



Supported Housing Expertise

Managing Housing Benefit Claims in Supported Housing

Summary Edition: the Key Messages for Council Housing Benefit Teams and Supported Housing Providers

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About This Summary

This is a short guide to SHP's good practice manual, *Managing Housing Benefit Claims in Supported Housing*. It sets out the key messages for council Housing Benefit teams, supported housing providers, commissioners and anyone else who works with supported housing.

It is a summary, not a substitute. The full manual gives the legislation, the DWP guidance and the case law behind every point, with worked examples and ready-to-use templates. Chapter numbers in this summary refer to the full manual. Before relying on a point in a decision or an appeal, read the chapter and, where it matters, the decision itself.

The full manual, the templates and future updates are free at supportedhousing.blog/manual.

Why it matters

Supported housing changes lives. For people leaving homelessness, prison, hospital or abusive relationships, for people with mental ill health, learning disabilities or addictions, and for young people starting out on their own, a stable home with the right support can be the difference between a life that holds together and one that falls apart. Enhanced Housing Benefit is one of the main ways that housing is paid for.

When Housing Benefit decisions are right, tenants keep their homes, good providers can plan ahead, and public money pays for real services. When they are wrong, in either direction, the consequences are serious. Claims that should have been refused let poor-quality, high-cost accommodation take hold. Claims that should have succeeded leave tenants in arrears, providers unable to keep schemes open, and councils facing pressure on homelessness and social care.

SHP's approach: finding common ground

The manual sets out SHP's position, based on thoroughly researched case law and its relationship with how supported housing works in practice. Where the case law is clear, we say so plainly.

We do not support adversarial approaches to Housing Benefit by either councils or providers. An adversarial council sets thresholds the law does not contain, asks for far more than it needs or treats every provider as a suspect. An adversarial provider resists reasonable questions, will not explain its rent or goes straight to appeal. Both lead to the same place: slower decisions, higher costs and tenants left uncertain about their homes.

This is not a call for councils to stop scrutinising claims, or for providers to accept decisions they believe are wrong. Scrutiny and challenge work best when both sides share an understanding of the law, explain their reasoning, and treat each other as partners in getting the decision right.

The Key Messages

The framework (Part A of the manual)

1. **Exempt accommodation keeps the "old scheme" rules on eligible rent.** Local Housing Allowance does not apply, and the Rent Officer's figure does not set the eligible rent (Chapters 1, 2 and 10).
2. **The DWP guidance is helpful but not law.** Where it differs from the case law, the case law applies, and decisions should say so (Chapter 3).

The case law (Part B)

3. **Only the legal principle in a decision binds.** Findings of fact in one case are not rules for others, so there is no minimum number of support hours (Chapters 4 and 8).
4. **The landlord must be a qualifying not-for-profit body** that provides the accommodation and, itself or through someone acting on its behalf, provides care, support or supervision. Lease-based models can be legitimate (Chapter 5).
5. **Support means advice and assistance in coping with the practicalities of life**, in particular the occupation of the property. Intensive housing management and maintenance, provided because of tenants' needs, can be support and supervision in their own right. An organised on-call service is supervision (Chapters 6 and 7).
6. **"More than minimal" is a modest, qualitative threshold:** is the support likely to make a real difference to the claimant's ability to live in the accommodation (Chapter 8)?
7. **Whether a service counts towards exempt status and whether its cost is eligible for Housing Benefit are separate questions** (Chapters 7 and 9).
8. **Rent restriction is a legitimate tool for rents that are genuinely unreasonably high**, judged against suitable alternative accommodation for this claimant. Subsidy loss is never a reason to restrict (Chapter 10).
9. **Contrivance is the right tool for arrangements made to take advantage of the scheme**, which in our experience involve a significant number of often property and/or investor-led landlords. It is the wrong tool for genuine providers whose schemes rely on Housing Benefit, and Housing Benefit only funding is not contrivance (Chapter 11).

