

Research Briefing

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The Supported Housing (Regulatory Oversight) Act 2023: debate in parliament



Summary

- 1 What is supported exempt accommodation?
- 2 What are the issues with exempt accommodation?
- 3 The Government response
- 4 Debate in parliament

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Summary

What is exempt supported accommodation?

Supported accommodation describes a range of housing types, such as group homes, hostels, refuges, supported living complexes and sheltered housing. Residents receive support to help them live independently.

Exempt accommodation is a type of supported housing where certain Housing Benefit provisions which limit claimants' entitlement to defined local levels do not apply. This means Housing Benefit may cover the full amount of rent charged by providers.

It is defined as:

- a resettlement place; or
- accommodation provided by a county council, housing association, registered charity or voluntary organisation where that body or person acting on their behalf provides the claimant with care, support or supervision.

[Crisis, the national charity for homeless people, explains why an exempt system was created:](#)

The exempt system was an acknowledgement that the costs of managing shared, supported housing could be higher than the norm, and that not for profit organisations' supported housing services may be unviable if benefit levels were limited using the same rules that applied to mainstream private renting.

What are the issues?

There are concerns that the sector is under-regulated. According to Crisis, growth of exempt provision "[is associated with investors looking to maximise returns using the higher rents permitted by the exempt Housing Benefit provisions.](#)" It's argued that some providers are putting profit before the needs of residents, resulting in poor housing conditions and ineffective care and support for vulnerable residents.

Residents living near to some units of exempt accommodation complain about its [detrimental impact where vulnerable residents are not provided with adequate support.](#)

The Levelling Up, Housing and Communities Committee (LUHC) described the system of exempt accommodation as “[a complete mess](#)” in a report published on 27 October 2022. It found good providers, but in the worst cases there’s [evidence of “exploitation of vulnerable people”](#) and [landlords who are making “excessive profits” from high rents](#) paid for by Housing Benefit.

Government action

- On 20 October 2020, the Government published [Supported housing: national statement of expectations](#) setting out a vision for the planning, commissioning and delivery of supported housing for the first time.
- Also in October 2020, five pilots were established in Birmingham, Blackburn, Blackpool, Bristol, and Hull to improve quality enforcement, oversight, and value for money in the sector. They focused on short-term, non-commissioned exempt supported accommodation. [An independent evaluation of the pilots](#) was published on 7 April 2022.
- On 17 March 2022, then-Minister Eddie Hughes issued a [written statement setting out Government plans for supported exempt housing](#). They include introducing minimum standards of support; changes to Housing Benefit regulations to clarify the definition of care, support and supervision; new powers for local authorities to better manage their local supported housing market and “ensure rogue landlords cannot exploit the system”. Legislation would be introduced when parliamentary time allowed. The Government subsequently said it would support Bob Blackman’s Private Member’s Bill (see below).

What will the Act do?

Bob Blackman MP drew sixth place in the Private Members Bill ballot in May 2022 and introduced the [Supported Housing \(Regulatory Oversight\) Bill](#) on 15 June 2022. [The bill and its explanatory notes were published on 14 November 2022](#). The [debate on second reading took place on 18 November 2022](#). The bill was considered in [one Commons committee session on 11 January 2023](#). No amendments were made. [Report and third reading stages](#) took place on 3 March 2023. Three Government amendments to clauses 4, 5 and 6 were agreed on report.

[Second reading in the House of Lords took place on 21 April 2023](#). No amendments were tabled and [the order for commitment was discharged](#). [Third reading took place on 16 June 2023](#). The bill obtained Royal Assent on 29 June 2023 and came into force on 29 August 2023.

A Crisis briefing said the bill aimed to “stop rogue operators from entering the market and ensure that action is taken against bad faith providers.” There’s

reference to the bill creating parliamentary time “for the Government to act on its commitments.”

The Act will:

- require local authorities in England to review supported housing in their areas and develop strategies
- provide for the creation of a national expert advisory panel to advise on matters related to supported housing
- give the Secretary of State power to introduce national support standards
- give local authorities power to create local licensing schemes for exempt accommodation, and
- give the Secretary of State an option to introduce a new planning Use-Class for exempt accommodation.

The LUHC Committee took oral evidence on the bill on 9 November 2022 and 16 November 2022. Justin Bates of Landmark Chambers told the Committee [the bill was aimed at solving as many of the issues identified in the Committee’s report as possible.](#)

On 12 November 2022, [the Secretary of State at DLUHC, Michael Gove said:](#)

We are stepping in to help councils crack down on this appalling activity and I will be working closely with Bob Blackman MP on his Private Members’ Bill to deliver tough new laws to end this practice once and for all.

1

What is supported exempt accommodation?

Supported accommodation describes a range of housing types where [residents receive support to live independently](#). For example, it includes group homes, hostels, refuges, supported living complexes and sheltered housing.

The exempt accommodation sector houses more marginalised groups, such as recent prison leavers; care leavers; those fleeing domestic violence; and homeless people with substance dependence or mental health issues.

Exempt accommodation is defined as:

- a resettlement place; or
- accommodation provided by a county council, housing association, registered charity or voluntary organisation where that body or person acting on their behalf provides the claimant with care, support or supervision.¹

Supported accommodation which meets the definition set out above is exempt from [Housing Benefit](#) regulations which limit rents to defined local levels.²

Freedom of Information data obtained by Crisis (national charity for homeless people) from the Department for Work and Pensions (DWP) showed “153,701 households in Great Britain were housed in exempt accommodation as of May 2021. This represents a 62% increase from 2016 to 2021.”³

Housing Benefit isn't ‘enhanced’ for claimants living in this type of accommodation. Rent levels for supported accommodation are usually higher than those for mainstream housing. This reflects, for example; higher maintenance; repairs and renewal; security and health and safety measures.

As explained above, claimants do not face the usual limitations which restrict help with housing costs to defined local levels. This means the assistance received through Housing Benefit is likely, subject to a claimant’s personal circumstances, to cover the full amount of the rent charged.

¹ This definition is set out in paragraph 4(10) of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006.

