of claimants for whom we collected data were single people living on their own. The graph has been coloured according to whether consultants have been known to be operating in the area – dark points indicate consultants were mentioned as operating in the area by the people we spoke to, whereas the lighter points indicate LAs where no mention was made of consultants operating.

The figure shows that the picture is more complex than a simple relationship between the presence of consultants and a wide gap between 'exempt accommodation' HB paid and one-bed LHA rate. No clear effect is visible on a 'per LA' basis. This may be because consultants work for individual accommodation providers and schemes, so may have a big effect on these while their overall impact is lessened. In addition, some authorities have been robust in challenging rents and rent increases proposed by consultants, so even though they may have been creating considerable work for authority staff they may have had a smaller overall influence on the costs of 'exempt accommodation' in the area.

One interesting feature of the graph is that there are a number of authorities for which the HB paid for 'exempt accommodation' claims is no higher, or not much higher, than the local one-bed LHA rate. We have also considered how costs per case vary between LAs. We have looked at how mean 'exempt accommodation' claim costs (mean total HB paid per claim) compares with local housing costs. We divided LAs according to our original categories for selecting our sample.

Figure 4.22 shows that the four largest categories, 2, 4, 5 and 7 show as large a variation within them as there is within the entire sample. This indicates that these categories do not provide good explanatory power for differences between authorities.

Figure 4.21 Comparison of mean HB paid on referred 'exempt accommodation' claims with one-bed LHA rates, ordered by the difference between the two

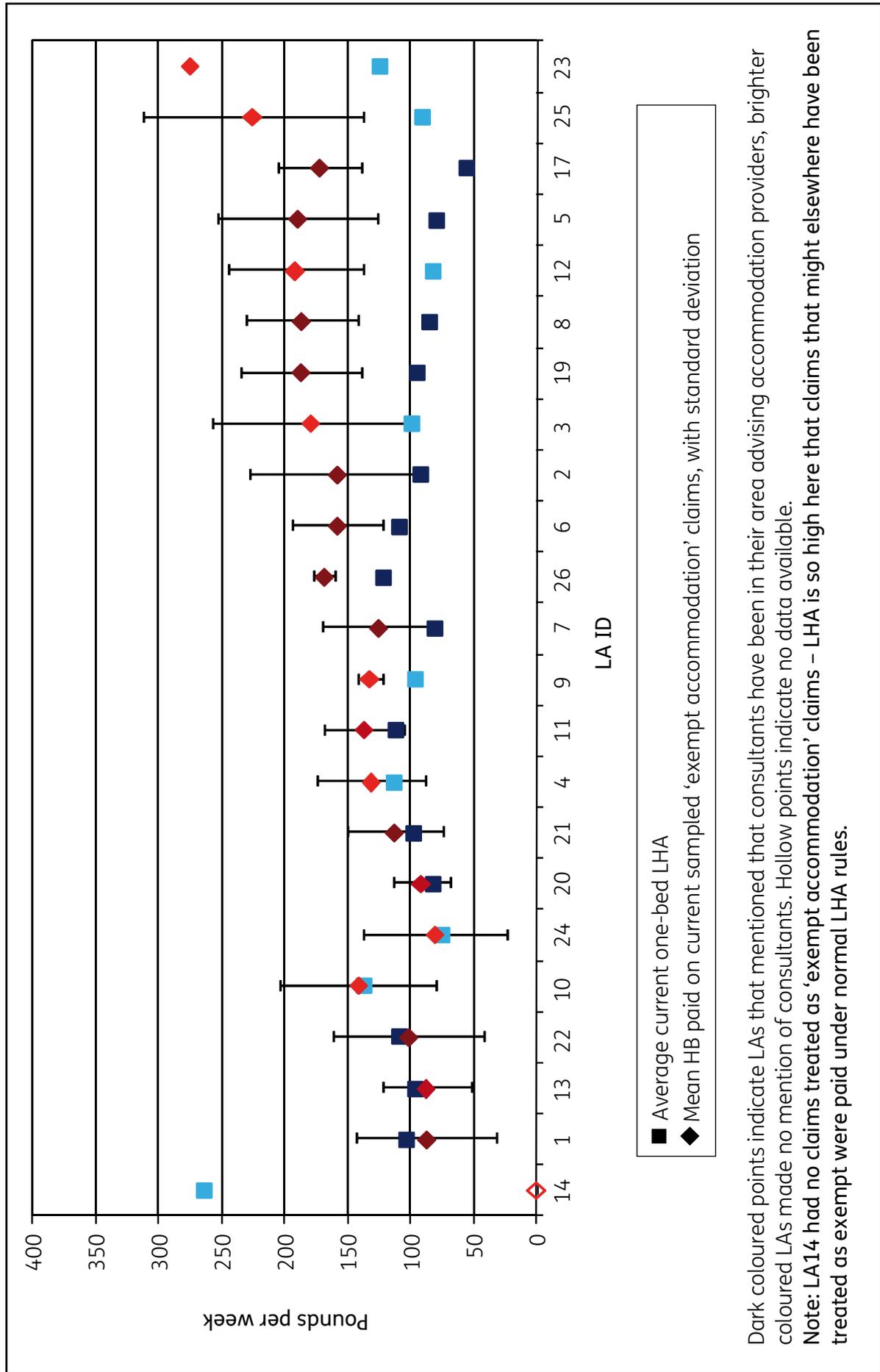
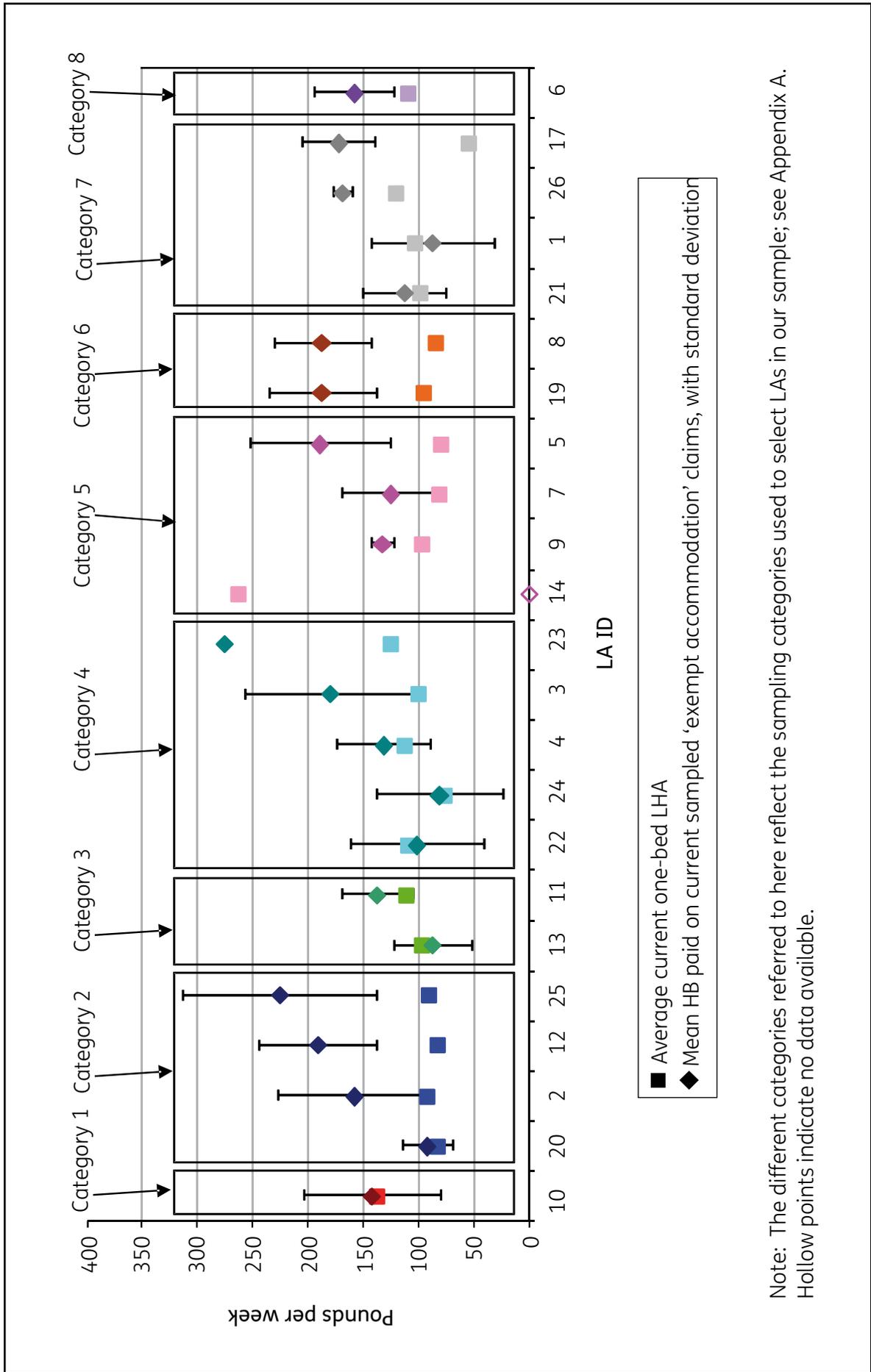


Figure 4.22 Comparison of mean HB paid on referred 'exempt accommodation' claims with one-bed LHA rates, by sampling category



5 How much is spent on ‘exempt accommodation’?

To estimate the total costs to the public purse of Housing Benefit (HB) claims for supported and ‘exempt accommodation’ we need to establish:

- the numbers of people living in relevant accommodation (estimated earlier – see Section 3.4 onwards);
- how much more this accommodation costs than standard accommodation for individual local authorities (LAs), and for England, Scotland and Wales combined: this can be calculated either on a top-down basis using subsidy return information, or on a bottom-up basis using data from claims sampled during our fieldwork. Using subsidy returns presents some risk as there may be systematic under-reporting, for example, if claims are not referred to the Rent Officer when they should be but are simply paid in full and not reported on the return.

The following sections describe how we have estimated the second item and produced an estimate of total costs. We include some analysis of whether there is evidence of systematic errors in subsidy returns.

5.1 Evidence for accurate declaration of ‘exempt accommodation’ costs

The first step was to examine whether LAs were accurately declaring ‘exempt accommodation’ claims. As described above, we collected detailed data from claims, including detailed claim histories, taken as a random sample from those claims identified by LAs as being exempt. Of the claims identified by authorities as being from people living in ‘exempt accommodation’ (provided with care, support or supervision), we found that in a number of cases the claims were not actually treated as exempt by the authority, because no Rent Officer referral was made (see Table 5.1 for details of how these claims were treated). In addition there were a number of claims that did not (as far as we could tell) meet the ‘exempt accommodation’ criteria, but which were being treated as ‘exempt accommodation’ claims by the LA, as described in Table 5.2:

Table 5.1 Sampled current claims that meet exempt criteria but are not treated as exempt

| Landlord type | Treatment | Number of claims affected (out of total of 288 current claims) | Reason |
|----------------------------------|--------------------------|--|---|
| Registered Social Landlord (RSL) | No Rent Officer referral | 50 | Claims not considered ‘excessive’ so no referral |
| Not RSL | No Rent Officer referral | 2 | Landlord is housing association but not an RSL – LA made processing error |

The majority of claims that meet the exempt criteria but are not treated as exempt are RSL claims – this accords with our general observation that LAs tend not to treat ‘exempt accommodation’ provided by RSLs explicitly as exempt.

Table 5.2 Sampled current claims that do not meet exempt criteria but are treated as exempt

| Landlord type | Treatment | Number of claims affected (out of total of 288 current claims) | Reason |
|---------------|---|--|---|
| RSL | Rent paid in full | 1 | Landlord not providing care, support or supervision – provided by another organisation. Claimant is vulnerable and rent paid in full |
| Not RSL | Rent Officer referral and rent paid in full | 16 | Five claims are housing association tenancies but we could find no evidence of support provided by landlord Two claims are pre-1996 and claimant is considered vulnerable and cannot be moved so no restriction Nine claims are private sector (non-charity) landlords who provide care, support or supervision but should not be eligible for ‘exempt accommodation’ |

The 17 claims that do not meet the exempt criteria but are treated as exempt are of most concern in terms of potential impact on the public purse. Some of these claims may be quite legitimate. The pre-1996 cases are legitimate and do meet the rules, although care, support or supervision is not provided. In these cases the LA may pay the full rent, but may not claim the subsidy on the amount over the Rent Officer Determination (ROD). The five housing association claims may be legitimate – evidence of care, support or supervision often had to be uncovered by delving into original benefit claim forms and correspondence between LA and provider. Where these details had not been scanned into the electronic systems available to us we were sometimes able to find paper records, but in cases where LAs had recently merged this was impossible. The nine private landlord claims clearly do not meet ‘exempt accommodation’ conditions. These claims account for three per cent of the claims collected, and were found in five LAs. On average the additional costs over the ROD for these claims was £43 ± 25 per week; however, we were told that for at least five³³ of these claims, no subsidy was claimed for the amount in excess of the ROD.