Evidence (Part C)

10. **Every request must be reasonably required to decide entitlement.** Decision making is a co-operative process (Chapter 12).
11. **Scheme evidence should be provided once, kept on a scheme file and reviewed.** Claimant evidence should be specific to the tenant and drawn from records the provider already keeps (Chapters 13 and 14).
12. **Care, support or supervision, including intensive housing management, should be evidenced by activity, frequency, need and record**, in proportionate form (Chapter 15). Chapter 16 sets out which requests are reasonable and which go too far.

Process (Part D)

13. **Early engagement, a local protocol, named contacts and a clear escalation route prevent most disputes.** They work best when they are joined up with the duties under the Supported Housing (Regulatory Oversight) Act 2023 (Chapter 17).

What Housing Benefit Can and Cannot Fund

SHP's position, based on the case law and set out in Chapters 6, 7 and 9 of the manual, is that the dividing line is not between "housing" and "support". It is between housing management, which includes housing-related support and supervision, and care and personal support to the person.

Type	Examples	Eligible for Housing Benefit?	Can it count towards exempt status?
Ordinary housing management	Lettings, rent collection, routine repairs	Yes	No, on its own
Housing-related support and supervision, delivered as intensive housing management	Tenancy sustainment, enhanced repairs, property and welfare checks, dispute intervention, help with Housing Benefit, on-call cover	Yes (SHP's position)	Yes
Care and personal support	Personal care, counselling and emotional support, life skills, help with other benefits, training and employment support, medication reminders, family liaison	No (Schedule 1, para 1)	Yes

In *Allerdale BC v JD and Others* [2019] UKUT 304 (AAC), the Upper Tribunal held that what housing management involves "will differ according to the attributes and needs of those being housed" (para 25). SHP reads that as confirming that housing-related support and supervision delivered by the landlord as housing management are eligible, while care and personal support are not.

Two consequences follow:

- **A scheme does not need separately funded, ineligible support to be exempt.** Housing-related support and supervision can be enough on their own (Chapter 3, 3.4.1).
- **Providers should not add notional ineligible "support charges"** of £15 to £20 a week to show that support exists. The law does not require it, and it costs tenants money for no purpose (Chapter 11).

The Legal Tests at a Glance

Question	The test	Leading authority	Ch.
Is the landlord a qualifying body?	A non-metropolitan county council, housing association, registered charity or voluntary organisation. It must be not-for-profit, but contractors and lessors making a profit do not stop it qualifying. Registration is evidence, not a requirement.	<i>Wirral BC v MF</i> [2014] AACR 12	5
Does the landlord provide the accommodation?	Whoever has the right to let it and is entitled to the rent provides it. A leaseholder landlord can provide it. Arranging or nominating is not providing.	<i>Chorley BC v IT</i> [2009] UKUT 107 (AAC); <i>East Hertfordshire DC v KT</i> [2009] UKUT 12 (AAC)	5
Is care, support or supervision provided by the landlord or on its behalf?	A third party counts only if engaged to provide it on the landlord's behalf. A partnership in which each party acts for itself is not enough.	R(H) 2/07	5
What is support?	"The giving of advice and assistance to a claimant in coping with the practicalities of his life, and in particular his occupation of the property". It must be more than, or different from, ordinary property management, judged against general needs social housing.	<i>Chorley BC v IT</i> , para 71; R(H) 4/09, para 25	6
Can IHM and maintenance count?	Yes, where tenants' needs make repairs, works and checks materially more demanding, or the landlord goes beyond its obligations because of those needs. The label decides nothing; what the landlord does decides everything.	<i>Chorley BC v IT</i> ; <i>Chorley BC v EM</i> [2009] UKUT 108 (AAC); <i>DW v Oxford CC</i> [2012] UKUT 52 (AAC)	6, 7
What is supervision?	It can be precautionary and anticipatory, and need never result in intervention. SHP's position is that an organised on-call service is supervision.	R(A) 2/75	6
Is it more than minimal?	Is the support likely to make a real difference to the claimant's ability to live in the accommodation? There is no set number of hours, and no comparison of support cost with the Housing Benefit at stake.	<i>Bristol City Council v AW</i> [2009] UKUT 109 (AAC), paras 31 and 32; DWP guidance, para 151	8