² Limits set by Local Reference Rents and Local Housing Allowance rates. Help towards housing costs for people living in supported ‘exempt’ accommodation is provided outside of Universal Credit.

³ [Over 150,000 households in controversial exempt accommodation](#), Crisis, 21 September 2021

Prospect, a registered provider of exempt supported accommodation which has since closed its operation, published a report on its experiences in October 2021. The report describes why exempt provision came about:

Exempt Accommodation was introduced in acknowledgment of the higher costs associated with certain types of supported or supervised accommodation. It is for this reason that residents are allowed to apply for benefits that are more than the LHA. The provision of “care, support and supervision” is critical, as without it, the accommodation cannot be considered as exempt accommodation.⁴

Crisis, the national charity for homeless people, has said:

The exempt system was an acknowledgement that the costs of managing shared, supported housing could be higher than the norm, and that not-for-profit organisations’ supported housing services may be unviable if benefit levels were limited using the same rules that applied to mainstream private renting.⁵

⁴ [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p8

⁵ [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021

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What are the issues with exempt accommodation?

The sector has attracted some negative media coverage in recent years. On 7 December 2021 the Levelling Up, Housing and Communities Committee (LUHC) [launched an inquiry into exempt accommodation](#). The press notice on the launch referred to growth in the sector and said:

The Committee's inquiry follows reports, including from the West Midlands, of unscrupulous landlords failing to provide the support and care that vulnerable tenants need, or to maintain the properties to a decent standard.⁶

The report of the Committee's inquiry was published on 27 October 2022.⁷ It described the system of exempt accommodation as "a complete mess." There are good providers, but in the worst cases the Committee found evidence of "exploitation of vulnerable people" and landlords who are making "excessive profits" from high rents paid for by Housing Benefit.⁸

Evidence submitted to the Committee's inquiry can be found on its webpage.⁹

The key areas of concern for the Committee and within the sector are summarised in the sections below.

2.1

No overarching regulation or oversight

Many of the problems identified in the sector, such as poor standards of accommodation and support, are thought to have arisen in part because of inadequate oversight and regulation. Crisis describes the sector as "dangerously under-regulated."¹⁰

There is no single central regulator of supported accommodation. If the accommodation is provided by a housing association, in most cases the landlord will be registered with the [Regulator of Social Housing](#) (RSH) and will

⁶ [Levelling Up Committee launches inquiry into exempt accommodation](#), 7 December 2021

⁷ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23

⁸ As above, summary.

⁹ [Exempt Accommodation - Written evidence - Committees - UK Parliament](#) [accessed 9 November 2022]

¹⁰ [Over 150,000 households in controversial exempt accommodation](#), Crisis, 21 September 2021

be subject to the associated [regulatory framework](#).¹¹ Within an association, the Board is responsible for ensuring compliance with statutory obligations and the regulatory framework.

The RSH takes a risk-based approach to regulation. The focus is on providers with more than 1,000 units of social housing. Priority is given to the governance and financial viability of these providers; consumer regulation has played a lesser role.

The Social Housing (Regulation) Act 2023 contains measures to strengthen consumer regulation. Ashley Horsey, Chief Executive at Commonwealth Housing, called for that bill to “make specific reference to exempt accommodation”.¹² Had this been done, it would still leave several providers outside a regulatory system.

A notable development has been the growth of lease-based providers of supported exempt accommodation. Under this model the housing association leases accommodation. For example, Prospect housing association leased over 2,000 units of accommodation in 300 buildings from private landlords. Day-to-day management was supplied through contracts with managing agents.¹³

Support can be supplied by managing agents or, as in Prospect’s case where around 25% of residents received care and support direct from Prospect, by the landlord housing association.¹⁴

The lease-based model is subject to the same regulatory requirements as other registered providers.

If the provision of exempt accommodation is commissioned by a local authority, the commissioning body (local authority) would be responsible for monitoring delivery and ensuring it meets contractual requirements.

The LUHC Committee found “the patchwork regulation of exempt accommodation has too many holes.”¹⁵ The sector is complex and multiple regulators are involved but “some providers do not fall under the remit of any regulator, and no regulator has complete oversight of the different elements of exempt accommodation.”¹⁶ The Committee recommended a National

¹¹ Other bodies involved in regulation might be the Charity Commission if they are registered charities; The Financial Conduct Authority; and The Office of the Regulator of Community Interest Companies if they have been established as CICs.

¹² Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 44

¹³ [Safe Successful Sustainable: A shared vision for better homes, support, and opportunities](#), Prospect, October 2021, p3

¹⁴ As above, p12

¹⁵ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 58

¹⁶ As above.

Oversight Committee be established to address oversight issues with exempt accommodation. It said:

Among its functions we expect that it would coordinate awareness of emerging issues, inform the development of policy in this area and develop proposals for reform of the regulatory system. The composition of the committee should include the existing regulators—the Care Quality Commission, Regulator of Social Housing, Charity Commission, Financial Conduct Authority and the Office of the Regulator of Community Interest Companies—officials from DLUHC, the Local Government Association, and any other organisation it was thought would make a valuable contribution to improving oversight. One of the committee’s first tasks should be to input into the development of the national standards we have recommended.¹⁷

The Committee also called for all providers to be registered to ensure “there is better quality provision and that standards are maintained.”¹⁸

On lease-based providers, the Committee said the Government should set out plans to “clamp-down” on those exploiting the model.¹⁹

2.2

Exploiting Housing Benefit provisions

There’s a view that the growth of exempt provision “is associated with investors looking to maximise returns using the higher rents permitted by the exempt Housing Benefit provisions.”²⁰ It’s argued that some providers are putting profit before the needs of residents, resulting in poor housing conditions and ineffective care and support. The LUHC Committee said it received “overwhelming evidence of unscrupulous landlords who claim uncapped housing benefit to make a profit.”²¹

A Crisis briefing (October 2021) referred to anecdotal evidence of registered providers being set up by investment vehicles to minimise their regulatory burden and generate income through the benefits system:

This has been fuelled by specialist consultants that advise investors on which areas of the country to target to maximise returns. We have heard about examples of extreme malpractice, such as the sale of properties and trading of services at artificially inflated prices between linked agencies as a contrivance to engineer higher rents.²²

Local authorities have an oversight role in ensuring that Housing Benefit claims comply with requirements set out in legislation. In a response to a

¹⁷ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 60

¹⁸ As above, para 108

¹⁹ As above, para 109

²⁰ As above, p2

²¹ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 69

²² [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p5

parliamentary question (July 2020) then-Housing Minister, Christopher Pincher, said decisions about whether a provider falls under the ‘exempt’ definition, and is therefore unaffected by rules limiting Housing Benefit payments, is one for local authorities to make:

As set out in my answer of 21 July 2020 to the Honourable Member for Ladywood (Questions: 75242, 75243 and 75244), whether or not accommodation is ‘exempt’ is a matter for local authority housing benefit departments. The Regulator of Social Housing regulates only those landlords that wish to register with it and who are able to meet its registration requirements (other than local authorities who own homes that are automatically registered). All housing must comply with housing health and safety and building regulations legislation, which is designed to ensure adequate living standards.²³

Where a Housing Benefit claim is received from a tenant of a registered provider, the local authority will normally recover 100% of the cost via subsidy from the Department for Work and Pensions.²⁴ Housing Benefit does not cover the ‘care, support or supervision’ cost element (see section 2.5 below).

In [Exempt from Responsibility?](#) (2019) the charity Spring Housing called on the DWP to “strengthen the criteria and definitions of ‘care, support and supervision’ in exempt Housing Benefit and Universal Credit Regulations.”²⁵ The aim would be to ensure “organisations and landlords are appropriately funded for the accommodation services they provide to clients” and that clients are appropriately placed according to their level of need.

In the short-term, Spring Housing said the DWP should “develop guidelines on assessing ‘exempt’ claims to allow for greater consistency across all local authorities and greater transparency for residents and providers.”²⁶

The LUHC Committee was critical of the lack of information the Government holds on how much is spent on exempt accommodation. The Committee said, “It cannot know whether the current system is delivering value for money.”²⁷ It recommended a review of exempt Housing Benefit claims:

...to determine how much is being spent and on what. Rent should be capped at a reasonable level that meets the higher costs of managing exempt accommodation. Funding for support should be provided separately.²⁸

The Committee also called for consideration of how councils might be given “greater control over rents for exempt accommodation to ensure value for

²³ [PQ 76658 \[Supported Housing: Regulation\], 1 September 2020.](#)

²⁴ Limitations on subsidy payments apply where claims concern tenants of non-registered providers. 60% subsidy is paid in these cases meaning the local authority meets part of the cost itself.

²⁵ [Exempt from Responsibility? - Spring Housing](#), 20 November 2019, p53

²⁶ As above.

²⁷ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 86

²⁸ As above.

money” and for all claims to attract 100% subsidy irrespective of the provider:

The same 100% subsidy should be paid by DWP whether or not the provider is registered. Later in this report we recommend that all providers be registered. While this will result in increased costs for DWP, this is likely to be offset by savings resulting from implementing our recommendations to drive out unscrupulous, profit-driven providers.²⁹

2.3 Standards of accommodation and care

As previously noted, the sector houses some extremely vulnerable client groups with few housing options.

The LUHC Committee found significant variations in the amount and standard of care provided within the exempt sector. It received evidence of good practice, but at the other end of the scale said, “some residents receive no support whatsoever.”³⁰ A lack training and expertise among providers and support workers were identified as issues, along with high staff turnover.³¹

Evidence was received on the quality of accommodation in the sector: “Numerous contributors described properties as cramped, dirty, damp and potentially unsafe in a fire.”³² The Committee concluded “a significant number of residents’ experiences of exempt accommodation are beyond disgraceful.”³³

How people are referred to exempt accommodation is not standardised. Local authorities may refer them, or they may be directed there from institutions such as prisons. Self-referral is also possible. There is also no standard assessment process and evaluation of the support needed by individuals. The Committee found “new residents can be placed in inappropriate housing with an unsuitable mix of residents.”³⁴

The weight of evidence led the Committee to conclude “some people’s situations actually deteriorate as a result of the shocking conditions in which they live.”³⁵ There is also a community impact. Poorly managed exempt accommodation can “attract anti-social behaviour, crime – including the

²⁹ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 87

³⁰ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 15

³¹ As above, para 16

³² As above, para 18

³³ As above, para 31

³⁴ As above, para 13

³⁵ As above, summary

involvement of organised criminal gangs – rubbish, and vermin”, all of which “risk undermining local support for supported housing.”³⁶

An area identified for reform is the definition of “care, support and supervision” in the Housing Benefit regulations. The Government committed to changing the regulations “to seek to define care, support and supervision to improve quality and value for money across all specified supported housing provision” in March 2022.³⁷ Evidence submitted to the Committee supported this and for it to be accompanied by a strengthened referral and risk assessment process.³⁸

The Government defined minimum standards for the housing element of exempt accommodation in October 2020 in [Supported housing: national statement of expectations](#).³⁹

Stakeholders told the Committee standards needed to be clearer and have statutory force.⁴⁰ Lack of regulation and oversight can compound issues around enforcement of standards in exempt accommodation.

The Committee called on the Government to publish national standards within 12 months of October 2022 covering referral processes; assessment of support needs; quality of accommodation; care, support or supervision; and the information providers must supply to residents setting out their rights and the right to complain.⁴¹ The enforcing bodies, local authorities, should receive funding for increased costs ([new burdens](#) funding).⁴²

2.4 Planning and licensing

The Committee received evidence calling for local authorities to be able to control the quantity of exempt accommodation within their areas.⁴³ There was support for authorities assessing local need for provision and developing strategies to meet that need.