5.2 Comparing sampled ‘exempt accommodation’ claim costs with subsidy return data

The subsidy return data gives one picture of how much ‘exempt accommodation’ is currently costing. Our sampled claims data gives an alternative view. By comparing the two we can estimate how different the subsidy return data appears to be from the true cost of ‘exempt accommodation’.

³³ The LA had decided not to restrict the rent paid, but did not treat the claimants as vulnerable for the purpose of subsidy returns.

We obtained a full set of subsidy return data for all LAs in England, Wales and Scotland from the Department for Work and Pensions (DWP) for the years 2002/03 to 2008/09 (unaudited). We analysed the 'Cell 96' and 'Cell 97' data (as described in Section 4.1.4).

Exempt claimants, who have been receiving HB at the same address from before 1996 but are not living in 'exempt accommodation', should not be subsidised for any amounts paid by the LA above ROD – these amounts would appear in Cell 97. We noted that several LAs did pay some 'exempt accommodation' claims in full for other types of claimants who would not fall within the vulnerability rules for 'exempt accommodation' claims, and these amounts should also fall within Cell 97. We were able to check that accommodation provided met the 'exempt accommodation' rules but not always whether the individual would count as vulnerable under these rules, so we are not able to disaggregate these claims. For simplicity, for the purposes of comparison, we have combined Cell 96 and Cell 97 data to compare with the total amount over the ROD amount for the 'exempt accommodation' claims we collected. The amount of additional costs appearing in Cell 97 and associated with 'exempt claimants' rather than 'exempt accommodation' claims is expected to be a very small proportion of the total. Although it would be most accurate to exclude this from the analysis, we do not have any information that would allow us to do this.

Our sample was collected between December 2009 and March 2010. It would, therefore, be most appropriate to compare estimates of the overall costs of 'exempt accommodation' calculated using our sample with subsidy return data for 2009/10. This data is not yet available, so we have estimated for each authority what we anticipate their subsidy return would be, using historical data to project forward. The authorities have very different characteristics, so we have used an individual approach for each authority.

5.3 Calculating annual 'exempt accommodation' costs over the ROD for each authority

To compare our sample with the combined subsidy returns in Cells 96 and 97³⁴ we calculated the amount of weekly HB paid above the ROD limit for each of our current sampled claims where a Rent Officer referral was made (a total of 190 claims). We calculated the mean of this number for each LA to give us the mean cost per claim. We then multiplied by 52 to give an annual figure. We used data gathered during fieldwork to estimate how many claims to assume for each LA as a whole, taking account of claims that met exempt criteria but were not being treated as exempt (excluding RSLs). This gave us an estimate of how much we would expect each authority to be declaring in Cells 96 and 97 combined (the total cost above the ROD, irrespective of claimant vulnerability), for comparison with the actual and forecast subsidy returns.

Table 5.3 gives the figures for each authority and the results are presented graphically in Figure 5.1.

³⁴ Note that Cell 97 should include payments above ROD made by LAs both for exempt claimants not provided with care, support or supervision and also for 'exempt accommodation' claims where claimants do not meet formal vulnerability criteria. In both cases LAs can choose to pay above the ROD limit but are ineligible for subsidy. We have captured a very small number of the former in our sample (we generally excluded these claims) but will have included the latter in our sample where they occurred.

Table 5.3 Estimates of 2009/10 subsidy return figures for case study LAs

| LA | Sampled claims for which a Rent Officer referral was made, 2009/10 | Total sample including RSL and other claims captured | Sample mean HB paid, for claims for which a Rent Officer referral was made | Sample mean amount over threshold for which a Rent Officer referral was made | Estimated costs over ROD threshold for 2009/10 based on sampled data | Total over threshold amount declared, 2008/09 (Cell 96) plus Cell 97) | Forecast total over threshold amount, for 2009/10 based on forward projection from historical data |
|-------|--|--|--|--|--|---|--|
| | | | £ | £ | £ | £ | £ |
| LA 1 | 2 | 9 | 88 | 6 | 64,000 | 208,000 | 311,000 |
| LA 2 | 2 | 8 | 159 | 70 | 205,000 | 481,000 | 524,000 |
| LA 3 | 11 | 17 | 180 | 77 | 117,000 | 136,000 | 125,000 |
| LA 4 | 16 | 20 | 132 | 42 | 463,000 | 316,000 | 401,000 |
| LA 5 | 7 | 11 | 190 | 65 | 1,112,000 | 405,000 | 358,000 |
| LA 6 | 20 | 20 | 159 | 37 | 238,000 | 176,000 | 228,000 |
| LA 7 | 5 | 15 | 126 | 44 | n/a | 84,000 | 155,000 |
| LA 8 | 8 | 13 | 187 | 47 | n/a | 229,000 | 395,000 |
| LA 9 | 13 | 13 | 133 | 26 | 218,000 | 142,000 | 133,000 |
| LA 10 | 12 | 15 | 142 | 64 | 131,000 | 49,000 | 90,000 |
| LA 12 | 11 | 19 | 192 | 46 | 375,000 | 221,000 | 392,000 |
| LA 13 | 10 | 15 | 88 | 37 | 50,000 | 17,000 | 10,000 |
| LA 14 | 0 | 4 | n/a | n/a | n/a | 51,000 | 124,000 |
| LA 17 | 8 | 15 | 173 | 30 | 2,251,000 | 1,293,000 | 2,002,000 |
| LA 19 | 7 | 13 | 187 | 49 | n/a | 832,000 | 1,019,000 |
| LA 20 | 3 | 15 | 92 | 34 | 112,000 | 14,000 | 49,000 |
| LA 21 | 13 | 17 | 113 | 38 | 74,000 | 128,000 | 161,000 |
| LA 24 | 4 | 4 | 81 | 49 | 17,000 | 70,000 | 65,000 |
| LA 25 | 16 | 16 | 226 | 88 | 196,000 | 136,000 | 211,000 |
| LA 26 | 10 | 15 | 169 | 9 | 345,000 | 128,000 | 153,000 |
| LA 27 | 12 | 14 | 149 | 73 | 469,000 | 143,000 | 125,000 |

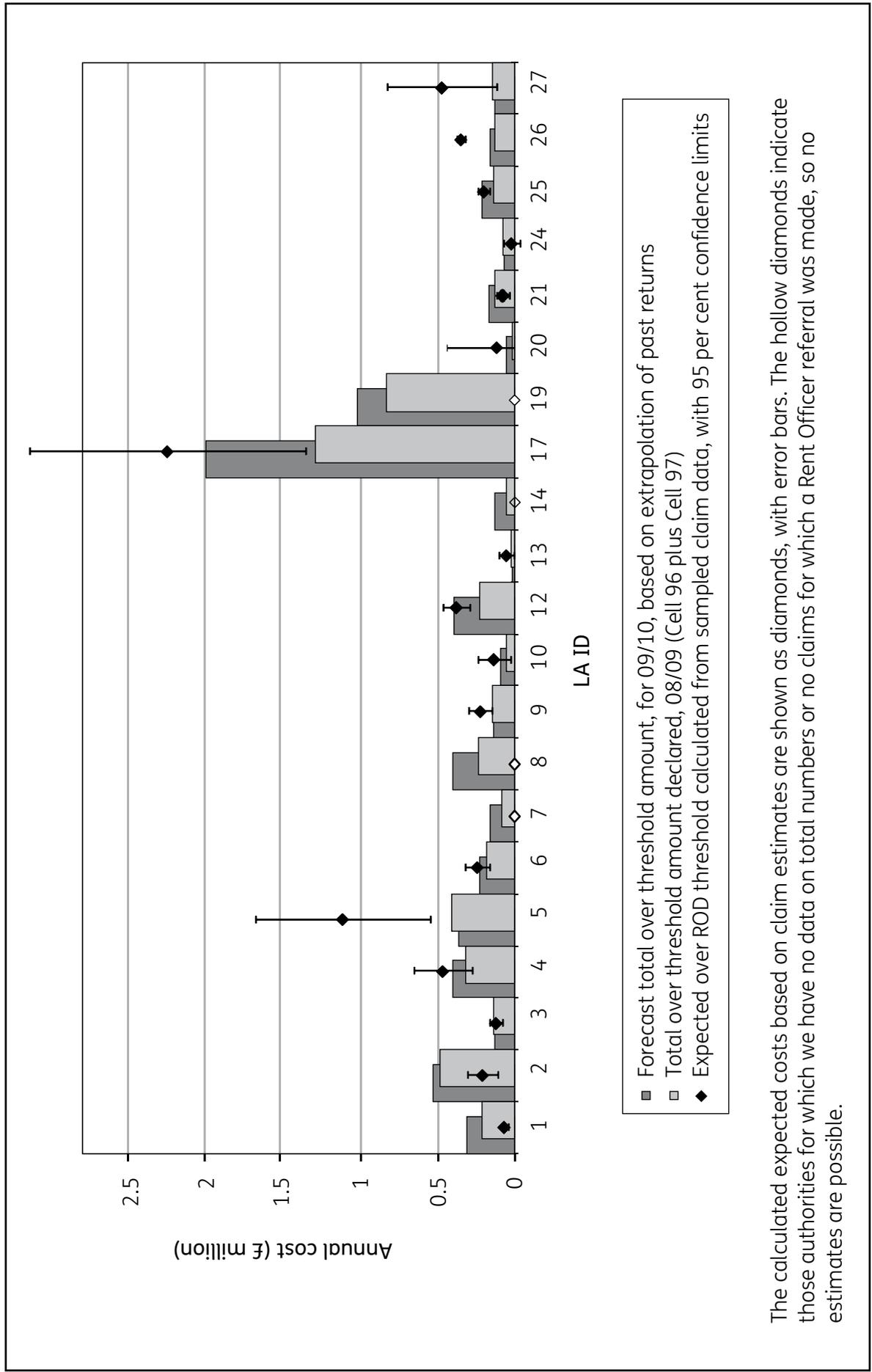
5.4 Findings

In the majority of cases the claim-based expected costs for 'exempt accommodation' above the ROD limit agree well with the subsidy return-based data. The examples where there is some discrepancy are:

- LA 2 – the majority of claims collected here were for RSLs that were not being treated as exempt according to the data provided by the authority. The sample size for other 'exempt accommodation' is very small, so may not be representative;
- LA 5 – it is not clear why the subsidy returns indicate a much lower rate than the sample of claims;
- LA 26 – actual and forecast subsidy returns are lower than predictions and also outside the confidence limits, although the numbers are relatively small.

In all other cases the expected costs based on collected claim data and those based on subsidy returns agree within the confidence limits we have been able to place on the claim data calculations (shown in Figure 5.1). This level of agreement between top-down and bottom-up data gives us some confidence that the subsidy returns themselves appear to be generated from reasonably good data and that the sample data we collected is reasonably representative of the claims within the authorities visited. As noted above, the sample, while selected randomly, may be biased depending on the characteristics of the LAs who declined to participate. It is possible that LAs who agreed to participate had greater confidence in the way they treat 'exempt accommodation' claims, but we have no data on which to base any assumptions that would take this into account.

Figure 5.1 Comparison of predicted total over-threshold costs from sample claims for 2009/10 against combined Cell 96 and Cell 97 returns for 2008/09 and forecast returns for 2009/10



5.5 Calculating the additional costs of 'exempt accommodation'

In this section we combine the estimates for numbers of people living in 'exempt accommodation' (and claiming HB) and estimates of per claim costs in excess of RODs to estimate aggregate costs. These are compared with top-down estimates derived using subsidy data.