Question	The test	Leading authority	Ch.
Is a service charge eligible?	It must be a condition of occupation, for a service, and not excluded by Schedule 1. Mixed charges are apportioned, usually by staff time. Exempt status and eligibility are separate questions.	<i>Allerdale BC v JD and Others</i> [2019] UKUT 304 (AAC)	9
Can the rent be restricted?	Only if the dwelling is too large or the rent is unreasonably high compared with suitable alternative accommodation, suitable for this claimant. The council must show that such accommodation exists. Protected groups need extra protection, and the amount of any reduction is a discretion.	<i>Birmingham CC v SS and SA</i> [2016] EWCA Civ 1211; <i>Aylesbury Vale DC v ER</i> [2011] UKUT 160 (AAC); <i>R v Westminster HBRB ex p Mehanne</i> [2001] UKHL 11	10
Was the liability contrived?	Was it created to take advantage, meaning abuse, of the Housing Benefit scheme? Arranging matters so the exempt rules apply is not enough. The test needs findings of fact and an evaluative judgment on the arrangement as a whole.	<i>Salford CC v PF</i> [2009] UKUT 150 (AAC); <i>FYE v Middlesbrough CC and GPZ v Sunderland CC</i> [2026] UKUT 157 (AAC)	11

What Is Reasonable by Way of Evidence

The test for every request is the same: is the information **reasonably required** to decide entitlement (Housing Benefit Regulations 2006, regulation 86(1))? Benefit decisions are "a co-operative process of investigation" (*Kerr v Department for Social Development* [2004] UKHL 23, para 62). The council knows what it needs to ask. The claimant, usually through the provider, supplies what they reasonably can.

Scheme level: provided once, then reviewed

Most evidence in supported housing is about the scheme, not the tenant. A scheme evidence pack, kept on the council's scheme file and reviewed annually or on change, should cover:

- the landlord's status (register entry, or constitution and accounts for unregistered bodies)
- how it holds the property (property and lease schedule, representative lease, connected parties statement)
- the service it provides (short service description, staffing and on-call arrangements, any third-party support agreement)
- how the rent is built up (rent and service charge build-up, on new schemes and rent increases)
- how any ineligible support is funded

Claimant level: short and specific

The core evidence for each tenant is short: **referral, needs assessment, support plan, tenancy or licence, and a record that support is delivered**. Most of it should already exist as part of good practice. The needs assessment can be done by the landlord's own trained staff, and the absence of a formal assessment "does not mean that the claimant does not need" support (DWP guidance, paras 145 and 147).

Requests that go too far

The full manual works through ten examples (Chapter 16). In summary, these requests usually go further than the law allows:

Request	The problem	A better approach
A fixed minimum number of support hours	There is no hours threshold in law	Ask what support is provided, how often, why and what difference it makes
Daily contact rules	Supervision can be precautionary and need not involve contact	Look at the support plan and a summary of contact
Support that is not funded by Housing Benefit, as a condition	The definition is met by care, support or supervision; nothing requires ineligible support	Ask what is provided and how any ineligible support is funded
Full rotas and timesheets for every tenant	Far more than the decision needs	A staffing summary once, and a summary activity record per claimant

Request	The problem	A better approach
Full case notes	Sensitive data the decision does not need	Needs assessment, support plan, reviews and an activity summary
A disability benefit, care package or professional assessment, as a condition	Useful indicators, not legal requirements	Accept the provider's own assessment alongside any indicators
Commissioning or a letter of support, as a condition	Helpful evidence, not a legal requirement	Treat it as evidence of need and local fit
The same scheme documents with every claim	Not "reasonably required" if the council holds them	Keep a scheme file and ask only for what has changed
A blanket policy against lease-based schemes	Lease-based provision is lawful	Examine the lease terms, connected parties and rent setting
Comparing the cost of support with the Housing Benefit at stake	"The legislation does not require or permit any such comparison" (<i>Bristol CC v AW</i> , para 32)	Assess real difference, and consider rent separately

A request that applies a test the law does not contain risks an error of law in the decision that follows. Equally, providers should answer reasonable requests promptly and fully, in a usable form.