Councils involved in the Government pilot schemes (see section 3) carried out these sorts of activities and found they were better able to manage supply.⁴⁴ The pilots identified barriers to implementing strategies, including a lack of

³⁶ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, summary

³⁷ [HCWS696](#)

³⁸ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 38

³⁹ Ministry of Housing, Communities and Local Government (MHCLG), [Supported housing: national statement of expectations](#), 20 October 2020

⁴⁰ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 42

⁴¹ As above, para 55

⁴² As above, para 57

⁴³ As above, para 88

⁴⁴ DLUHC, [Supported housing oversight pilots: independent evaluation](#), 7 April 2022, para 1.5

power to de-commission provision the authority had not commissioned and an inability to withhold Housing Benefit if a claim meets all the qualifying criteria.⁴⁵

A further issue raised in relation to regulation is that there is no requirement to seek a licence to operate certain Houses in Multiple Occupation (HMO) where the landlord is a registered provider. If there was a requirement, a proportion of supported exempt accommodation would fall within the definition of a licensable HMO.

A Crisis policy briefing (October 2021) observed “providers face fewer obligations in respect of property standards, management and safety.”⁴⁶ The Committee received evidence which supported an extension of HMO licensing requirements to cover exempt accommodation irrespective of providers.⁴⁷

Local planning authorities have discretion to use Article 4 directions requiring planning permission to be obtained for the conversion of single household and/or family residences to small HMOs housing six or fewer unrelated residents.⁴⁸ Where used, an Article 4 direction can limit the growth of HMOs within a local authority’s area.

Registered providers are exempt from Article 4 direction requirements. Also, there’s a view that non-registered providers avoid HMO licensing by operating homes for six or fewer residents.⁴⁹

The Committee recommended future Government measures to strengthen local authorities’ powers should include planning reforms “to assist councils to implement local strategies for exempt accommodation based on an assessment of need.”⁵⁰ The Committee wants exemptions for registered providers from HMO licensing and Article 4 directions to be removed and for non-registered providers with properties housing fewer than seven residents to be brought within the planning regime.⁵¹

When giving evidence to the LUHC Committee’s inquiry, the former Minister for Rough Sleeping and Housing was “hesitant about introducing new legislation or regulations.”⁵² He referred to a risk of good providers being driven out of business. Others thought communities might use enhanced

⁴⁵ DLUHC, [Supported housing oversight pilots: independent evaluation](#), 7 April 2022, para 1.5

⁴⁶ [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, para 47

⁴⁷ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 94

⁴⁸ Ordinarily, this change of use would amount to permitted development which does not require planning permission. An Article 4 direction is a direction under Article 4 of the General Permitted Development Order.

⁴⁹ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 94

⁵⁰ As above, para 98

⁵¹ As above, para 99

⁵² As above, para 51

planning powers to block development of specialist accommodation for those with complex needs.⁵³

2.5 Funding support

Commentators say changes to the funding regime for supported housing is one drivers of growth in exempt provision.

The Supporting People programme was launched in 2003 as a £1.8 billion ring-fenced grant to local authorities intended to fund services to help vulnerable people live independently. The ring-fence was removed in 2009.

In the 2010 Spending Review the Government announced Supporting People national funding levels would decrease from £1.64 billion in 2010/11 to £1.59 billion in 2014/15. In addition to reduced funding, concerns were raised about the effect of removing the ring-fence. It was suggested local authorities were using the funding to support other expenditure.⁵⁴

Crisis has suggested providers are using exempt status to make-up for losses in Supporting People funding by increasing rents or reclassifying elements of support as housing-related costs covered by Housing Benefit. In turn, it's suggested that lease-based providers see registered status as a way of attracting less scrutiny from local authorities because of more generous subsidy rules.⁵⁵

Where support provided in exempt accommodation is not commissioned by a local authority, there's no specified funding for its provision. The cost cannot be met by Housing Benefit.

Prospect's paper (October 2021) said support provided in its accommodation "was far in excess of what could be reasonably described as enhanced housing management, making it ineligible for Housing Benefit."⁵⁶ Thus the cost was met by levying a service charge on residents which they paid from their weekly Universal Credit entitlement. The LUHC Committee's report says, in addition to service charges, providers use "charitable or commissioned funding" to pay for support.⁵⁷

Stakeholders told the Committee it was unfair to require people on low incomes to meet the cost of their own support and that it plays a role in the

⁵³ As above, para 95

⁵⁴ For more information see [The Supporting People programme](#), Commons Library briefing, RP12-40, 16 July 2012

⁵⁵ [Crisis Policy Briefing: Tackling problems with non-commissioned exempt housing](#), October 2021, p6
See also section 4.1.

⁵⁶ [Safe Successful Sustainable: A shared vision for better homes, support and opportunities](#), Prospect, October 2021, p13

⁵⁷ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 94

standard of support on offer.⁵⁸ There were calls for the reintroduction of ring-fenced funding similar to Supporting People.⁵⁹

The Committee called on the Government to, within 12 months of October 2022, organise the “collection, collation and publication of annual statistics at a local authority level” including the number of claimants in exempt accommodation, the number of providers, and the amount paid in Housing Benefit in respect of exempt accommodation.⁶⁰

Once this information is gathered, in the Committee’s view “It is quite possible that the Government does not need to spend more on exempt accommodation but to spend more wisely.”⁶¹ The Committee said funding for support should be provided separately to Housing Benefit and called for a review of exempt Housing Benefit claims. They also called for caps on rent at “reasonable” levels.⁶²

⁵⁸ Levelling Up, Housing and Communities Committee, [Exempt Accommodation](#), 27 October 2022, HC 21 2022-23, para 76

⁵⁹ As above, para 77

⁶⁰ As above, para 83

⁶¹ As above, para 84

⁶² As above, para 85

3 The Government response

The Government response to the LUHC Committee report was published on 21 June 2023.⁶³

The Government supported Bob Blackman’s bill (see section 4).

3.1 A national statement of expectations 2020

On 20 October 2020, the Government published [Supported housing: national statement of expectations](#) (NSE), containing its “vision for the planning, commissioning and delivery of supported housing for the first time”:

The guidance is aimed at local authorities, providers and other local partners. It is non-statutory, but our intention is the NSE will consolidate ‘what good looks like’ and empower local authorities to ensure provision is good quality and value for money.