5.6 Methodology

5.6.1 RSL-provided 'exempt accommodation' claims

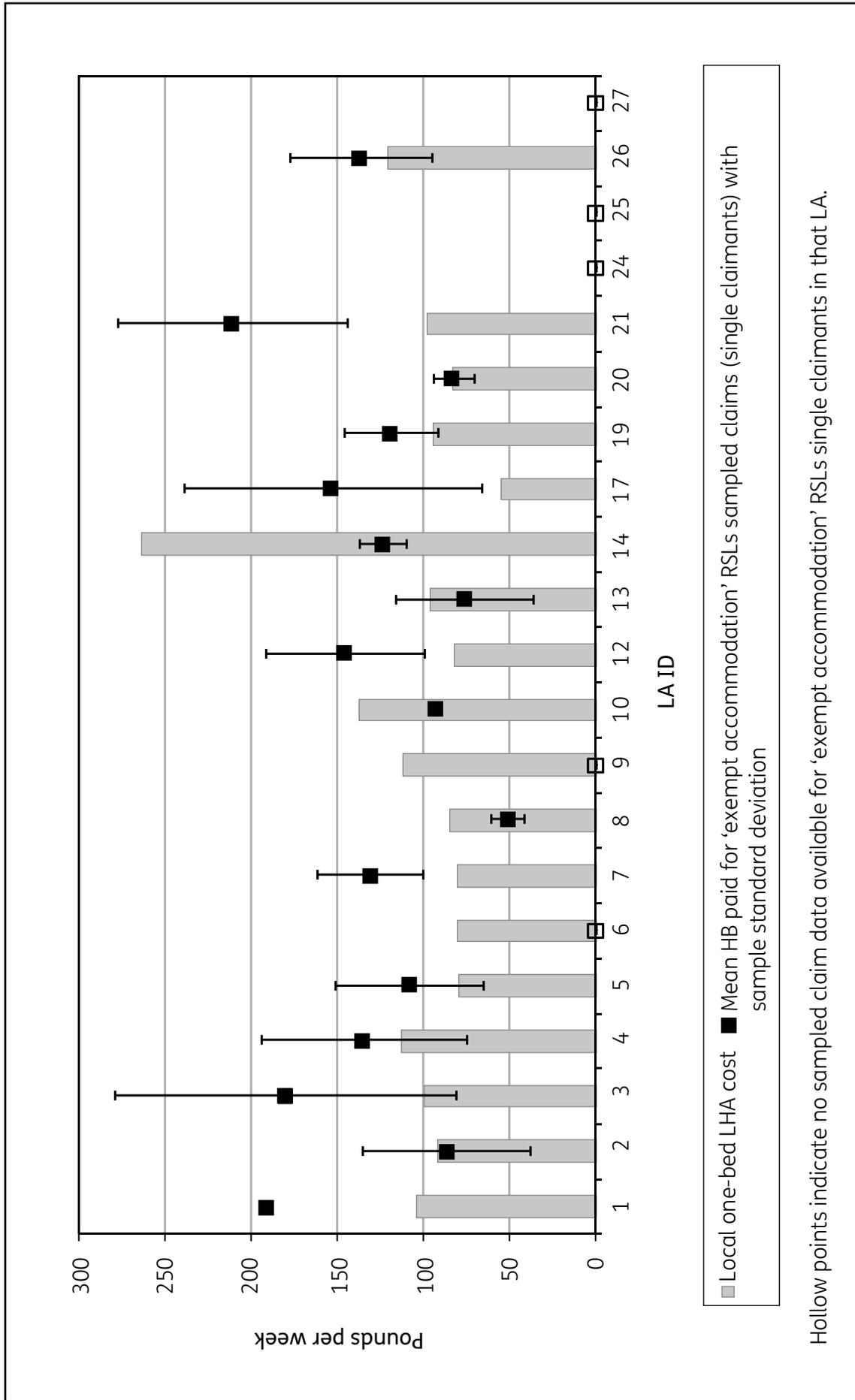
LAs were not able to provide us with the information needed to collect a random sample of claims from 'exempt accommodation' provided by RSLs. As discussed above, there are few cases where LAs refer such claims to the Rent Officer or otherwise flag the claim as relating to 'exempt accommodation' – in general these are treated in the same way as all other claims by RSL tenants. However, in most LAs we were able to collect a non-random sample (usually based on RSL addresses where the benefits manager knew that care, support or supervision was provided). We have, therefore, been able to obtain a rough estimate of how much such accommodation typically costs (based on HB paid to claimants). It would be most correct to compare this with local RSL costs for unsupported accommodation. However, we do not have this data available. We have therefore compared the typical costs of accommodation provided for single claimants in supported RSL accommodation (where this has not been referred to the Rent Officer) with the local Local Housing Allowance (LHA) rate (which would be expected to be higher than local non-supported RSL rates) (figures have been rounded). Table 5.4 presents the findings by LA, for the year 2009/10, which are illustrated in Figure 5.2.

Table 5.4 RSL-provided supported accommodation costs

| LA ID | Local one-bed LHA cost £ | Mean HB paid for 'exempt accommodation' RSL sampled claims (single claimants) £ | Difference (rounded) £ | Number of current 'exempt accommodation' RSL claims collected (single claimants) |
|-------|-----------------------------|--|---------------------------|--|
| 1 | 100 | 190 | 90 | 1 |
| 2 | 90 | 87 | -10 | 5 |
| 3 | 100 | 181 | 80 | 4 |
| 4 | 110 | 135 | 20 | 3 |
| 5 | 80 | 109 | 30 | 4 |
| 6 | 80 | n/a | n/a | n/a |
| 7 | 80 | 131 | 50 | 7 |
| 8 | 90 | 51 | -30 | 4 |
| 9 | 110 | n/a | n/a | n/a |
| 10 | 140 | 93 | -50 | 2 |
| 12 | 80 | 146 | 60 | 6 |
| 13 | 100 | 76 | -20 | 3 |
| 14 | 260 | 124 | -140 | 4 |
| 17 | 60 | 153 | 100 | 2 |
| 19 | 100 | 119 | 20 | 2 |
| 20 | 80 | 83 | 0 | 9 |
| 21 | 98 | 211 | 110 | 3 |
| 24 | n/a | n/a | n/a | n/a |
| 25 | n/a | n/a | n/a | n/a |
| 26 | 120 | 137 | 20 | 4 |
| 27 | n/a | n/a | n/a | n/a |

Typically, the 'exempt accommodation' provided by RSLs is more expensive than the local LHA rate, and it is therefore likely that there is an even greater difference between this and mainstream RSL accommodation (which would be less costly than local market rental property). Where LHA is very high (e.g. in LA 14), even supported RSL accommodation has a much lower cost than local private rents, but mainstream RSL accommodation would also be expected to be even lower. This evidence strongly suggests that, as expected, there is a greater cost to the public purse associated with these claims than would be expected from mainstream RSL claimants. Unfortunately we do not have the data available to be able to make an estimate of how much this is likely to be.

Figure 5.2 Comparison of 'exempt accommodation' RSL HB paid for single claimants with one-bed LHA rates



5.6.2 'Exempt accommodation' claims from non-RSL accommodation providers

We originally planned to aggregate up from our claim-level data, using a 'model' of LAs to inform how this should be done, to create an estimate of the total cost above ROD of 'exempt accommodation'. If there were particular characteristics of LAs that drive the costs, this would result in a more accurate estimate. Unfortunately it has not proved possible to identify a suitable set of LA characteristics that explain the variations in 'exempt accommodation' costs and are available for the generality of LAs in England, Wales and Scotland. The main variations between local costs are very specific to localities, e.g. an authority is a centre for drug rehabilitation, or has a history of mental health institutions in the area closing with residents now housed in the community or has mostly RSL provision with very few private charities, or is a place where elderly people choose to retire.

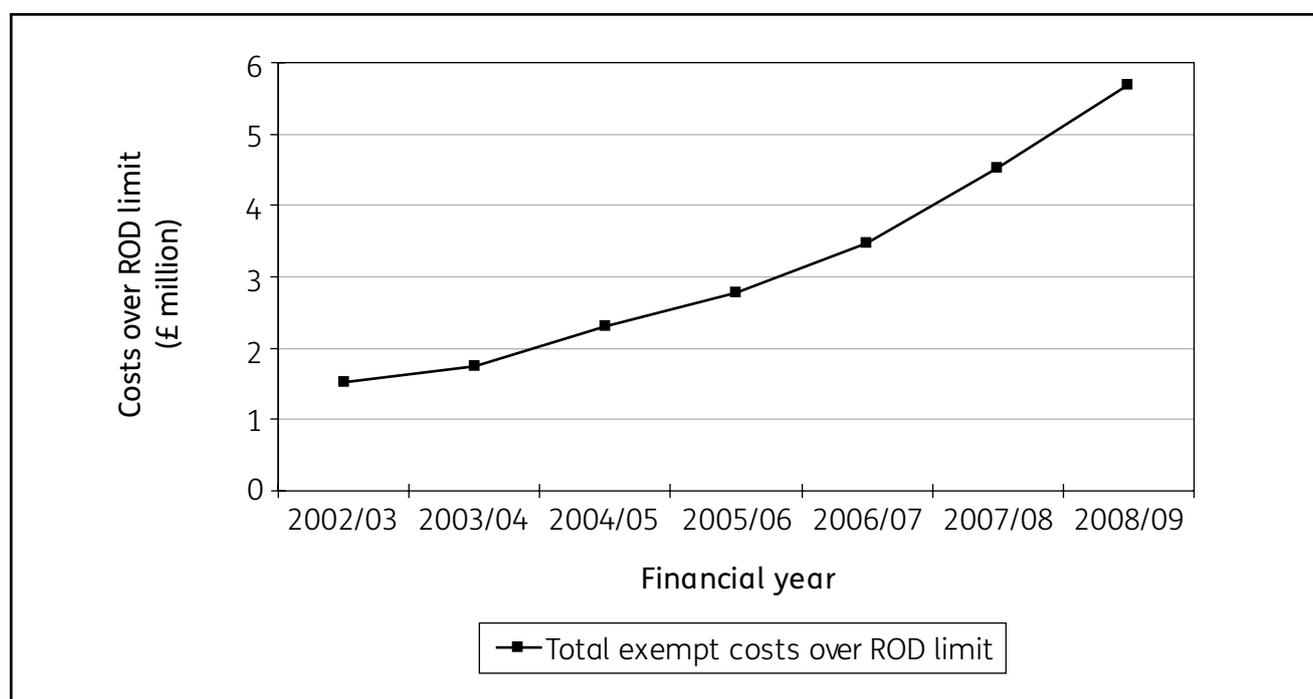
The simplest method is to add the costs in Cell 96 and Cell 97 in subsidy returns across all LAs. These can then be subdivided between those costs incurred by LAs and those incurred by central government. The risk in doing this prior to our research was that these subsidy returns might be inaccurate and either underestimate or overestimate the actual costs of 'exempt accommodation'. From our sample of authorities we have not found any evidence of systematic under- or over-reporting in relation to 'exempt accommodation' claims, although our sample may have been biased by authorities who declined to take part in the research. However, it is likely that the effect of this bias will be small compared with the costs of RSL-provided supported accommodation, which we have been unable to estimate.

5.6.3 Results

Figure 5.3 shows the trend for overall 'exempt accommodation' subsidy returns above ROD limits, Cell 96 plus Cell 97, totalled across all LAs in England, Wales and Scotland. Using a fitted curve³⁵ to project forward, we have estimated the subsidy return for the total of Cells 96 and 97 for 2009/10 will be around £70 million (to two significant figures). On the basis of the number of 'exempt accommodation' claimants we calculated above, this implies an average premium of around £37 above the ROD, with a potential range from £20 to £185. Our calculated mean premium above ROD for the 'exempt accommodation' claims data we collected for 2009/10 was £71, which is within this range.

³⁵ We used the built-in Excel functions to calculate the relationship between the total subsidy return as it changes over time. A curve where the amount paid increases in proportion to the square of time passing was a statistically very good fit to the observed data (with an R2 coefficient of 0.998 – 1 would mean the predictions fit the data perfectly, while 0 would mean there was no relationship), and we used the equation that describes such a curve, known as a second order polynomial, to estimate what the amount paid in the future might be.

Figure 5.3 Total of all LAs 'exempt accommodation' subsidy costs Cell 96 plus Cell 97



Simply multiplying this mean figure by our estimate of the total number of people living in 'exempt accommodation' gives an estimate of total costs as £130 million, although there is a lot of uncertainty associated with this estimate. While the mean is much higher than our estimate based on projected returns (£70 million), the uncertainty, due to the small sample size and the variability of the sampled data, is so great that we cannot say they do not agree. However we have considered some further areas where our sample may be biased:

- Despite not finding evidence for it in our sample, there may be systematic under-reporting of 'exempt accommodation' claims³⁶ across LAs, and some of the LAs that declined to take part may have done so because they were aware of local issues. We cannot take account of this quantitatively as we have nothing on which to base an adjustment.
- Our sample may be biased towards LAs with higher than average numbers of 'exempt accommodation' claims, or higher than average costs per claim, because they may have been more willing to participate.

³⁶ Except of course that RSL-provided supported accommodation is rarely treated as exempt, for reasons noted earlier.

6 The way forward

The discussion below is based on the views of interviewees at local authorities (LAs), accommodation providers, and other stakeholders.

6.1 Why do things need to change?

6.1.1 The current system presents significant challenges

The regulations are open to interpretation and lead to significant uncertainty. This uncertainty affects accommodation providers, claimants and LAs. This uncertainty means that accommodation providers cannot be sure that their proposals will be met in the same way in different LAs. It also means that claimants (or their families or appointees) face uncertainty should they choose, or need, to move from one local authority to another. Several interviewees told us that it was not clear how to judge whether rents or service charges were unreasonably high, or what constituted minimal care, support or supervision.

