

CCPS Briefing: UK Government response to the consultation on Supported Housing (Regulatory Oversight) Act 2023 regulations

The UK Government has published its response to the consultation on the implementation of measures in the Supported Housing (Regulatory Oversight) Act 2023 and on proposed changes to Housing Benefit regulations.

The consultation sought views on the following:

- the new National Supported Housing Standards for the support provided to residents in England
- the design and implementation of the proposed supported housing licensing regime in England
- a new planning use class for supported housing in England
- a definition of care, support and supervision in Housing Benefit regulations including how this could be linked to respective regulatory frameworks in England, Scotland, and Wales
- a proposal to link Housing Benefit with standards and licensing in England and opportunities to link to other frameworks in Scotland and Wales

Main updates for providers in Scotland:

- The UK Government will not introduce a link between Housing Benefit entitlement to Care Inspectorate registration in Scotland.
- The UK Government has confirmed it will not seek to introduce new definitions/thresholds for care, support and supervision in Housing Benefit regulations “until the operational landscape is clearer, and the licensing regime has come into effect in England.”
- There is UK Government work underway to determine how best to provide housing support for people in both supported and temporary accommodation across Great Britain.

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Linking Housing Benefit with licensing in England and frameworks in Scotland and Wales

The government confirmed it will amend Housing Benefit regulations to link the new licensing regime in England to Housing Benefit entitlement, but it will not introduce a link between Housing Benefit entitlement to existing statutory frameworks in Scotland and Wales. The consultation found insufficient support for such a proposal, as supported housing is already regulated in Scotland.

There was a low response rate to the question on whether to link Housing Benefit to Care Inspectorate registration but there was broad support for the proposal. However, some respondents, including CCPS, expressed concern that not all services were required to register and registration is often linked to a branch of services with multiple models grouped together.

Care, support and supervision definitions

The UK Government considered defining care, support and supervision in Housing Benefit regulations with possible thresholds for the level (or amount) of care, support or supervision provided, which would apply to providers in Scotland. The government argued this would help raise the quality of provision, improve value for money and strengthen Housing Benefit regulations by overriding the 'more than minimal' case law. Consultation feedback was mixed and identified the need for a person-centred approach and for any future definitions/thresholds to utilise regulatory frameworks, be proportionate and workable.

For Scotland, the consultation proposed that a definition of care in Housing Benefit regulations could be linked to existing legislative definition of personal care as defined in the Public Services Reform (Scotland) Act 2010 and asked whether any definition for support and supervision could be linked to the Health and Social Care Standards.

Respondents from across Great Britain were invited to answer these questions, and the response rate was low but tended towards agreement. Respondents suggested that using existing definitions of care in Scotland would ensure regulatory alignment with the work of the Care Inspectorate. However, a few respondents expressed a preference for a unified definition of care in Housing Benefit regulations rather than different definitions in each of England, Scotland and Wales. Feedback emphasised the need for definitions of care to have flexibility of application, be regularly reviewed and accompanied by clear guidance. On support and supervision, most respondents agreed these should be beyond the usual duties of a landlord in general needs accommodation and should have some specific face-to-face element but also separately recognise the use of digital support and supervision and support provided behind the scenes.

Most respondents supported combining the terms support and supervision, as some believed that supervision was a form of low-level support. However, some cautioned that supervision should be clearly defined in Housing Benefit regulations separately to support, as for some cohorts, supervision was often provided without support.

The UK Government has confirmed it “will not seek to introduce new definitions/thresholds for care, support and supervision until the operational landscape is clearer, and the licensing regime has come into effect in England.” It has also confirmed that there is “UK Government work underway to determine how best to provide housing support for people in both supported and temporary accommodation across Great Britain.”

The government supports the proposal that any future work on definitions/thresholds of care, support and supervision should consider utilising regulatory frameworks for supported housing in England, Scotland and Wales and agrees that if care, support and supervision were to be defined in Housing Benefit regulations, that definitions should be clear, flexible and inclusive.