It also includes case studies highlighting best practice by providers and local authorities.⁶⁴

3.2 Pilot schemes (now finished)

Also in October 2020, the Ministry of Housing, Communities and Local Government (MHCLG)⁶⁵ announced five pilots in Birmingham, Blackburn, Blackpool, Bristol, and Hull supported by £3 million.⁶⁶ The pilots were established to improve quality, enforcement, oversight, and value for money and were expected to focus on short-term, non-commissioned exempt supported accommodation.

Four of the pilots were extended for six months from March 2021.⁶⁷ The Bristol pilot did not submit a bid for funding for phase two but “will still carry out

⁶³ [Exempt accommodation: government response to the Select Committee report](#), CP 875, 21 June 2023

⁶⁴ Ministry of Housing, Communities and Local Government (MHCLG), [Supported housing: national statement of expectations](#), 20 October 2020

⁶⁵ Now the Department for Levelling Up, Housing and Communities (DLUHC).

⁶⁶ Localgov, “[Government launches £3m supported housing pilot](#)”, 20 October 2020

⁶⁷ As above.

inspections and monitoring of the city’s supported housing units in the coming months.”⁶⁸ Findings from the pilots were to inform future national policy.⁶⁹

[An independent evaluation of the pilots](#) was published on 7 April 2022. The evaluation found:

- The pilots improved the quality of resident support and helped make it more tailored and sufficient for residents.
- Over the course of the pilots, local authorities reduced the number of illegitimate or unreasonable Housing Benefit claims paid out. They improved the process of Housing Benefit scrutiny and increased the number of reviews carried out.
- Local authorities estimated by the end of the pilot they had prevented £6.2 million being paid in error.
- Local authorities agreed the pilots led to improved quality and standards of accommodation through investment in property inspections and enforcement activities to identify and resolve property hazards.
- Local authorities found assessing demand for and supply of supported housing helped to improve their understanding of the local market. Local authorities that have conducted a strategic planning exercise experienced further benefits.
- The pilots improved authorities’ ability to intervene in new provision and prevent providers from establishing new and unnecessary schemes.
- Partnerships and multi-disciplinary ways of working were vital contributors to activity success.⁷⁰

There were some limitations to the impact of the pilots due to:

- The lack of a definition of care, support or supervision in the Housing Benefit regulations.
- Housing Benefit decisions can be appealed and there is a “low chance” of an authority’s decision being upheld.
- Authorities may not make blanket decisions on whether a scheme meets the specified supported housing requirements in Housing Benefit regulations. Entitlement relies on an individual’s circumstances.
- There is no requirement for providers to liaise with local authorities before setting up.⁷¹

⁶⁸ Localgov, “[Government launches £3m supported housing pilot](#)”, 20 October 2020

⁶⁹ [Pilots to improve supported housing for vulnerable people extended](#), MHCLG, 19 March 2021

⁷⁰ DLUHC, [Supported housing oversight pilots: independent evaluation](#), 7 April 2022, para 1.5

⁷¹ As above, para 1.8

Key recommendations included:

- Make short-medium term funding available to local authorities to oversee supported housing in their area, to embed and potentially expand the pilots' work while longer term reforms (eg, regulatory and legislative measures) are agreed and implemented.
- Aim to define “care, support and supervision”, and review regulations around rent levels and subsidy, to increase the impact of Housing Benefit scrutiny activities.
- Strengthen local authorities' powers to support them to intervene in new supply where it is unnecessary or poor-quality. Options could include requiring a provider to seek the approval of the local authorities before establishing a new scheme.
- Review funding and regulation for the support element of supported housing to improve quality and support.⁷²

3.3 Government announcement March 2022

On 17 March 2022, then Minister, Eddie Hughes, issued [a written statement setting out Government plans for supported exempt housing](#). The measures included:

Minimum standards for the support provided to residents to ensure residents receive the good quality support they expect and deserve in order to live as independently as possible and achieve their personal goals;

New powers for local authorities in England to better manage their local supported housing market and ensure that rogue landlords cannot exploit the system to the detriment of vulnerable residents and at the expense of taxpayers; and

Changes to housing benefit regulations to seek to define care, support and supervision to improve quality and value for money across all specified supported housing provision.

We will introduce any measures requiring legislation when parliamentary time allows.⁷³

He also announced £20 million for a supported housing improvement programme over three years.⁷⁴ The improvement programme opened for bids in July 2022.⁷⁵ Alongside the bidding prospectus, the Government published

⁷² DLUHC, [Supported housing oversight pilots: independent evaluation](#), 7 April 2022, para 1.7

⁷³ [HCWS696](#)

⁷⁴ As above.

⁷⁵ DLUHC, [Supported Housing Improvement Programme prospectus - GOV.UK](#), 2 July 2022

a [summary of good practice](#) from the pilots, based on the most effective interventions and ways of working.⁷⁶

On 12 November 2022, the Government said the £20 million fund would enable councils to “step up inspection of accommodation standards” and:

...provide enhanced scrutiny of Housing Benefit claims to ensure they are reasonable. It will also improve local enforcement of the quality of accommodation and support to residents including supervision, advice, or help with life skills, to help tenants live independently in the community.⁷⁷

3.4

More rigorous oversight by the RSH

The Regulator of Social Housing (RSH) is implementing more rigorous oversight of the sector, resulting in more non-compliant regulatory judgements. As of January 2021, 13 lease-based providers of supported housing had had non-compliant regulatory judgements or notices.⁷⁸

On 10 November 2021, David Rutley confirmed the Department for Work and Pensions was working with the DLUHC on the oversight of supported housing:

The supported housing sector provides essential accommodation and support for the most vulnerable members of society to live as independently as possible in their community.

We are working closely with the Department for Levelling Up, Housing and Communities on the oversight of supported housing to ensure it is good quality and provides the right support for residents as well as value for money for taxpayers. As part of this work, all available options will be considered. Additionally, following extensive engagement with stakeholders, we are reviewing the guidance for specified accommodation claims to improve consistency in decision-making for exempt accommodation.⁷⁹

⁷⁶ DLUHC, [Local authority interventions to improve quality in supported housing - GOV.UK](#), 2 July 2022

⁷⁷ DLUHC, [Time's up for rogue landlords who are failing vulnerable residents - GOV.UK](#), 12 November 2022

⁷⁸ [PQ 130681 \[Supported Housing: Inspections\], 11 January 2021](#).