LAs face uncertainty from more than one source. They may have limited warning of the implementation of new schemes that meet the requirements for ‘exempt accommodation’ status, and thus face uncertainty over whether they can meet budgets, as they may face greater subsidy losses than anticipated. Further, because the regulations are open to interpretation, LAs face uncertainty relating to the outcome of appeals by claimants. Emerging case law arising from tribunals elsewhere can also affect an LA – for example, definitions of what is meant by minimal care, support or supervision.

‘It’s hard to budget for as we have no control over total ‘exempt accommodation’ costs other than basing estimates on last year’s actuals...’

There is some evidence that current trends may make the situation worse. As accommodation providers learn more about the regulations, and independent consultants and external advisers are more active, there is some evidence of schemes set up or altered specifically to meet the requirements of the regulations, and of some high rent increases (for example, from £92 per week to £135 per week following restructuring by consultants). Equally, the regulations appear at times to require bona fide accommodation providers to adopt business models that meet those regulations to ensure that they can obtain rents that cover their costs. For example, where a vulnerable individual has care provided separately (ie by someone other than the provider), the provider must provide support or supervision to qualify for ‘exempt accommodation’ status.

Rents are generally cost-based rather than market driven, as the market is small and to some extent driven by Housing Benefit (HB) regulations. Rents are rarely restricted because there is little ‘suitable alternative accommodation’ available, and because LA staff do not feel competent to judge whether accommodation is suitable. As a result, where overall charges seem high and LAs seek to restrict them, they focus more on the justification for individual service charges.

Pressures on Supporting People (SP) funding appear to be placing pressures on providers to increase rents to recover some costs through HB. Anecdotal evidence includes, for example, an increase in the proportion of wardens’ time that is for ‘security’ rather than ‘support’, or for housing management purposes. At the same time, there appear to be cases where warden coverage is being withdrawn and replaced by floating support.

'...who pays for the warden? Is it housing management or is it support? Previously the warden was paid for by Supporting People, but now it is being argued over – the way forward is probably some form of tribunal or legal perspective to reach a final decision...'

(LA benefits manager)

Most LAs we spoke to perceive the lack of full subsidy for 'exempt accommodation' claims as unfair. LAs have limited or no control (especially if they are not unitary authorities) over which providers set up schemes in their area, and have limited ability to restrict rents. A small LA that attracts a relatively large number of vulnerable claimants in non-Registered Social Landlords (RSL) accommodation may have to find a relatively large amount of funding to make up for the loss of subsidy. For example, as NHS campuses close, and residents are moved into homes in the community, there may be little or no change to the cost to the public purse³⁷, but costs are moved from central government (the NHS) to being shared between central and local government (DWP and the LA), and hence funded through a mixture of central and local taxation. Where a disproportionate share of 'exempt accommodation' expenditure is perceived to fall on an LA, this may be seen by the LA and local council taxpayers as unfair. Pressure on LA budgets exacerbates this. One LA manager noted that the legal requirement to pay HB combined with the lack of full subsidy meant that were certain schemes to go ahead, other services would have to be cut.

Unfairness in the treatment of different providers was also noted, because of the consequent potential unfairness to some vulnerable claimants. For example, those who have 'for-profit' landlords, who do not meet the conditions for 'exempt accommodation' status (see Are people slipping through the net?).

The current system is complex and probably not amenable to minor modifications. The challenges of administering the system relating to 'exempt accommodation' is viewed by many as disproportionate to the overall burden on the public purse.

'...at present we end up with 30 or 40 appeals, and consultants phoning us on a daily basis. It can take up weeks at a time, possibly 10 per cent of an officer, which affects service to other customers...'

'Exempt accommodation' takes a very disproportionate amount of time to administer. We have also had a number of tribunals and appeals to manage.'

'The time it takes is not dealing with administration of the claim – resource is spent trying to make a decision in the face of uncertainty.'

'The process is extremely specialised and resource consuming involving multiple rounds of communication to understand cost allocation and also more fundamental issues around who is technically the landlord and what level of support is being provided. It is often complicated through tri-partite agreements as well as understanding the 'vulnerability' of individual tenants and the extent to which there is suitable alternative accommodation. Overall, it takes around 5-10 per cent of HB manager resource, rising to 15-30 per cent when issues occur.'

'Things have changed because it's now requiring greater due diligence – especially around eligible service charges. Typically one person analyses the submission, circulates it, we discuss it at a team meeting and then meet with the provider.'

'It's taking more and more time – we need to ensure that when audited, we can justify our decisions. Depending on how helpful the landlords are, they can negotiate for months.'

³⁷ Indeed socio-economic evaluation may find savings.

'It takes up a lot of time and resources. We are nervous about making final decisions, because of the concern that we might generate further work to deal with appeals.'

(LA benefits managers)

6.2 Potential approaches proposed by stakeholders

A long-term solution will require some thought, but feedback from stakeholders does suggest some core principles that a new scheme should include. A new scheme should ensure that the needs of vulnerable individuals can be met while being administratively simpler than the existing system. It should reduce the uncertainty currently faced by LAs, accommodation providers and claimants. While it would be challenging to make significant improvements without significant change, there are some potential short-term actions that may be worth exploring further.

6.2.1 Long-term solutions

Long-term solutions need to address the apparent difference in treatment between accommodation that can be classed as exempt and other types of supported accommodation. Claimants may not differ in their needs, or what they are supplied with, but in some cases full subsidy can in practice be obtained, and in others only 60 per cent of any spend above the Rent Officer determination. LA benefits teams do not feel that they are well-placed to make judgments relating to specific housing needs for vulnerable claimants, or the levels of care, support or supervision required. A number of agencies have an interest here – exempt and supported accommodation sits at an interface between these agencies, with their mix of housing, care support and wider social services.

Any new system should ensure that it addresses the need for clarity and equity. A few interviewees told us that they would like any new scheme to be implemented such that over some transitional period all existing 'exempt accommodation' claims were migrated, so that the system was simplified rather than adding an additional scheme and hence additional complexity. Not surprisingly, many LAs were in favour of a system that ensured full subsidy was paid for HB for vulnerable people, with a small number suggesting moving from 60:40 to (say) 80:20.

Some interviewees suggested allowing Rent Officers to assess different levels for vulnerable claimants, or to specify a cap on what can be paid.

Several stakeholders suggested a system related to Local Housing Allowance (LHA), an LHA+ scheme with either a cap on what can be paid, or a number of needs-based bands. Some interviewees suggested that those commissioning accommodation should specify the bands and allocate claims to them. As those commissioners generally specify particular housing needs, including necessary adaptations, they would be well-placed to help determine the appropriate number of bands, and the relative differences between them.

Several interviewees thought that the arrangements for providers should be the same, with no distinction between RSLs and other providers. Some suggested that as the scheme was intended to serve the needs of vulnerable individuals, it should be based on exempt individuals, rather than 'exempt accommodation'. This would help to avoid situations where people slip through the net.

More radical suggestions included handing over the administration and payment of claims for vulnerable individuals to SP, to the Tenant Services Authority or to a centralised team or regionalised teams. It was felt that such teams have, or could develop, a level of expertise that would make it easier for them to judge what the claimant's housing and support needs are, what charges are reasonable, whether suitable alternative accommodation is available, and what should be challenged or restricted. Another suggestion was that all providers of supported accommodation should be RSLs.

6.2.2 Short-term improvements

Short-term wins suggested included improved guidance on what service charges are eligible, and a national standard pro-forma for presenting rents and service charges, outlining what items should be included in core rent³⁸, and which service charges can be paid. The Valuation Office Agency may be able to provide suitable guidance here, to help benefits managers resist the potential creep of charges (noted by some benefits managers) previously covered by Supporting People (SP) back into HB claims.

One potential disadvantage of this was noted by some interviewees, who felt that some providers might then enter a cost against every eligible service charge. On the other hand, it would clarify for some providers which items they can legitimately include in rents and service charges. Some interviewees suggested firm rules relating to 'payback' or return periods in rent-setting models, and an independent body to help charities set rents was suggested. Improved clarity around the definitions of vulnerability and 'unreasonably high' were also suggested; along with requiring software suppliers to include a vulnerability flag or field in their systems. It was also suggested that software suppliers should be required to provide better means of finding out what 'exempt accommodation' actually costs, through better recording of exempt and supported accommodation claims on IT systems.

³⁸ We found variations in which items are included in core rent; for example, we would expect routine maintenance, voids and bad debts to be included in core rents, but in many instances they were listed separately as service charges.

7 Conclusions

7.1 Who lives in ‘exempt accommodation’?

Claimants living in ‘exempt accommodation’ fall into many categories:

- learning disabilities;
- mental health problems;
- physically disabled;
- people fleeing domestic violence;
- those with or recovering from drug or alcohol dependence;
- the homeless;
- ex-offenders;
- older people;
- teenage mothers and babies.

Our observations of individual case records support the view that different claimant groups can have quite different needs in terms of the time for which they require supported housing. For example, those fleeing domestic violence may only require emergency accommodation for a period of a few weeks, while those with learning disabilities are likely to require ongoing support for life.

The **types and levels of support** also vary widely, as might be expected given the range of claimant groups. Many interviewees talked about the variety of levels of support, from two: one (two carers to one individual) 24-hour permanent assistance with living for some residents, to low level support on a temporary basis for vulnerable young people or ex-offenders.

7.2 How many claimants are in ‘exempt accommodation’?

Software systems do not allow local authorities (LAs) to report the numbers of claimants in ‘exempt accommodation’ reliably; sometimes ‘old scheme’ cases can be counted, but these are not all exempt; they include pre-1996 claims and ‘exempt accommodation’ claims. Using data collected at LAs, we estimate the number of claimants living in non-Registered Social Landlord (RSL) ‘exempt accommodation’ in England, Scotland and Wales to be around 40,000 (although there is some uncertainty associated with this estimate). However, it is clear that the percentage of caseload made up of those living in ‘exempt accommodation’ varies widely from one LA to another, and so this estimate must be treated with caution as our fieldwork sample was relatively small and may have included some bias.

It has proved even more difficult to estimate the numbers of claimants living in other types of supported accommodation. Software systems do not include flags for supported accommodation status, and most are simply counted along with other RSL accommodation. From data we collected at LAs we estimate that there are around 130,000 such claimants living in supported accommodation provided by RSLs, but this estimate is more uncertain than for those in non-RSL ‘exempt accommodation’. It also seems that in a large number of LAs, many of the claimants in supported accommodation provided by RSLs are in sheltered schemes for older people who receive

only minimal support and incur very little if any additional housing costs, although not all sheltered accommodation falls within the 'exempt accommodation' regulations.

7.3 How much does it cost?

We used two approaches to estimating total costs paid by LAs and Government (and hence by taxpayers, both local and national) above the normal costs expected for housing. Projecting historic costs forward suggests a cost above Rent Officer Determination (ROD) levels of £70 million for 2009/10, while an estimate based on data collected for individual claims at LAs gives a range of total costs in excess of RODs of £130 million (although there is considerable uncertainty associated with this estimate). The uncertainty, due to the small sample size and the variability of the sampled data, is so great that we cannot say these estimates do not agree. However, there are several possible reasons for the discrepancy between the two estimates:

- although we found no evidence for it in our sample, there may be systematic under-reporting of the costs of 'exempt accommodation' claims across LAs;
- our sample may be biased towards LAs with higher than average numbers of 'exempt accommodation' claims, or higher than average costs per claim, because they may have been more willing to take part in our study.

7.4 Is spending rising? Why?

Analysis of the data supports the view that spending is rising, and suggests that both the number of claims and the cost per claim have increased. This is consistent with the views of LAs. RSLs tend to be less expensive than other providers, although there is some evidence that service charges have begun to rise for RSLs. While many interviewees believe that the activities of consultants and external advisers have resulted in increases in rents and service charges, it is difficult to demonstrate whether this is the key driver from the data we were able to obtain.

For the sample of claims we examined, the amount of HB paid in excess of the ROD has increased with time (see Figure 4.3). In 2003/04, the mean amount of HB paid in **excess of the ROD** was £38 for our sample, while in 2009/10 this had risen to £71. Thus, mean additional housing costs appear to have increased by 85 per cent over this period.

Many LAs believe that the nature of accommodation has not changed, although a few noted that where the numbers of claims are increasing – particularly for those moving from NHS campuses – the individuals being housed have higher housing and support needs than those already in accommodation. This has implications going forward following recent tribunal decisions and discussions in relation to the treatment of rooms provided for carers to sleep over.