Care, support and supervision thresholds

The consultation asked what level of care, support or supervision is reasonable to be eligible for Housing Benefit under specified accommodation rules. Respondents expressed a consistent view that the level of care, support or supervision must be ongoing, meaningful, tailored to individual needs and enough to make a difference to a person’s ability to live as

independently as possible. Many emphasised that provision should be outcome-focused and flexible, but outcomes should be personalised to the resident.

There were opposing views over using an hourly threshold for provision of care, support or supervision to improve upon the 'more than minimal' threshold in case law. Some respondents agreed that the impact of the provision upon an individual resident should be prioritised over the amount.

The UK Government confirmed it would not seek to introduce thresholds imminently. It has maintained its position that introducing definitions and possible thresholds would raise the quality of provision and improve value for money but acknowledged the mixed feedback on its proposals and the long-term uncertainty over the future of Housing Benefit. It is likely that this issue will be raised again; the government committed to engaging with the sector and said: "*all consultation feedback will be reviewed should options to define/insert thresholds of care, support and supervision in Housing Benefit regulations be reconsidered in the future.*"

Intensive Housing Management

The importance of Intensive Housing Management (IHM) was raised by some respondents in questions on support and supervision and some cautioned against the creation of definitions or thresholds which did not account for IHM. Others warned of difficulties faced by some local authorities by some providers seeking to claim ineligible costs as eligible service charges by stating the costs fell under IHM. It was noted this was sometimes due to financial pressures facing providers from decommissioning.

The UK Government noted in its response that Intensive Housing Management is not a term used in Housing Benefit regulations, but it acknowledged concerns.

Housing Benefit claim evidence

The majority of respondents felt that needs assessments, support plans, case notes, tenancy agreements, Companies House information, evidence of staffing levels, rotas and rent calculations were acceptable evidence for local authorities to request to assess a Housing Benefit claim.

Several local authorities reported that Housing Benefit teams lacked the expertise and capacity to assess care, support and supervision provision. Some respondents felt that Housing Benefit teams should not have access to support plans.

The UK Government acknowledged concerns over perceived over-scrutiny of Housing Benefit claims. It agreed that local authorities must be satisfied that Housing Benefit payments are accurate but must also protect customer confidentiality. The government supports the principle that local authorities should be able to request evidence, such as support plans, where necessary to ensure accurate processing of Housing Benefit claims.

Housing Benefit work disincentive

Some respondents felt modernisation of the Housing Benefit system was required before any link to licensing in England was enforced, and others suggested help with housing costs for those living in supported housing should be paid through Universal Credit. The UK Government noted working age residents in Supported Housing and Temporary Accommodation are likely to remain on Housing Benefit for many years to come, but said it wanted to consider the best way to provide support in partnership with stakeholders.

Respondents also raised concerns about the Housing Benefit work disincentive for residents who move into employment, to which the UK Government set out the intervention set out in Autumn Budget 2025 to reduce the financial cliff edge from moving to Housing Benefit income rules.

The DWP plans to introduce earned income disregards by the end of 2026 based on age and single/couple status, aimed to smooth the interaction between Housing Benefit and Universal Credit. The Scottish Government is engaging with UK counterparts on the change.

Cross-border issues

CCPS and some other respondents in Scotland perceived concerns about unlicensed providers migrating from England to Scotland to be a low risk. Some respondents stated that without UK-wide coordination providers operating across borders could experience inconsistencies in decision making or confusion over which policy applies in which country.

Some also stated that there needs to be clear cross-border protocols, close collaboration and information sharing between government departments and stakeholders in England, Scotland and Wales. Others warned that displaced residents in England could present as homeless in Scotland and Wales.

Next steps

Regulations are now being drafted by both DWP and MHCLG in relation to the licensing regime in England. MHCLG expects to consult on their regulations in late 2026. Following that, regulations will be laid in Parliament to bring these measures into force. We do not expect these regulations to impact on supporting housing provision in Scotland.

In parallel, the UK Government will consider, in partnership with stakeholders, the best way to provide housing support to those in supported housing in the long term across Great Britain. CCPS will seek to engage with officials in the Scottish Government in relation to their work with UK counterparts on this long-term future.