

## **SUBMISSION OF GOLDEN LANE HOUSING (GLH) TO CONSULTATION PAPER ON FUNDING FOR SUPPORTED HOUSING**

### **Summary**

Golden Lane Housing (GLH) is a leading national charity providing housing for people with a learning disability. We work in over 100 local authority areas in England and we have over 1,600 tenants. We were established in 1998 by the Royal Mencap Society and we are a Registered Provider.

We believe the proposals in the Consultation Paper would remove important rights from vulnerable groups of people. Instead of having their reasonable housing costs met as of right through the benefits system, people in supported housing will have to rely on the discretion of the Local Authority to provide top ups from a cash-limited pot, which may or may not be made depending on the priorities of the Authority and the amount of money in the pot. It unfairly discriminates against people with support needs by putting them in a less favourable position to those without, who will continue to have their reasonable housing costs met as an entitlement through housing benefit/universal credit.

It is GLH's experience that the proposals have created fear and anxiety for existing tenants and their families. Rents for most GLH tenants are above the level of the Local Housing Allowance (LHA), so those tenants don't know whether they will be able to afford and continue to live in their home after April 2019.

GLH like many other providers has had to put plans on hold for the development and adaptation of new housing for people with a learning disability. We were going to raise substantial funds from private and social investment following our successful recent bond issues. But we have had to suspend this because there is now no certainty that the revenue stream will be available, so desperately needed homes are not being developed or adapted.

Amongst other things, this is further delaying the implementation of the Transforming Care agenda, which means that over 3,000 people in England continue to languish in hospital settings not because they need to be in hospital but because suitable community based housing is not available to them.

GLH believes the proposals would undermine the ability of people with a learning disability to live independently with support, and their ability to exercise choice about where they live and with whom.

GLH believes the proposals should be changed to allow for certainty for providers and funders so that much needed new housing can be created, and to provide for peace of mind for existing tenants and their families.

The existing protection for Specialised Supported Housing (SSH) should remain so that the relatively small number of people in this category, who tend to have the highest and/or most complex needs, can continue to enjoy the certainty of entitlement to their reasonable housing costs being met. This is because:

- By definition people in SSH have high levels of support needs and are amongst the most vulnerable people in our society and are therefore in particular need of the certainty that their reasonable housing costs will be met in full;
- By definition the SSH must have been developed in partnership with the commissioner, which is consistent with the aims of the consultation paper around meeting commissioners' strategies and priorities;
- By definition the SSH must be provided with no or negligible capital subsidy so the rents are unlikely to be covered by any "LHA plus" arrangements for supported housing or different types of supported housing;
- The SSH must have been provided by providers who are regulated by the Homes and Communities Agency (HCA);
- There is already a precedent for an exemption for SSH in that it is exempt from the 1% yearly rent reductions that apply in respect of other social housing provision, and there is an established, recognised definition;
- Without such an exemption, the Transforming Care agenda will be even more difficult to deliver and there is a real risk of further Winterbourne View type abuse scandals;
- Based on HCA figures the National Housing Federation estimates that there are only around 10,000 units of SSH in England, so it would be a very small exemption with negligible impact on expenditure on housing benefit/universal credit if SSH continued to be paid through HB/UC.

### Responses to the questions in the Consultation Paper

**Q1.** It would be preferable for the upper tier authority to hold the funding as it will facilitate co-ordination with care and support funding. However, the top up funding needs to be clearly understood as meeting the additional **housing** costs of vulnerable people, as distinct from their care and support costs. There would need to be an input from the District Councils and CCGs in terms of how the funding is prioritised and monitored.

**Q2.** There would need to be local joint commissioning arrangements to include CCGs and possibly others. The LA would need to be obliged to take account of the priorities of the relevant CCGs. A key consideration is that decision-making needs to be fast and flexible - it's no use if individuals or providers have to wait months for a decision on top ups, not least because individual circumstances can change.

**Q3.** Decisions on allocations need to be open, transparent and quick with an independent appeal process. They should be based on an assessment of the needs of the individuals, including their housing needs, and a comparison against any alternative accommodation.

**Q4.** There should be statutory protection for tenants of specialised supported housing (SSH) because by definition they are amongst the most vulnerable groups and the costs of SSH reflect the fact that they have had no capital grant. Any “LHA plus” for supported housing, or bands of additions above the LHA for different types of supported housing, would not allow for the additional costs of SSH so different arrangements for SSH need to apply.

**Q5.** The local joint commissioning partnership could also have responsibility for monitoring spend and outcomes, the results of which would inform future commissioning decisions. This should include the reasonableness of the costs and the quality of the housing provision. The monitoring must focus on the housing and the landlord not on the care and support provided by the support provider. Supported housing for people with a learning disability should aim to achieve the REACH standards ensuring people have real control over their lives. The local authority (or local joint commissioning partnership) must itself be monitored for compliance with the national framework (see Q 9 below) and the HCA could have a role in this.