All interviewees identified valid reasons for the increased cost of supported and 'exempt accommodation' over mainstream accommodation. These relate mostly to adaptations required for both the physically disabled and those with learning difficulties, and the increased wear and tear for some client groups. In addition, the location of properties is important for some client groups and this can affect rents. However, there is some concern that newer providers may be setting up schemes with the 'exempt accommodation' rules in mind to achieve higher rents, and that some not-for-profit organisations are working closely with private organisations who do make a profit from charging the former high rent or lease costs which are then paid for from HB.

At most of the LAs we visited, we did not find any rents that had been restricted in our sample of claims. In many cases, the lack of restriction reflected a belief that there was no basis on which to restrict rents, even where they might be considered high. This was generally because there was no suitable alternative accommodation available.

Many interviewees were concerned that recent reductions in Supporting People (SP) funding are leading to increases in rents and service charges. There may have been a blurring of the line between personal support and housing-related support allowing costs to move from one area to another.

7.5 Differences between local authorities

Trends in costs and spending at LAs differ. We have identified more than one reason for this. Some LAs have fewer claimants living in 'exempt accommodation' than others, and while some have seen little change in the numbers of claimants, others still see numbers growing. Two sources of increased numbers identified are NHS campus re-provisioning, and small numbers of individuals currently living with parents or other family members, who have expressed a desire to move into independent accommodation.

Other differences may result from how active consultants have been in particular areas, given the belief of LAs that rents rise when consultants become more active (although, as noted above, we have been unable to find evidence of this). In addition, the level of scrutiny at different LAs may affect the likelihood that rents are restricted and hence affect costs. Availability of suitable alternative accommodation also affects the likelihood that rents are restricted and hence affects costs. It may be that LAs with a reputation for restricting rents are less attractive to new providers and so do not experience increases in costs that occur elsewhere.

7.6 Are people slipping through the net?

We could not find evidence to allow us to estimate the numbers of people with higher housing needs and costs that are not met by HB. Most interviewees did not think this was a significant issue, but several identified cases where claimants are slipping through the net, because they are in accommodation that does not qualify as exempt. Generally this is because the accommodation is provided by a 'for-profit' organisation, or the care, support or supervision is provided by a third party.

7.7 The way ahead

The key concerns expressed by LAs relating to the current system concern the uncertainty currently facing LAs, claimants, and accommodation providers, because of the complexity of the regulations and differences in interpretation in different areas. There is a feeling that the loss of subsidy results in a lack of equity, with some LAs and their council tax payers bearing a greater burden than others dependent on local circumstances outside their control. There is also concern that some claimants are treated unfairly because they slip through the net. The challenges of administering the system relating to 'exempt accommodation' are viewed by many as disproportionate to the overall burden on the public purse.

Interviewees expressed a desire for a simpler approach and for all 'exempt accommodation' claims to be migrated onto any new scheme (rather than adding another new scheme on top of the existing systems). Ideas included making the claimant exempt, rather than the accommodation, and implementing a system with either a cap on payments, or several bands based on Local

Housing Allowance (LHA) plus a percentage to allow for increased housing needs. Many people suggested a role for Adult Social Care or SP in determining which band claimants should be allocated to. More radical suggestions included moving administration of benefits for vulnerable individuals to a centralised team, or regionalised teams, to achieve economies of scale and increased expertise, or that only RSLs should provide supported accommodation as they are already subject to regulation.

The current system is complex and probably not amenable to minor modifications. There are, however, some potential short-term actions that may be worth exploring further. Suggestions included a national, standard pro-forma for presenting rent and service charges to simplify administration, and clearer definitions of the terms ‘unreasonably high’ and ‘minimal care, support and supervision’.

Appendix A

Sampling strategy

Objective

To produce a representative sample of local authorities (LAs) to characterise issues relating to supported and ‘exempt accommodation’, and to produce estimates of costs associated with claims for Housing Benefit (HB) claims for supported and ‘exempt accommodation’. A sample of 19 LAs was required (excluding two pilot LAs already selected).

Strategy

There are several choices available for selecting a sample, including:

- cluster-based sampling – cluster analysis based on a wide range of variables, clusters used as strata;
- random sample from all LAs;
- stratified sample, based on general criteria characterising LAs, such as caseload.

At the beginning of this research there were no clear indications of which variables characterising LAs would help to explain the costs of interest, and so a cluster analysis-based strategy was not indicated. A random sample may have been appropriate, but a simple stratified sample using a limited number of variables was used to produce a sample more representative of LAs in England, Wales and Scotland than a simple random sample.

Variables available that may affect LA experiences and costs associated with supported and ‘exempt accommodation’ include:

- caseload size – as this may lead to economies or diseconomies of scale for the LA;
- percentage of claims relating to Private Rented Sector (PRS) – as this may affect the numbers of claims explicitly treated as ‘exempt accommodation’;
- percentage of claimants of pensionable age – as these claimants are a potentially significant group with respect to supported accommodation.

For each of the variables above, we collated data for all LAs. In each case, the median value was determined, and LAs allocated to one of two groups:

- 1 Low – value less than the median.
- 2 High – value greater than or equal to the median.

This placed all LAs in one of eight ‘categories’ from which we collected a random sample (note that we excluded the Isles of Scilly, Orkney, Shetland and the Western Isles from the sampling frame for practicality).

As two pilot LAs had already been selected, we reduced the number to be selected from each of the categories relevant to these by one. Then, we used a random number generator in Excel to select the required number of LAs at random from each of the categories, resulting in the initial sample.

The sample selected included a mixture of LA types (districts, unitaries, etc.), covering a number of regions, including Wales and Scotland, with a range of caseload size, percentage of claimants in PRS accommodation and percentage of claimants of pensionable age.

Replacement strategy

Where necessary, replacements were selected from each of the categories using a random number generator.

Appendix B

Research tools

Template for local authority data capture – qualitative questions

Topics

1. What do you consider eligible to count as ‘exempt accommodation’?
2. What do you consider counts as ‘supported’ accommodation? (Is there an overlap?)
3. In general here in your area what is the nature of ‘exempt accommodation’ and how has it changed?
4. In relative terms, how large are the two in terms of caseload, and HB paid?
5. Is spending on ‘exempt accommodation’ rising? Why? (no. of cases? Cost per case?)
6. Has the balance of accommodation providers changed over time?
7. What makes it more expensive than standard accommodation? What elements of the rent/service charge are different? Why are they more expensive, to what degree and how is this justified?
8. What service charges do you include in your definition of eligible costs (i.e. those that can be covered by Housing Benefit)?
9. What type and level of care and/or support is most commonly provided? has this changed?
10. Where did claimants live before – has there been a large inflow from one particular type of accommodation, e.g. care homes?
11. What has the trend for standard rents been in the local authority over the last six years? ‘exempt accommodation’ rents?
12. What are the characteristics of the different claimants and have these changed over time?
13. Are there people who need care or support and so have more expensive housing costs, where those are not currently covered by the definition of ‘exempt accommodation’?
14. What type of interactions or exchange of information do you have with the support planning team (either within your authority or at county level)?
15. What impact does dealing with ‘exempt accommodation’ claims have on administration processes? Has this changed?
16. How do you think the system could be improved?
17. Is there any other relevant information you think we ought to know?

D7116 Template for Local Authority Data Capture - Quantitative questions

| | | | | | | |
|---|--|---------|---|--|--------|-----------------|
| 1 | What percentage of those treated under the 'old scheme' rules (pre-1996) are in 'exempt' accommodation in your area? | | | | | |
| 2 | How many claimants live in 'exempt' and 'supported' accommodation in your area? | | | | | |
| 3 | How have the numbers of these claimants changed over the last six years? | | | | | |
| 4 | What types of accommodation are provided and how many claimants in each? | Yes/ No | Number of claimants | Total spend on these (£/yr or £/ wk) | | |
| | 3.1 Sheltered accommodation | | | | | |
| | 3.2 Shared accommodation | | | | | |
| | 3.3 Hostels | | | | | |
| | 3.4 Individual homes | | | | | |
| | 3.5 Other | | | | | |
| | Describe other | | | | | |
| 5 | How many claimants are housed in each of the following categories? | | Number of claimants | | | |
| | 4.1 Single people | | | | | |
| | 4.2 Younger people <25 | | | | | |
| | 4.3 Older people >60 | | | | | |
| | 4.4 People between 25 and 60 | | | | | |
| | 4.5 DL/AA claimants | | | | | |
| | 4.6 People with learning disabilities | | | | | |
| | 4.7 People with mental health issues | | | | | |
| | 4.8 People with dependants | | | | | |
| 6 | What types of landlords provide accommodation in your area? | Yes/ No | Number of claimants in exempt accommodation | Number of claimants in supported accommodation | Other? | Total spend (£) |
| | 5.1 Registered social landlords | | | | | |
| | 5.2 Other housing associations | | | | | |
| | 5.3 Private landlords | | | | | |
| | 5.4 Registered charities | | | | | |
| | 5.5 Other | | | | | |
| 7 | How are different accommodation costs accounted for in subsidy returns? | | | | | |
| 8 | How have subsidy returns changed over the last six years? | | | | | |

Template for data capture – accommodation providers

Topics

1. How many tenants do you house?
2. How many in this local authority? (Which other areas?)
3. How many of these receive Housing Benefit?
4. Do you know what proportion are eligible to be treated as ‘exempt accommodation’?
5. Why is the ‘exempt accommodation’ provided more expensive than mainstream accommodation?
6. Are there aspects of the system that make things difficult for you or your tenants? (eg negotiation with LAs)
7. Can you tell me how you set rents?
8. What do you include in core rent, what in service charges? How do set service charges?

Claim history information collected

We used an Access database with a graphical user interface to record data on claim histories. Not all of the data were available for all claims. The table overleaf shows the information collected by reference to the database fields.

| Field | Description |
|---|---|
| Data fields available for each claim (not all data collected for all claims) | |
| ClaimID | Unique identifier for each claim record, generated automatically |
| RSStaffID | Identifier for the member of Risk Solutions staff who collected the data |
| ClaimantID | Unique identifier for each individual claimant, generated automatically |
| LAID | Identifier for each local authority |
| ClaimRefNo | Reference number used by the local authority to identify the claim/claimant (text field) |
| ClaimDate | Start date of each new claim. Recorded whenever the amount of Housing Benefit associated with a claim/claimant changes, due to change of circumstance, relocation, rent increases, etc. |
| SpecialNeedsID | Identifier created to capture information about the claimant's special needs |
| TotalRent | Where available, the total amount of rent charged to the claimant, sometimes including support charges where they are provided |
| CoreRent | A calculated field: the sum of all charges identified by the landlord/local authority as core rent - not always available if no breakdown provided |
| Support | Where available, the separate support charges. Pre-2003 these may have been included in eligible service charges. They may also be captured as part of ineligible service charges post-2003 |
| IneligibleServiceCharge | A calculated field: the sum of all service charges identified by the local authority as ineligible for Housing Benefit - not always available if no breakdown provided |
| EligibleSupportCharges | A calculated field: the sum of all service charges identified by the local authority as eligible for Housing Benefit - not always available if no breakdown provided |
| TotalAllowableRent | The sum of CoreRent plus EligibleSupportCharges |
| HBPaid | The amount of Housing Benefit actually paid to the claimant per week |
| AmountOverThreshold | Where available/relevant the amount of Housing Benefit paid over and above the ROD limit |
| MeetsExemptCriteria | Checkbox to indicate whether or not the claim is considered by Risk Solutions to meet the criteria for 'exempt accommodation' |
| TreatedAsExempt | Checkbox to indicate whether or not the claim is considered by Risk Solutions to have been treated explicitly by the authority as exempt, including evidence of Rent Officer referral |
| AccommProviderID | Unique identifier for each accommodation provider found – this is linked to the type of provider in a separate table |
| AccommType | Identifier to indicate the type of accommodation provided e.g. self-contained flat, room in shared house, hostel, etc. |
| PreviousAccommType | Identifier to indicate the type of accommodation the claimant was living in prior to the current claim e.g. self-contained flat, room in shared house, hostel, etc. |
| Rent OfficerReferral | Checkbox to indicate whether Risk Solutions staff have seen evidence that the rent was referred to the Rent Officer |
| ROD | Where relevant, the Rent Officer's decision amount |
| RestrictionsApplied | Checkbox to indicate whether the LA has applied any restrictions to the Housing Benefit paid |