The Process Essentials

Stage	The rule	Good practice
Before a scheme opens	No legal duty to consult, but collaboration is "essential" (DWP guidance, para 209)	Agree the scheme evidence pack before tenants move in (Chapter 17)
Making a claim	Working age backdating is limited to one month (regulation 83(12) and (12A))	Claim promptly, with the tenant's written authority for the provider to act
Delay	A payment on account must be made if a rent allowance claim cannot be decided within 14 days for reasons that are not the claimant's fault (regulation 93)	Use payments on account, not delay
Payment	Direct payment must be made with eight weeks' arrears, and may be made with consent or in the tenant's interest (regulations 95 and 96)	Record consent at sign-up
Rent increases	Take effect from the day they occur if notified within one month	Notify tenants and the council before the increase, with the updated build-up
Suspension	A power, not a duty. Payment must be restored within 14 days once the issue is resolved	Give proper notice, suspend only the part in dispute, for the shortest time
Decision notices	Must state the reasons and appeal rights, and go to each tenant affected	Explain the evidence, the law and how each charge was treated (Chapter 19)
Revisions and appeals	One month, no mandatory reconsideration. An appeal is sent to the council, which must consider it and may revise	Talk first, narrow the issue, use lead cases for groups of appeals (Chapter 20)
Overpayments	Recoverable unless caused by official error that nobody could reasonably have realised (regulation 100). Recovery is a discretion	Agree the cause, amount and a plan that keeps tenants housed (Chapter 21)
Visits and quality	Housing Benefit has no power of entry. Visits are by agreement	Visits are never unannounced. Review effort should follow risk, not provider type (Chapter 22)

What We Ask of Councils and Providers

Councils: apply the case law, ask only for what the decision needs, keep a scheme file, explain the reason for each request and decision, and work with commissioning and housing colleagues.

Providers: be open about how the scheme is run and how the rent is built up, keep good records as part of normal practice, describe housing-related support as the housing management it is, answer reasonable requests promptly, and talk before appealing.

Both: treat each other as partners in getting the decision right. Tenants gain most when councils and providers do.

Five practical steps to take now

1. **Build a scheme file.** One scheme evidence pack per scheme, shared once and reviewed annually or on change (Chapter 13; Appendix 4).
2. **Agree a local protocol.** Who does what, what evidence is expected, named contacts and an escalation route (Chapter 17; Appendix 12).
3. **Get the tenant's written authority.** It lets the provider deal with the claim and share information on the tenant's behalf. It is important and often neglected (Chapter 14).
4. **Record what you do.** Providers should keep simple activity, repairs and call-out logs, so that support and supervision can be shown without extra work (Chapter 15; Appendix 7).
5. **Use the shared reference points.** When you disagree, go back to the same chapter, the same paragraph of the DWP guidance and the same decision before going to appeal (Chapter 16, 16.3).

Find Out More

The full manual, the editable templates and updates are free at supportedhousing.blog/manual. SHP's analysis of the case law and new decisions is published on supportedhousing.blog.

Keep up to date. The law in this area continues to develop, particularly as the Supported Housing (Regulatory Oversight) Act 2023 is implemented. Sign up for SHP's free briefings on the manual home page and choose manual updates.

Need help? Supported Housing People works with councils and providers on scheme reviews, rent and service charge build-ups, Housing Benefit evidence, appeals, partnership protocols and training based on the manual. Contact info@supportedhousingpeople.co.uk or visit supportedhousingpeople.co.uk.

Status of this summary

This summary is guidance, not legal advice. It sets out SHP's position. Every Housing Benefit decision depends on its own facts, and decision-makers must apply the law to the circumstances of each claim. For advice on a particular case, councils should consult their legal services, and providers and tenants should seek independent advice.

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