**Q6.** We are not a local authority respondent, but we wish to make the point that it is vital that the costs of administration (including monitoring and reporting) are not met from the top up pot as this will simply reduce the amount available for paying much-needed top ups.

**Q7.** Much of the housing will be provided by registered providers who are regulated by the HCA. For instance, GLH has just been subjected to an In Depth Assessment by the HCA and received the highest rating of G1/V1. This means that tax payers can have confidence in our case that public money from the top up pot (and from universal credit) would be going to an organisation which has high standards of governance and financial viability. This means that the additional oversight and assurance should be focussed on unregistered providers, and on registered providers with a poor IDA score. In terms of outcomes, any oversight needs to clearly distinguish between the quality of the housing (including the housing management and maintenance) and not on the quality of the care and support over which the housing provider will have little control. As the local pot is proposed to commission the housing and management so the outcomes that are monitored must only be the housing and management ones. Any assessment of VFM needs to take account of the costs, quality and availability of any alternatives for the individual(s) the service is provided for. It should also find out and take account of the views of tenants and their carers.

**Q8.** Like many other housing providers, GLH has had to put on hold our plans for a major new capital raise to fund much needed new schemes for vulnerable people – in our case, people with a learning disability. We had two successful and innovative social investment bond issues in recent years which raised £21m. This money has now been fully invested in high quality new homes for 220 people across England. However, because of the lack of certainty created by the proposals we have been unable to proceed with our plans for raising further social and private investment. The consultation paper is therefore achieving precisely the opposite of its stated aim of “increasing supported housing supply through the use of social investments”.

Funders have made it clear to us that with the level of uncertainty in relation to the future rental income stream, they will not invest in providers who have supported housing as their main focus. New supply will therefore be very limited and even where it does take place, funders are likely to require different terms which will make it more expensive for the tax payer. Yet new supply is desperately needed and saves the tax payer many billions of pounds as acknowledged in the consultation paper.

The key change which is required is to provide an exemption for specialised supported housing (SSH). This should preferably continue to be paid from housing benefit/universal credit and not from the top up pot. However, it would be possible to have it as a mandatory part of the top up pot so that SSH tenants were statutorily entitled to the top up (as they currently are through housing benefit). In the latter case, the top ups for SSH should attract full subsidy from central Government as is currently the case with housing benefit. This would mean that funders and investors would have the confidence they need to invest in future provision for people with high care needs.

The Supported Housing Accommodation Review found frustration among some commissioners about providers setting up provision outside local commissioning structures. The definition of SSH requires the housing to have been provided in partnership with the commissioner and in line with their priorities, so a major reason for the move to the top up pot would still be achieved. The definition also requires the tenant to have high support needs where the only alternative is a care home.

Supported housing plays a major role in helping the NHS, health authorities and CCGs in meeting their objectives in a cost-effective way. This is both in preventing admissions to hospitals and in providing community based housing for those who are in hospital but don't need to be there. For example, new supply of supported housing will be essential to provide for the 3,000 people currently in hospital settings called Assessment and Treatment Units (ATUs) and to prevent future admissions to ATUs. The vast majority of these individuals will have high care needs and will meet the definition of SSH. Without an exception for SSH, there is a real risk that the Transforming Care agenda will simply not be achieved, the costs to the health sector will continue to be unnecessarily high and the abuse seen at Winterbourne View may occur in similar ATUs.

One of the problems of assessing the reasonableness of rent levels is that schemes are developed with different levels of capital subsidy so it is difficult to compare like with like. The definition of SSH requires there to be no public capital subsidy so there is no danger of double subsidy through both capital and revenue public support.

The Government has already recognised that provision for SSH needs to be treated differently by exempting it from the 1% rent reductions. Exactly the same reasons apply in the case of the top up pot. The definition is well understood and could easily be used as an exemption from the top up pot.

The HCA has estimated that there are currently 10,000 units of SSH in England. In our case, we have 1,657 tenants with an average rent of £164 per week plus £8 service charges. Because of the tiny size of the SSH stock, the Government could quite easily exempt SSH without it causing any problem in terms of overall expenditure.

In addition to an exemption for SSH recommended earlier, it would help to reduce this uncertainty if long terms awards of top up were made by local authorities. So if they could approve the top ups for a period over which the term of the funding, then that would encourage funders and providers to create new provision. This would also be cost effective in terms of the cost of capital and therefore

rent levels and the call on top up funds. However, it is likely to require appropriate commitments from central Government to give the local authorities the confidence to make these long term commitments.

Other things that would help are:

- Ensuring the ring-fence is as unbreakable as possible, possibly through giving it legislative force;
- Providing absolute clarity that the top ups are for the additional **housing** costs of vulnerable people, not for their care and support costs;
- Creating a national quality and outcomes framework, monitoring the implementation of the policy and holding local authorities to account;
- Ensuring there is sufficient funding in the top up pot to start off with for new schemes as well as for existing tenants - having two distinct sub-pots would be helpful (see 11(b) below) to ensure that future needs can be taken into account based on detailed need assessments;
- Government commitment to ensuring the top up pot is sufficiently updated each year to allow for increasing needs;
- Linked to this, embedding choice and rights in the proposed national framework including rights to low-cost, quick and independent appeal.