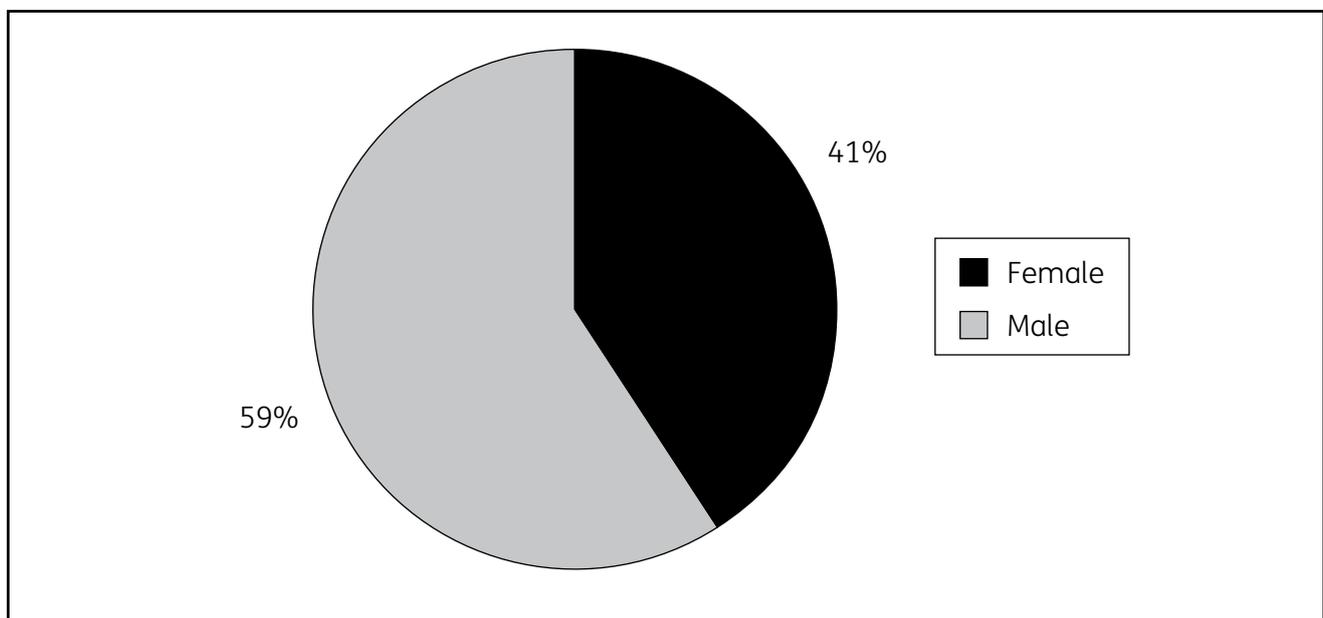
| Field | Description |
|---|--|
| BasisForRestrictions | Text field where Risk Solutions staff can record the reason why the rent was restricted |
| Comments | A free memo field for Risk Solutions staff to record any other comments or observations on the claim |
| Data fields available for each claimant (not all data collected for all claimants) | |
| ClaimantID | Unique identifier for each individual claimant, generated automatically |
| RSStaffID | Identifier for the Risk Solutions staff member who collected the data |
| ClaimantGender | Male, Female or Unknown (unrecorded) |
| ClaimantAgeBand | Three bands recorded, <25, 25-60, >60 |
| ClaimantEthnicity | A free field, but very little data available here |
| ClaimantFamilyStatus | Single, With partner, With dependants |
| ClaimantVulnerable | A checkbox to record whether the claimant was considered vulnerable - often not recorded |
| Vulnerability | A text description of why the claimant was considered vulnerable, where available |
| Data fields available for each element of the rent | |
| ClaimChargeID | Unique identifier for each element of each charge, generated automatically |
| RSStaffID | Identifier for the Risk Solutions staff member who collected the data |
| ClaimID | The unique claim identifier to which the charge relates |
| ServiceChargeTypeID | Identifier for the specific service charge type – around 470 unique types were collected, which were initially grouped into eight broad areas (including Core Rent and Ineligible Service Charges) |
| ServiceCharge | Value in £ per week charged to the claimant for the service |
| Other data captured | |
| BenefitType | An identifier for the different types of benefit that could be associated with each claimant |
| ProviderType | Classification of the accommodation provider as RSL, Other housing association, Private registered charity, Other voluntary organisation, LA owned property or Private landlord |

Appendix C

Claimant characteristics

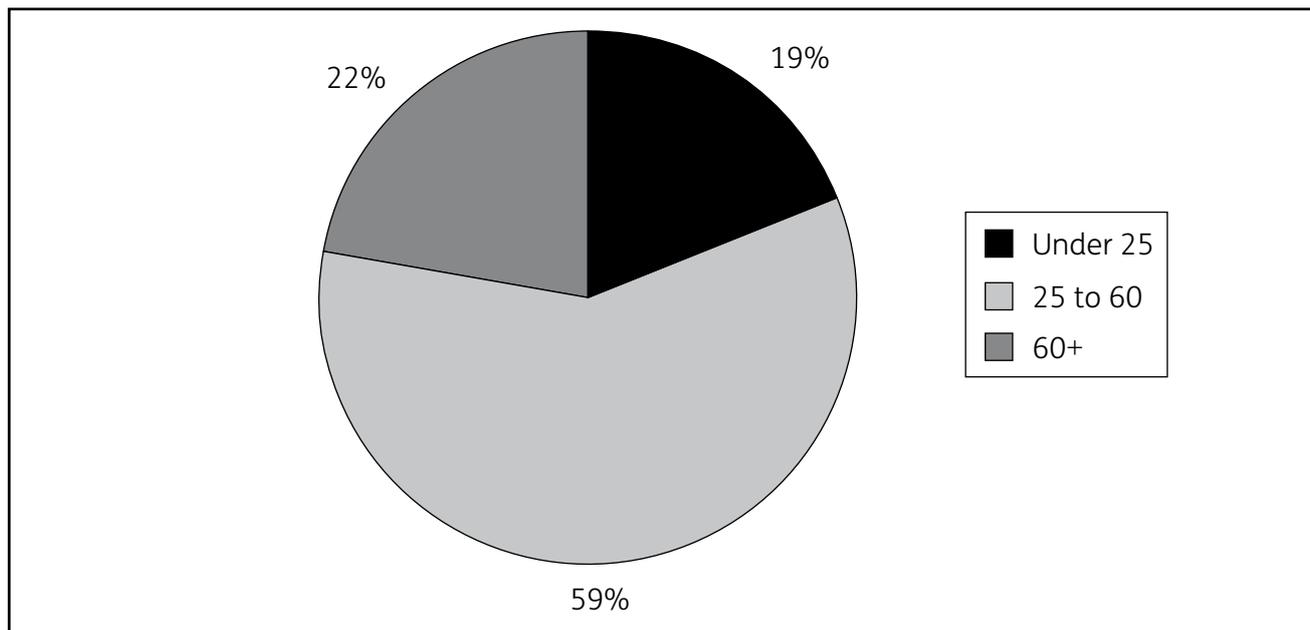
We collected data from a total of 287³⁹ individual claimants. Where we could find the data we recorded gender, age band, couple/dependant status, ethnicity, any indication of the claimant's special needs and which additional benefits were being claimed by the claimant. We have not weighted the data in any way – Figures C.1 to C.5 simply present the data we were able to capture during our sampling. It should be noted that local authorities (LAs) do not necessarily explicitly record all these claimant characteristics, for example in some cases the data could only be obtained by examination of individual benefit claim forms, not directly from the IT systems.

Figure C.1 Breakdown of sampled claimants by gender



Men represented more than half of all claimants. It is likely that Registered Social Landlords (RSLs) supplying supported sheltered accommodation for the elderly, which are under-represented in our sample due to the lack of RSL-provided 'exempt accommodation' claims identified by LAs, would have a greater proportion of female claimants.

³⁹ It should be noted that in some cases claimants had more than one claim processed within a given year (i.e. more than one claim per period). Where the claimant's circumstances had changed in any way a new HB claim was processed and we recorded the details of each of these claims separately in our database, therefore the number of 'claims' we captured for 2009/10 is greater than the total number of individual claimants, although each claimant only had one current claim at any given time.

Figure C.2 Breakdown of sampled claimants, by age band

Comparing this breakdown with that of the population of Great Britain as a whole (see Table C.1) shows that younger people are more likely, and older people less likely, to live in 'exempt accommodation' than if claimants were evenly distributed across the population. Again, this picture would probably change if RSL-provided 'exempt accommodation' was included.

Table C.1 Breakdown of sampled claimants compared to Great Britain as a whole, by age band

| Age band | Proportion of GB population in age band (2008 data, source ONS) % | Proportion of exempt claimants in age band % |
|----------|--|---|
| 18-24 | 12 | 19 |
| 25-59 | 59 | 59 |
| 60+ | 28 | 22 |

Figure C.3 Breakdown of sampled claimants, by age and gender

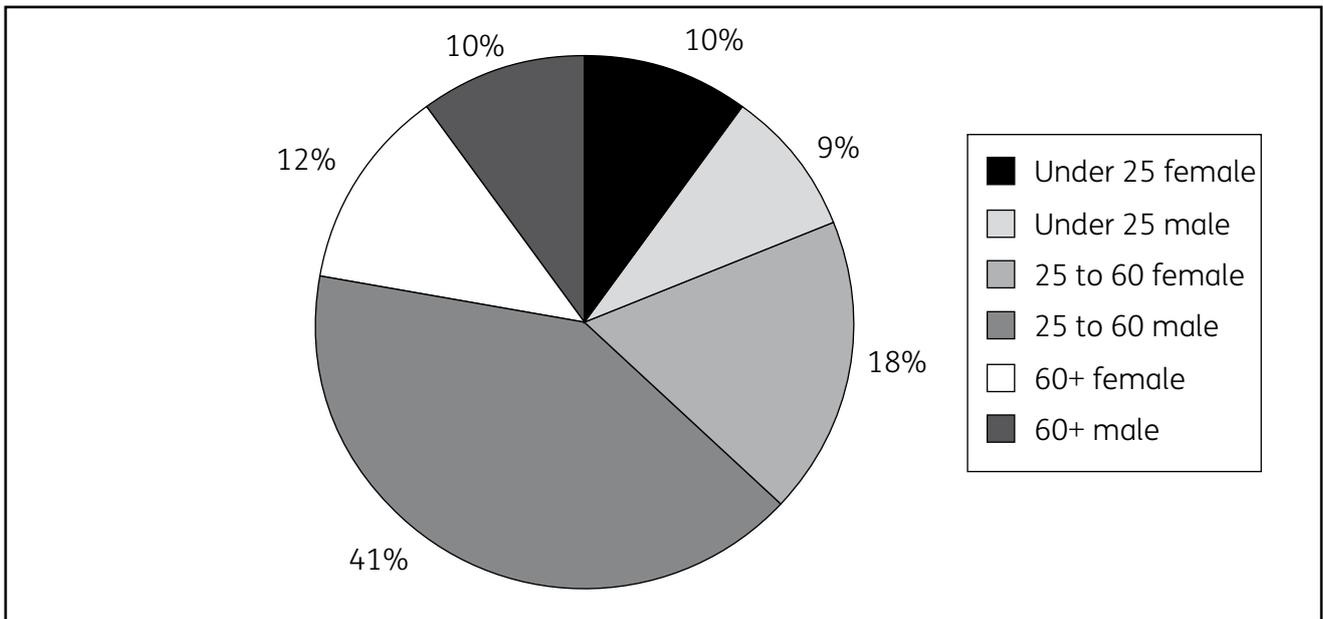
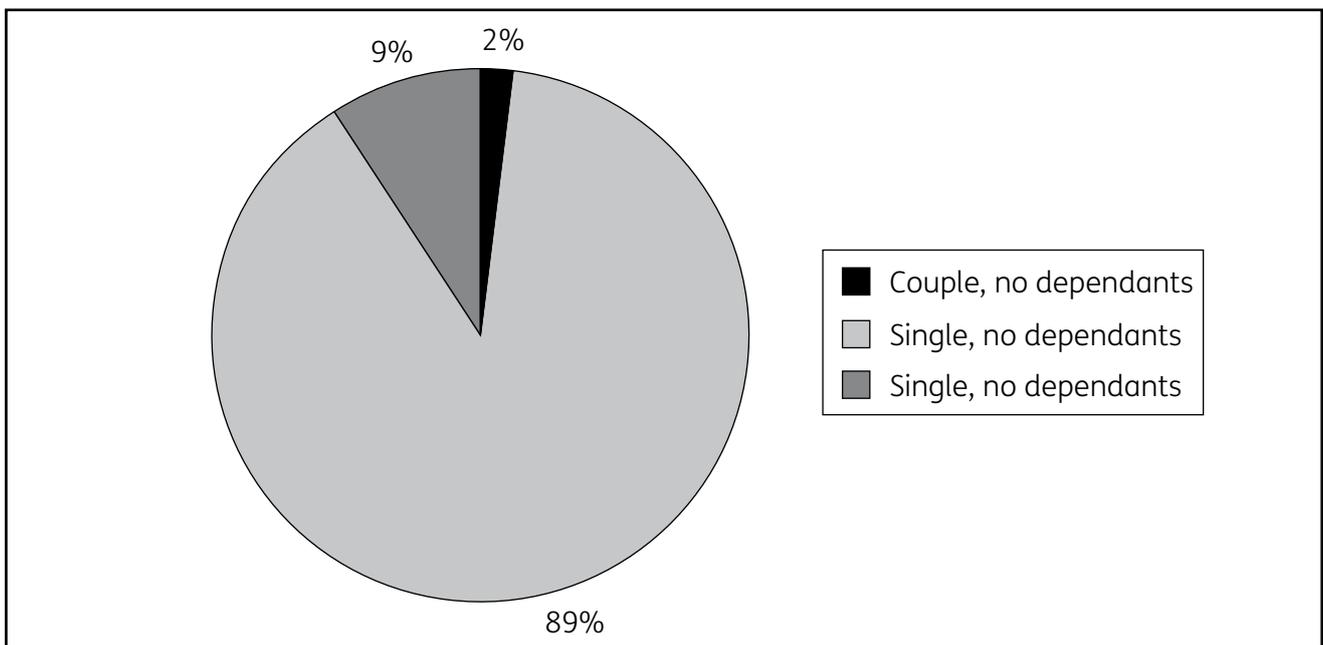


Figure C.4 Breakdown of sampled claimants, by family status



The vast majority of those living in ‘exempt accommodation’ in our sample are single. A small proportion have dependants – the majority of these are people living with their children in refuges to escape domestic abuse. There were no examples of couples living with dependants amongst the sampled claimants.