⁷⁹ [PQ 68431 \[Supported Housing: Regulation\], 10 November 2021](#).

4

Debate in parliament

Bob Blackman drew sixth place in the Private Members Bill ballot in May 2022 and introduced the [Supported Housing \(Regulatory Oversight\) Bill](#) on 15 June 2022. The [debate on second reading took place on 18 November 2022](#).⁸⁰

The bill was considered in [one committee session on 11 January 2023](#) - no amendments were made.⁸¹

[Report and third reading in the Commons](#) took place on 3 March 2023.⁸² Three Government amendments to clauses 4, 5 and 6 were agreed on report.

[Second reading in the House of Lords took place on 21 April 2023](#). No amendments were tabled and [the order for commitment was discharged](#). [Third reading took place on 16 June 2023](#).⁸³

The bill obtained Royal Assent on 29 June 2023 and came into force on 29 August 2023.

The Act aims to “stop rogue operators from entering the market and ensure that action is taken against bad faith providers.”⁸⁴ The Crisis briefing on the bill said it “creates parliamentary time for Government to act on its commitments, build on learning from the pilots and give councils the teeth they need to enforce standards locally.”⁸⁵

The briefing also refers to providing a “platform for a national conversation about what changes are needed to ensure that supported housing is adequately funded, as well as being safe and effective for residents.”⁸⁶

[The LUHC Committee took oral evidence on the bill on 9 November 2022 and 16 November](#). Justin Bates of Landmark Chambers told the Committee the bill aimed to solve as many of the issues identified in the Committee’s October 2022 report as possible.⁸⁷

On 12 November 2022, Secretary of State at DLUHC, Michael Gove said:

⁸⁰ [HC Deb 18 November 2022 c940](#)

⁸¹ [PBC 11 January 2023](#)

⁸² [HC Deb 3 March 2023 c1016](#)

⁸³ [Supported Housing \(Regulatory Oversight\) Act 2023 Stages - Parliamentary Bills - UK Parliament](#).

⁸⁴ Crisis Briefing: The Supported Housing (Regulatory Oversight) Bill, October 2022

⁸⁵ As above

⁸⁶ As above

⁸⁷ [Oral evidence: Pre-legislative scrutiny of the Supported Housing \(Regulatory Oversight\) Bill, HC 809](#), 9 November 2022. Justin Bates worked with Bob Blackman MP on drafting the bill.

We are stepping in to help councils crack down on this appalling activity and I will be working closely with Bob Blackman MP on his Private Members' Bill to deliver tough new laws to end this practice once and for all.⁸⁸

Stakeholders in the exempt supported accommodation sector are broadly in favour of the Act. There's a focus on not adversely affecting providers who are operating effectively and are already subject to regulation.⁸⁹ There are some who feel that use of planning powers might limit future provision when demand for exempt accommodation is high. Local authorities and their representative bodies argued for any new duties to be backed up with resources.⁹⁰

4.1

What will the Act do?

Supported Housing Advisory Panel (section 1)

Section 1 requires the Secretary of State to establish a Supported Housing Advisory Panel. The panel's role would be wide-ranging "to provide information and advice about or in connection with supported exempt accommodation" to the Secretary of State, local housing authorities and social services authorities.

The issues addressed by the panel might be directed by the Secretary of State or may be something the panel decides to report on which "could have a significant impact on the provision or regulation of supported exempt accommodation."

One example of work the panel might carry out is to advise on the case for establishing national regulation or oversight of the sector, as recommended by the LUHC Committee.⁹¹

Section 1 specifies bodies that would be represented by appointees to the panel.

Debate in committee 11 January 2023

Bob Blackman said the main purpose of the panel would be "to ensure the Secretary of State is informed when action is required to be taken under later clauses".⁹² Felicity Buchan, then Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities, said the Government supported the bill and said clause 1 (now section 1) offered an "excellent opportunity" to

⁸⁸ DLUHC, [Time's up for rogue landlords who are failing vulnerable residents - GOV.UK](#), 12 November 2022

⁸⁹ See for example: [National Housing Federation - NHF response to the LUHC committee report on exempt accommodation](#), 27 October 2022

⁹⁰ [Local Government Association written evidence submitted to LUHC Committee](#) [EXA 020]

⁹¹ Crisis Briefing: The Supported Housing (Regulatory Oversight) Bill, October 2022

⁹² [PBC Deb 11 January 2023 c4](#)

bring together key stakeholders to inform and implement measures in the Act.⁹³

Local supported housing strategies (section 2)

Section 2 places a duty on local housing authorities in England to review exempt provision within their areas. Having carried out the review, they will be required to publish a “supported housing strategy” to which they would have to have regard when discharging their functions. Social services will be required to assist in implementing the strategy.

The date for completion of the review will be specified by the Secretary of State in regulations. Thereafter, the review would have to be conducted every five years.

The section specifies certain things a review must cover, including an assessment of current provision within the area and likely demand for exempt accommodation over a five-year period. The Secretary of State may include other matters in regulations. The Secretary of State may issue guidance on the conduct of a review to which authorities would have to have regard.

Debate in committee 11 January 2023

During the clause stand part debate on clause 2 (now section 2), Felicity Buchan said the local strategies would “provide useful information at a local level.” She referred to research commissioned by the Government from Sheffield Hallam University to provide an up-to-date estimate of the size and cost of the supported housing sector across GB and estimates of future demand.⁹⁴

Eddie Hughes probed the lack of data arising from Housing Benefit claims in the supported exempt sector. The Minister said:

The DWP has already made changes to the way local authorities provide housing benefit data on supported housing claims by including flags in the collection system. That is for new housing benefit claims, so it will take time for this to work its way through the system and have data over time.⁹⁵

National Supported Housing Standards (section 3)

Section 3 gives the Secretary of State power to develop and publish national standards which will apply in England and relate to any aspect of supported exempt accommodation.