**Q9.** Yes. This will be needed to ensure that suitably high quality standards are achieved. Without it there would be a real risk of the cheapest solutions being used simply to make the pot go further. The National Framework should set out quality standards that would have to be achieved (eg the REACH standards) and require the personalisation agenda to be achieved, so that the views of the individual and their families about their housing preferences need to be actively sought, recorded, taken into account and acted upon. Local commissioning partnerships should be audited by a national body for compliance with the National Framework. There should be a right of independent appeal against decisions that are considered to be non-compliant with the National Framework.

**Q10.** There must be complete protection for existing tenants whose rent is above the level of the LHA. This is in order to remove the fear and anxiety that would otherwise be caused to those tenants and their families and carers. The fear is that will lose their homes if the top ups are not made, and become homeless or be forced to move to wholly inappropriate housing. GLH tenants and their families have already expressed their fears about this.

Previous Government announcements on this subject have implied that any new arrangements would apply to new tenants only. It would be wholly unfair to apply the changes retrospectively to tenants who have previously been given to understand that they can remain in their homes for as long as they like provided they keep to the terms of the tenancy agreement.

The protection should not be time limited as this would simply extend the period of fear and anxiety. Instead, a commitment should be given that all existing tenants whose rent is above the LHA will be continue to have their reasonable housing costs met in full for the duration of their tenancy unless the local authority determines that they no longer need supported housing.

There is an additional risk that schemes could become unviable if existing tenants move out of a shared house or flatted scheme, and the new tenants who move in fall foul of the LHA cap. In that case, the scheme would probably become unviable and the remaining existing tenants would be forced to move to inappropriate housing not of their choosing. So the protection should also apply to flatted schemes or shared housing where there is one or more tenant whose rent is above the LHA on the implementation date.

**Q11 (a).** It is important that the top up payments are made to the individual, not the housing provider. This is because the top up payments are for that individual's additional housing costs, ie part of the rent and service charges which are the tenant's responsibility under the terms of their tenancy. It would run counter to the personalisation agenda for the tenant not to be paid those resources: tenants should have the power and responsibility of having the benefit/top up paid to them. However, as now the tenant should have the option to choose for the housing benefit (or the rental component of the universal credit) and the top-up amount to be paid direct to the landlord if that is what they prefer.

Housing benefit and universal credit are subject to means testing. There is no mention in the consultation paper of means testing in relation to the top up pot. If the top up payments are made to the tenant, they could be subject to the same means test. If the top ups are paid to the provider, they may be paid for some tenants who financially don't need it which would not be good value for money.

**(b)** The amount nationally for the top up pot should be related not only to existing provision but also to projections of future need and demand. The overall pot for top ups must be based on realistic assessments of needs, not just on what the estimated expenditure has been in the previous year. This is because there must be sufficient money in the pot to allow for future provision as well as existing tenants. It may be preferable for the top up pot to be split into two distinct pots, one for existing tenants and one for new schemes, in order for there to be confidence that the homes of existing tenants were not being sacrificed to create the money for new schemes. In the case of learning disability, the need for additional top up resources is created by a number of factors:

- the increasing number of those with a learning disability (increasing faster than overall population growth) due to greater numbers surviving into adulthood and living longer, as acknowledged in the consultation paper;
- increasing pressure from the closure of residential care units;
- the so-called "housing time bomb" created by increasing numbers of frail and elderly people looking after people with a learning disability; and
- increasing demand for housing to deliver the Transforming Care agenda.

**(c)** In addition, the top up pot must be updated each year to allow not just for inflation but also for increasing and changing needs.

**(d)** This is a major change affecting thousands of vulnerable people. It therefore makes sense to test it by piloting it in a small number of diverse locations first in order that appropriate adjustments can be made before rolling it out nationally. This may entail a delay from the timetable set out in the consultation paper for the implementation of the changes across the whole country.

**(e)** GLH is a national provider operating across over 100 local authority areas in England, as well as a number in Wales in Northern Ireland. In our experience, the LHA is particularly low in areas of the North of England and the Midlands which means that the gap between the LHA and the required rent is often much higher in those areas, certainly in percentage terms and usually in cash terms too.

This means that the proposals create a perverse disincentive to invest in some of the most deprived (and low rental value) areas of the country because the risk is greater there due to the larger gap from the LHA. Not only does this mean that investment in new supported housing in these areas is even less likely, it also means that existing tenants in those areas are particularly and vulnerable.

**Q12.** The consultation recognises the supported housing sector is both broad and diverse and covers a range of different vulnerable groups as well as housing types. The Paper rightly makes the case for a different set of arrangements for emergency and short term accommodation. As stated previously, we believe there is an even greater case for different arrangements for SSH. It may be possible to treat these two groups in a similar way in terms of how the exemption is applied.