We were unable to analyse claimants by ethnicity as in 95 per cent of cases this information was not recorded by the LA.

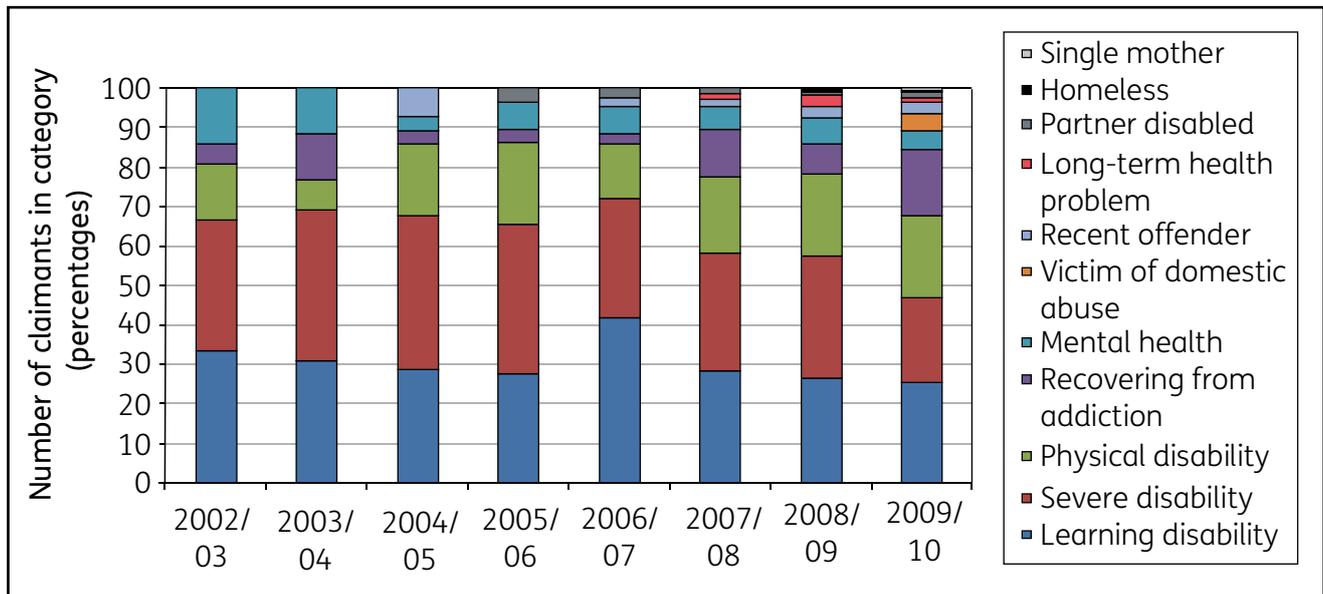
Figure C.5 Special needs characteristics of sampled claimants over time

Figure C.5 shows the special needs characteristics of claimants captured in our data. This shows that the majority of claimants are suffering from some kind of disability or long-term physical or mental health problem. Together these make up 72 per cent of claimants in 2009/10 (for whom we were able to collect this data). The largest single other category is people recovering from addiction, followed by victims of domestic abuse. Together these make up a further 21 per cent. The historic picture has been provided from the data collected on current claims, together with their histories. It should be noted that this is therefore strongly biased to the year 2009/10 for which we were collecting claims – the further back in time one looks, the less likely it is that we could have a continuous claim history. In addition, certain types of claims are by their nature long term, such as where the claimant has a permanent disability, and these are likely to be the ones where we have a claim history that goes back the furthest. By contrast, people at risk of domestic abuse, for example, are likely to spend a relatively short time in ‘exempt accommodation’, and their claim histories will be very short.

Appendix D

Characteristics of local authorities who declined to participate

We selected an initial sample of 20 (later 21) local authorities (LAs) from which to gather data for the project (see Appendix A). Each LA was approached with an email from Risk Solutions to which an introductory letter from the Department for Work and Pensions (DWP) was attached. Once LAs had received the email, Risk Solutions followed up with a phone call to arrange the visit. Any questions or queries were dealt with by the consultant who would be visiting the LA, or by one of the other senior consultants if that individual was not available.

If an LA elected not to participate, we resampled from the same ‘category’ from which that LA had been selected. The only additional criterion used was that we made sure we were not approaching LAs that had already been contacted by the Updating the Costs of Housing and Council Tax Benefit Administration project team. Wherever possible, if an LA declined to participate we obtained the reason why from the contact.

Before analysing the data collected from LAs that had agreed to participate, we conducted an investigation to see whether the sample was likely to have been biased by the LAs that turned us down.

A total of 12 LAs turned us down. These LAs, the categories they fall into, and the reasons they gave for turning down a visit are shown in Table D.1.

Table D.1 LA categories and reasons given for not participating

| LA ID | Category | Reason given for refusal | Cell 96 (LA portion) (2008/09) £ | Cost to LA of Cells 96 and 97 returns as percentage of council tax raised locally % |
|-------|----------|---|--|---|
| A | Aay | Not provided | 0 | 0.00 |
| B | Aay | Not provided | 0 | 0.00 |
| C | Bbx | Work pressures and restructuring | 535,000 | 0.29 |
| D | Bby | Too small – wouldn't be able to give us enough information | 32,000 | 0.03 |
| E | Aay | Staff on paternity leave and pressure of work – no availability | 1,000 | 0.00 |
| F | Aay | Not provided | 10,000 | 0.04 |
| G | Bbx | Don't have anything of the type we're looking for | 0 | 0.00 |
| H | Bbx | Got 'cold feet' – unclear why | 10,000 | 0.04 |
| I | Aay | Lack of resources | 17,000 | 0.04 |
| J | Aay | Only one case, nothing to add to study | 0 | 0.00 |
| K | Aay | Don't feel they have anything to contribute | 1,000 | 0.00 |
| L | Abx | Workload too heavy to participate | 9,000 | 0.08 |

Category key: A=Caseload less than mean (August 2009 level) of 10,520
a= Private Rented Sector (PRS) less than mean of 10 per cent
x=Proportion of pension age claimants less than mean of 52 per cent

The first point of interest is that seven of the 12 LAs who declined fell into the same category, Aay. This category (which represents smaller than average caseload, lower than average PRS and higher than average proportion of pension age claimants) contained 19 per cent of all LAs but accounted for 58 per cent of the refusals.

The second point of interest is that four of the 12 had no subsidy claims above Rent Officer Determination (ROD) level (Cell 96) for which there was any DWP liability, and two more had less than £1,000. Overall, 15 per cent of all LAs had no subsidy claims in Cell 96, but this accounts for 33 per cent of those who declined to participate.

On average, the costs to LAs of Cell 96 and Cell 97 liabilities combined, as a proportion of council tax raised locally, is 0.07 per cent. The mean proportion for LAs that agreed to participate is 0.12 per cent, while the mean proportion for refusals is 0.04 per cent.

Taken together these factors indicate that there is probably some bias in the sample. The sample of LAs who agreed to participate in the research probably under-represents LAs with very few or no cases of 'exempt accommodation', and may overestimate the LAs who are experiencing 'pain' due to greater local costs of 'exempt accommodation'.

We have used our awareness of this to scale up the data we have collected to take this sample bias into account.

Appendix E

Service charge descriptors

Table E.1 Grouping of rationalised service charge descriptors

| Service charge group | Rationalised service charge descriptor |
|-----------------------------|---|
| Core rent | Allowance for inflation |
| Core rent | Annual maintenance contracts |
| Core rent | Bad debts |
| Core rent | Building adaptation and refurbishment |
| Core rent | Building maintenance and decoration |
| Core rent | Carer's room |
| Core rent | Depreciation, buildings |
| Core rent | Developments and improvements |
| Core rent | Income from other sources |
| Core rent | Insurance, buildings |
| Core rent | Insurance, contents |
| Core rent | Insurance, general |
| Core rent | Insurance, liability |
| Core rent | Leases |
| Core rent | Loans |
| Core rent | Property service charge |
| Core rent | Rent |
| Core rent | Sinking fund |
| Core rent | Voids and bad debts |
| Communal housekeeping | Caretaking |
| Communal housekeeping | Cleaning, communal |
| Communal housekeeping | Cleaning, personal, pre-2003 |
| Communal housekeeping | Gardening, window cleaning and grounds |
| Communal housekeeping | Refuse disposal and pest control |
| Communal utilities | Council tax, allowable |
| Communal utilities | Fuel, communal |
| Communal utilities | Sewerage |
| Communal utilities | Utilities, communal |
| Communal utilities | Water rates, communal |
| Facilities provided | All communal services |
| Facilities provided | All facilities |
| Facilities provided | Allowable catering |
| Facilities provided | Cooking facilities, communal |
| Facilities provided | Depreciation, central heating |
| Facilities provided | Depreciation, fire safety equipment |

Continued

Table E.1 Continued

| Service charge group | Rationalised service charge descriptor |
|------------------------------------|---|
| Facilities provided | Depreciation, soft furnishings |
| Facilities provided | Depreciation, tenants' furniture |
| Facilities provided | Depreciation, white goods |
| Facilities provided | Fire protection |
| Facilities provided | Furniture and white goods, communal |
| Facilities provided | Furniture and white goods, repair and replacement |
| Facilities provided | Furniture and white goods, tenant room |
| Facilities provided | Furniture, communal and personal |
| Facilities provided | Health and safety legal requirements |
| Facilities provided | Laundry facilities |
| Facilities provided | Lifting equipment, hoists |
| Facilities provided | Play area (for children in refuge) |
| Facilities provided | Room furnishings |
| Facilities provided | Security systems |
| Facilities provided | Soft furnishings |
| Facilities provided | Telephone, communal |
| Facilities provided | TV, communal |
| Management and administration | Accountancy adjustment |
| Management and administration | Administration |
| Management and administration | Bank charges |
| Management and administration | Central overhead |
| Management and administration | License fee |
| Management and administration | Management |
| Management and administration | Miscellaneous |
| Management and administration | Office costs |
| Management and administration | Professional fees |
| Management and administration | Publicity |
| Management and administration | Services administration |
| Management and administration | Staff costs |
| Management and administration | Support services, eligible |
| Management and administration | Tax and rates |
| Maintenance, servicing and repairs | Central heating servicing |
| Maintenance, servicing and repairs | Cleaning, soft furnishings |
| Maintenance, servicing and repairs | Electrical testing and fire safety maintenance |
| Maintenance, servicing and repairs | Emergency repairs |
| Maintenance, servicing and repairs | External repairs and maintenance |
| Maintenance, servicing and repairs | Internal repairs, maintenance and servicing |
| Maintenance, servicing and repairs | Lift servicing |
| Maintenance, servicing and repairs | Renewals and depreciation |
| Maintenance, servicing and repairs | TV aerial maintenance |
| Maintenance, servicing and repairs | Water hygiene testing |