The Government committed to introduce “minimum standards for the support provided to residents” in March 2022.”⁹⁶ The Crisis briefing on the bill referred

⁹³ [PBC Deb 11 January 2023 c5](#)

⁹⁴ [PBC Deb 11 January 2023 cc8-9](#)

⁹⁵ [PBC Deb 11 January 2023 c9](#)

⁹⁶ [HCWS696](#)

to clause 3 (now section 3) as creating “parliamentary time for them to do this.”⁹⁷

Debate in committee 11 January 2023

Clive Betts moved amendment 1 to clause 3 (now section 3) which sought to give the Secretary of State the option of giving local housing authorities power to introduce a scheme to enforce National Supported Housing Standards.⁹⁸ Amendment 2 (also tabled by Clive Betts) was discussed alongside – this sought to require the Secretary of State to provide an explanation if national standards were not introduced within one year of Royal Assent.

The Minister said amendment 1 would overlap with the consultation duty in clause 6 (now section 6) and pre-empt the outcomes “by putting forward a ready-made solution.”⁹⁹ She stressed the need for consultation to avoid unintended consequences for the sector. Mr Betts withdrew amendment 1.

On amendment 2, the Minister referred to the requirement in clause 4(2) (now subsection 4(2)) to report on progress if licensing regulations are not in place after 12 months. She added:

Today, I can give an oral commitment here in Committee that if that clause is triggered, we will also give an update on the national supported housing standards at the same time.¹⁰⁰

Clive Betts withdrew amendment 2.

Licensing regulations (sections 4 and 5)

Section 4 gives the Secretary of State power to make regulations requiring persons with control of, or managing supported exempt accommodation, to obtain and comply with a licence issued by the relevant local housing authority.

Regulations made under section 4 will aim to secure compliance with National Supported Housing Standards and will be subject to the affirmative resolution procedure.¹⁰¹

Section 5 sets out the scope of issues which licensing regulations may include, such as enforcement, consequences of non-compliance, exemptions and fees. Some providers who are subject to alternative regulation may be “passport” through to minimise the impact of new requirements.¹⁰²

⁹⁷ Crisis Briefing: The Supported Housing (Regulatory Oversight) Bill, October 2022

⁹⁸ [PBC Deb 11 January 2023 c10](#)

⁹⁹ [PBC Deb 11 January 2023 c13](#)

¹⁰⁰ [PBC Deb 11 January 2023 c13](#)

¹⁰¹ The regulations must be actively approved by both Houses of Parliament.

¹⁰² Crisis Briefing: The Supported Housing (Regulatory Oversight) Bill, October 2022

Existing local authority enforcement powers for housing offences, including banning orders and rent repayment orders, may apply.

One of the consequences of non-compliance with the requirement to obtain a licence or conditions attached to a licence may be a limit on the amount of Housing Benefit payable, or a limit on the rent chargeable. In the latter case, the rent may be referred to a tribunal for determination under section 14 of the Housing Act 1988. In effect, the premises would not be treated as exempt supported accommodation attracting higher rates of Housing Benefit. The aim is to disincentivise rogue providers from entering the sector and to “provide local authorities with an important tool to hold providers to account.”¹⁰³

Justin Bates told the LUHC Committee the provisions are largely modelled on those in the Housing Act 2004 which introduced mandatory licensing of houses in multiple occupation and discretionary licensing in certain designated areas. He also highlighted clause 5 (now section 5) as one which might benefit from scrutiny to ensure adequate coverage.¹⁰⁴

The Committee probed the additional burden licensing would place on local authorities. The provisions in the Act for fees are aimed at covering costs but there is recognition that initial set-up costs would have to be met by new burdens funding.¹⁰⁵

Writing for Inside Housing magazine, Alex Horsey, chief executive of Commonweal Housing, distinguished between exempt accommodation which provides mainly transitional housing and that which provides long-term support, for example, for people with disabilities or the elderly. He argued for policy changes to make a distinction between these types of provision to avoid impeding their operation and potential new schemes.¹⁰⁶

Debate in committee 11 January 2023

Bob Blackman described clauses 4-7 (now sections 4-7) as “the heart of the bill”.¹⁰⁷ He tabled several “tidying” amendments, for example to remove the Local Government Association, at their request, as a statutory consultee.

Clive Betts spoke to amendment 3 which sought to introduce conditions relating to the assessment of a person’s needs “who are residents or potential residents of supported exempt accommodation.”¹⁰⁸ His concern was to ensure that people with conflicting needs and lifestyles should not be housed together, such as perpetrators and victims of domestic abuse.

¹⁰³ Crisis Briefing: The Supported Housing (Regulatory Oversight) Bill, October 2022

¹⁰⁴ [Oral evidence: Pre-legislative scrutiny of the Supported Housing \(Regulatory Oversight\) Bill, HC 809](#), 9 November 2022

¹⁰⁵ As above

¹⁰⁶ Inside Housing, “The select committee report on exempt accommodation was spot on – but it missed one crucial point”, 4 November 2022 [login required]

¹⁰⁷ [PBC Deb 11 January 2023 c14](#)

¹⁰⁸ [PBC Deb 11 January 2023 c17](#)

Mr Betts also asked about new burdens on local authorities and whether the Government intended to address Housing Benefit “scams”.¹⁰⁹

The Minister agreed there may be merit in putting a needs assessment requirement on the face of the bill. She committed to considering changes on report. She asked Mr Blackman to withdraw his technical amendments so the Government could work on alternatives and introduce amendments on report.¹¹⁰ She confirmed an assessment would be carried out and that local authorities would “get money for any new burdens.”¹¹¹ On Housing Benefit scams she said:

The hon. Member for Sheffield South East has my word that the Department for Levelling Up, Housing and Communities, working closely with the Department for Work and Pensions, will look to get rid of the scams. Clearly, it will take work and require a lot of deep analysis, but we are determined to look to make that linkage with the DWP.¹¹²

The amendments were withdrawn.

There was no debate on what are now sections 6 to 7 (see below) in public bill committee.