Continued

Table E.1 Continued

| Service charge group | Rationalised service charge descriptor |
|-----------------------------|---|
| Ineligible | All ineligible services |
| Ineligible | All personal charges |
| Ineligible | Allowance for inflation, ineligible |
| Ineligible | Catering |
| Ineligible | Cleaning, personal |
| Ineligible | Council tax, ineligible |
| Ineligible | Fuel, personal |
| Ineligible | Furniture and white goods, personal |
| Ineligible | Insurance, room contents |
| Ineligible | Laundry, ineligible |
| Ineligible | Leisure facilities |
| Ineligible | Management, ineligible |
| Ineligible | Miscellaneous, ineligible |
| Ineligible | Other ineligible services |
| Ineligible | Own gardening |
| Ineligible | Own telephone |
| Ineligible | Own TV |
| Ineligible | Own window cleaning |
| Ineligible | Personal security |
| Ineligible | Repairs, personal |
| Ineligible | Support services |
| Ineligible | Utilities, personal |
| Ineligible | Voids and bad debts, ineligible |
| Ineligible | Water rates, personal |

Table E.2 Full list of all service charge descriptors captured during sampling fieldwork

| Original service charge descriptor |
|---|
| 24-hour management service |
| 3rd party indemnity insurance charge |
| Accountancy |
| Admin re CCTV |
| Administration |
| Advocacy |
| Agency management costs |
| Alarm |
| All communal services |
| All eligible service charges |
| All other personal service charges |
| Allowance for increasing costs |
| Annual carpet and curtain cleaning |
| Annual maintenance contracts |
| Annualised reconfiguration and refurbishment cost |
| Audit fees |
| Audits and accounts |
| Bad debt |
| Bad debts |
| Bad debts (landlord duty of care) |
| Bad debts (property) |
| Bank charges |
| Bedding |
| Boiler (sinking fund) |
| Boiler maintenance |
| Buildings insurance |
| Caretaking |
| Caretaking and security |
| Carpet |
| Carpet and curtain cleaning (annual) |
| Carpets |
| Carpets and curtains |
| Catering costs |
| CCTV |
| CCTV and security systems |
| Central admin |
| Central admin/agency management charge |
| Central heating servicing |
| Central overhead staff costs |
| Chief landlord rent |

Continued

Table E.2 Continued

| Original service charge descriptor |
|---|
| Cleaning |
| Cleaning (non-communal) |
| Cleaning materials |
| Cleaning materials (communal) |
| Cleaning materials and services |
| Cleaning materials personal use |
| Cleaning staff |
| Cleaning tenant's room (pre-2003) |
| Cleaning, furniture, equipment, fittings |
| Communal area cleaning |
| Communal cleaning |
| Communal electricity |
| Communal facilities |
| Communal furnishings |
| Communal gas |
| Communal laundry |
| Communal light repairs |
| Communal TV hire |
| Computer consumables |
| Computer maintenance and equipment |
| Contents insurance |
| Cooking |
| Cooking and heating of own room |
| Cooking facilities (communal) |
| Core rent |
| Core rent (restriction) |
| Core rent (total) |
| Core rent including sinking fund |
| Council tax |
| Council tax, allowable |
| Cyclical repairs |
| Damage repairs |
| Depreciation and renewals |
| Depreciation, ground rent and interest |
| Development costs |
| Development fees |
| Developments and improvements |
| Diy flats |
| Domestic items |
| Domestic items (care) |
| Door entry and security systems |

Continued

Table E.2 Continued

| Original service charge descriptor |
|--|
| Door entry system |
| Duty of care core rent elements |
| Eaves maintenance |
| Electrical inspections |
| Electrical safety certification |
| Electrical testing |
| Electricity |
| Electricity/power |
| Eligible part of food provision for half board |
| Emergency alarm |
| Energy performance certificate |
| Equipment |
| Equipment maintenance |
| Establishment costs |
| Evening and overnight warden |
| Exterior décor |
| External decoration |
| Fire alarm servicing |
| Fire alarm system |
| Fire and equipment servicing |
| Fire and safety equipment |
| Fire extinguisher servicing |
| Firefighting equipment repair and depreciation |
| Food |
| Fostering community links |
| Fuel charges |
| Fuel for communal areas |
| Furnishings and decoration |
| Furnishings depreciation and renewal |
| Furnishings, including white goods |
| Furniture |
| Furniture (communal) |
| Furniture (tenant, not communal) |
| Furniture and equipment |
| Furniture and white goods |
| Furniture communal and personal |
| Furniture depreciation |
| Furniture equipment for tenants own areas |
| Furniture repair and replacement |
| Furniture replacement |
| Furniture sinking fund |
| Furniture stock |

Continued

Table E.2 Continued

| Original service charge descriptor |
|---|
| Garden supplies |
| Gardening |
| Gardening and external maintenance |
| Gardening and window cleaning |
| Gardening salaries |
| Gas |
| Gas and electric |
| Gas and electricity – personal |
| Gas appliances (servicing) |
| Gas safety certification |
| Gas, plumbing and drains maintenance |
| GC&C general care and counselling |
| GC&S general counselling and support – alarms |
| GC&S – cleaning |
| GC&S – personal |
| GC&S charges |
| General charges |
| General cleaning |
| General counselling and support (GC&S) |
| General expenses |
| General income subsidy |
| General services |
| General support |
| Governance |
| Grounds maintenance |
| Grounds maintenance and garden supplies |
| Group provision (art, gym, internet etc) |
| Guest room |
| Health and Safety |
| Health and Safety contractual |
| Health and Safety policy, legal requirements |
| Health and Safety responsive |
| Health and Safety servicing maintenance |
| Housing Association charges |
| Hard wire testing |
| Health and safety policy, legal requirements |
| Heat, light, hot water in room |
| Heating |
| Heating and hot water |
| Heating and lighting – personal |
| Heating and lighting, communal |

Continued

Table E.2 Continued

| Original service charge descriptor |
|---|
| Heating maintenance |
| Heating, communal |
| Heating, hot water and fuel for cooking |
| Helping tenant with tenancy agreement |
| Hire of domestic equipment |
| Hire/servicing of equipment |
| HMO licence fee |
| Hoists, lifting equipment |
| Hot water |
| Hot water, communal |
| Household items |
| Housekeeper |
| Housing association management charges |
| Housing association service charges |
| Housing management |
| Housing management administration |
| Housing management holidays |
| Housing management NI, reallocation and contingency |
| Housing management staff salaries |
| Housing management staff training |
| Housing management staff health care |
| Housing management staff life assurance cover |
| Housing management staff sickness |
| Housing services |
| Housing services staff costs |
| Housing support NI, reallocation and contingencies |
| Housing support staff holidays |
| Housing support staff life assurance cover |
| Housing support staff salaries |
| Housing support staff sickness |
| Housing support staff training |
| Housing support staff health care |
| Ineligible services (likely insurance) |
| Inflation adjustment |
| Inflation increase |
| Insurance |
| Insurance - services related |
| Insurance (household) |
| Insurance (non-property) |
| Insurance, personal contents |
| Internal accommodation |

Continued

Table E.2 Continued

| Original service charge descriptor |
|---|
| Internal décor |
| Internal decoration |
| Internal/external decoration |
| Landlord's duty of care |
| Landlord's liability insurance |
| Landlord's service charge |
| Landlord's services |
| Laundering |
| Laundry (communal) |
| Laundry maintenance |
| Leases and water rates |
| Leasing costs |
| Leisure facilities |
| Less rent inflation adjustment |
| Liability insurance |
| Lift servicing |
| Lighting |
| Lighting and power |
| Lighting, communal |
| Linen |
| Loans |
| Long-term maintenance |
| Loss of income (voids) |
| Maintenance |
| Maintenance - long term |
| Maintenance/compliance contracts |
| Maintenance and decoration |
| Maintenance and service contracts |
| Maintenance contracts |
| Maintenance costs |
| Maintenance of common parts |
| Maintenance of smoking shelters |
| Maintenance of warden call systems |
| Maintenance of white goods |
| Maintenance related staff costs |
| Major repairs - cyclical maintenance and renewals |
| Management |
| Management and administration of services |
| Management and administration |
| Management charge |
| Management costs |

Continued

Table E.2 Continued

| Original service charge descriptor |
|--|
| Management fee |
| Management overheads |
| Management staff costs |
| Mattress replacement |
| Meals |
| Meals (half board) |
| Meals, eligible |
| Meals, salaries |
| Miscellaneous services (garden, windows, TV aerial, insurance, services) |
| Miscellaneous |
| Miscellaneous services |
| Office (on-site) |
| Office equipment |
| Office expenses |
| On cost |
| Other ineligible charges |
| Other service charges |
| Other service charges |
| Other services |
| Other supplies |
| Overheads |
| Overheads for housing management |
| Personal alarm |
| Pest control |
| Pest control and refuse disposal |
| Phone |
| Photocopier rental |
| Planned and cyclical repairs and maintenance |
| Planned maintenance |
| Planned maintenance internal |
| Planned repairs and maintenance |
| Plant/equipment contracts and repairs |
| Play area (for children in refuge) |
| Postage |
| Postal charges |
| Premises and office |
| Printing and stationery |
| Prior year adjustment |
| Professional and legal fees |
| Professional fees |
| Professional fees (accounts, etc.) |

Continued

Table E.2 Continued

| Original service charge descriptor |
|---|
| Project admin |
| Project housing staff costs |
| Property related housing management |
| Provision and services |
| Provision of fire fighting equipment |
| Provision of furniture, fixtures and fittings |
| Provision of sleep in/support room |
| Publicity and PR material |
| Reactive repairs |
| Recruitment |
| Refuse collection |
| Refuse collection and disposal |
| Refuse disposal |
| Renewals and depreciation |
| Renewals and repairs |
| Renewals and replacements |
| Rent |
| Rent/lease/mortgage interest |
| Rental liability - claiming benefits |
| Repair and maintain fire equipment |
| Repair and maintain laundry equipment |
| Repairs |
| Repairs and maintenance |
| Repairs and renewals |
| Replace reserve - cookers and fridges |
| Replace reserve – laundry |
| Replacement of all RSL equipment |
| Replacement of small items |
| Replacement provision |
| Replacement reserve - carpets and furniture |
| Replacement reserve - central heating |
| Replacement reserve - fire equipment |
| Replacement total (carpets, cookers, heating) |
| Replacements per tenancy |
| Reserve fund |
| Reserves transfers |
| Resident activities |
| Resident cleaning |
| Response system |
| Responsive maintenance internal |
| Responsive repairs and maintenance |

Continued

Table E.2 Continued

| Original service charge descriptor |
|--|
| Routine maintenance |
| Routine maintenance - minor works |
| RSL service charge |
| Safety and security |
| Safety equipment certification |
| Sani bin service |
| Scheme worker |
| Service charge |
| Service charges excluding electricity |
| Service contracts |
| Services related salaries |
| Services related staff costs |
| Services staff and admin |
| Servicing and safety testing of appliances |
| Servicing of equipment |
| Servicing specialist equipment (e.g. Hoists) |
| Servicing/repair of domestic equipment |
| Sewerage |
| Sinking fund |
| Sleep in support room |
| Social and leisure support charges |
| Staff |
| Staff admin |
| Staff costs |
| Staff expenses |
| Staff management |
| Staff NI |
| Staff recruitment and training |
| Staff salaries |
| Staff services |
| Staff sickness |
| Staff training |
| Starter pack |
| Stationery |
| Structural replacement |
| Subscriptions |
| Sundries |
| Support charge |
| Support services |
| Target rent level |
| Tax and rates |

Continued

Table E.2 Continued

Original service charge descriptor

Telephone
 Telephone – tenants
 Telephone (communal)
 Telephone calls
 Telephone charges
 Telephone housing related
 Telephone provision and line rental
 Telephone rental
 Telephone, communal
 Tenant liaison service
 Total (where no breakdown)
 Training
 Transport
 TV
 TV aerial
 TV aerial maintenance
 TV aerial servicing
 TV and phone
 TV and video
 TV, communal
 TV, licence
 TV/video
 Unknown
 Use of household equipment
 Utilities
 Utilities, communal
 Voids
 Voids and bad debts - part
 Voids and bad debts
 Voids cover on service charges
 Voids on core rent
 Voids on service charges
 Warden services
 Water hygiene testing
 Water rates
 Water rates, allowable
 Water supply to flats
 Water, communal
 White goods
 White goods and furniture
 Window cleaning

This research was commissioned to feed into a review of the way Housing Benefit (HB) is worked out for many of those who live in social and voluntary sector supported housing. Benefit expenditure for many local authorities (LAs) has increased substantially over recent years on supported housing exempt from private sector rent restrictions. However, regular data sources did not provide the detail needed to understand the underlying reasons for these changes, and for the variation between LAs.

The methodology used to undertake the research comprised:

- a review of HB regulations and guidance relating to 'exempt accommodation';
- an expert workshop;
- fieldwork at 21 LAs;
- Interviews with accommodation providers and other stakeholders.

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