Commons report stage 3 March 2023

Felicity Buchan moved Government amendment 1 to enable the Secretary of State to designate every district in England as subject to licensing, saying “the Secretary of State could introduce universal local licensing by exercising a power to be conferred by the licensing regulations of clause 4 to designate every local housing authority district in England.”¹¹³ The intention is to prevent rogue operators from changing location to avoid regulation. She committed to consultation on the licensing regime.

The Minister moved amendment 2 to address concerns raised by Clive Betts in PBC. She said the amendment would add to the list of conditions that may be attached to a supported housing licence at clause (now section) 5(3) to require an assessment of residents’ or potential residents’ needs “including in relation to the conduct of those needs assessments.”¹¹⁴

Both Government amendments were agreed.

Consultation (section 6)

Section 6 specifies consultation requirements on the Secretary of State before exercising the power to make licensing regulations. Certain bodies are listed

¹⁰⁹ [PBC Deb 11 January 2023 c17](#)

¹¹⁰ [PBC Deb 11 January 2023 c18](#)

¹¹¹ [PBC Deb 11 January 2023 c18](#)

¹¹² [PBC Deb 11 January 2023 c18](#)

¹¹³ [HC Deb 3 March 2023 c1016](#)

¹¹⁴ [HC Deb 3 March 2023 c1018](#)

as “statutory consultees” including the National Housing Federation and the Regulator of Social Housing.

Commons report stage 3 March 2023

A technical Government amendment was agreed to remove the Local Government Association (LGA) as a statutory consultee – instead local housing authorities and social services authorities in England will be consulted.¹¹⁵

Local housing authority functions (section 7)

Section 7 requires local authorities to have regard to any National Supported Housing Standards and any guidance issued by the Secretary of State in exercising their licensing functions.

Planning (section 8)

Section 8 places a duty on the Secretary of State to review the effect of licensing requirements within three years of regulations being made. The review would focus on the type and condition of premises used as exempt accommodation and the standard of care, support and supervision provided.

Having conducted a review, the Secretary of State would be required to consider whether to exercise power under section 55(2)(f) of the Town and Country Planning Act 1990 to specify exempt supported accommodation as a use-class which would require planning permission in certain circumstances.

Justin Bates told the LUHC Committee that use of planning powers would amount to a “nuclear option” and should only be used if other options (licensing) had failed.¹¹⁶

Debate in committee 11 January 2023

Clauses (now sections) 8 and 9 were considered together in public bill committee. No amendments were tabled and both clauses were agreed.

Homelessness (section 9)

Section 9 amends section 191 of the Housing Act 1996 to provide that where someone leaves exempt supported accommodation due to poor conditions or care, and the standards within the accommodation do not meet the National Supported Housing Standards, they will not be intentionally homeless.

Local authorities have no duty to secure long-term housing for those deemed to have made themselves homeless intentionally.

¹¹⁵ [HC Deb 3 March 2023 c1018](#)

¹¹⁶ [Oral evidence: Pre-legislative scrutiny of the Supported Housing \(Regulatory Oversight\) Bill, HC 809](#), 9 November 2022

The purpose is to help “homelessness charities better support residents living in appalling conditions, and ensure people access the help they are entitled to from their local authority.”¹¹⁷

Sharing information related to supported exempt accommodation and use of information (sections 10 and 11)

Section 10 gives the Secretary of State power to make regulations relating to information on exempt accommodation which may be shared by a local authority; a registered provider of social housing; the RSH and the Secretary of State. Information sharing has to ensure there is no contravention of data protection provisions.

Section 11 provides that information obtained under section 134 of the Social Security Administration Act 1992 (Housing Benefit), or Part 1 of the Local Government Finance Act 1992 (Council Tax) may be used “for any purpose connected with the exercise of any of the authority’s functions under or by virtue of this Act” or for investigating potential offences committed under this Act.

Justin Bates told the Committee it would be worth exploring whether the provisions on information sharing covered the right purposes.¹¹⁸

Debate in committee 11 January 2023

Clive Betts moved an amendment to clause (now section) 10 seeking to require the Secretary of State to explain why regulations on data sharing are outstanding and to publish a progress report if not made within one year of the Royal Assent. He explained his reasoning behind the amendment:

All I am really asking here is that, if progress is not made in the way that the Minister clearly intends, could we have it on the record that a report will be made?¹¹⁹

The Minister gave the committee a commitment:

...if we are required to report on licensing regulations after 12 months, we will include an update on the progress on information sharing powers. I agree with the hon. Member for Harrow East that we need to be sensitive about the sharing of information, given the involvement of people such as domestic abuse survivors. Information about their current residence is very sensitive, so, again, consultation is key. We may have to exempt certain groups, but it is an important clause.¹²⁰

¹¹⁷ Crisis Briefing: The Supported Housing (Regulatory Oversight) Bill, October 2022

¹¹⁸ [Oral evidence: Pre-legislative scrutiny of the Supported Housing \(Regulatory Oversight\) Bill, HC 809](#), 9 November 2022

¹¹⁹ [PBC Deb 11 January 2023 c23](#)

¹²⁰ [PBC Deb 11 January 2023 c24](#)

Mr Betts withdrew his amendment.

Interpretation and final provisions (sections 12 and 13)

Sections 12 and 13 set out definitions of terms used in the Act, including exempt accommodation.

Commencement, extent and short title (section 14)

The Act extends to England and Wales.

It came into force two months after Royal Assent on 29 August 2023.

New clause 2: a charter of rights for residents

In public bill committee Clive Betts moved new clause 2 on behalf of Kate Hollern. The intention was to have the rights of residents in supported exempt accommodation formally recognised.¹²¹

The Minister said the new clause would require all local authorities in England to produce a charter of rights for supported housing residents. She said there was risk of overlap with the national supported housing standards. The Government would leave it to individual authorities whether they introduce licensing schemes but where they do, national guidance will achieve consistency. The Government did not support the new clause. Mr Betts withdrew it.¹²²

¹²¹ [PBC Deb 11 January 2023 c26](#)

¹²² [PBC Deb 11 January 2023 c26](#)

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