

Tell me more about registered housing associations and exempt accommodation

Basic info

The definition of “exempt accommodation” requires the landlord to be “a non-metropolitan county council in England within the meaning of section 1 of the Local Government Act 1972, a housing association, a registered charity or voluntary organisation”.

There is no requirement that a housing association must be a registered housing association; nor is it automatically the case that a registered housing association is necessarily a “housing association” as defined for Housing Benefit purposes.

Definitions of “housing association” and “registered housing association” for Housing Benefit purposes

For the full definition of a housing association see “What is a housing association?”, but the key extract is *“a society, body of trustees or company...which does not trade for profit...”*

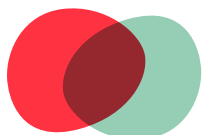
The definition of “registered housing association” is in Regulation 2 of the Housing Benefit Regulations 2006:

- “Registered housing association” means -
 - (a) a private registered provider of social housing;
 - (b) a housing association which is registered in a register maintained by the Welsh Ministers under Chapter 1 of Part 1 of the Housing Act 1996 or a registered social landlord within the meaning of Part 1 of that Act; or
 - (c) a housing association which is registered by Scottish Ministers by virtue of section 57(3)(b) of the Housing (Scotland) Act 2001 or a registered social landlord within the meaning of section 165 of that Act

The three limbs of the definition apply to England, Wales and Scotland respectively. In Wales and Scotland it can safely be assumed that a registered housing association is also a “housing association” and therefore satisfies the exempt accommodation landlord requirements. But in England there is a category of registered housing association that arguably does not satisfy the definition of “housing association” and that is a for-profit private registered provider.

More about for-profit registered providers

Sections 68 and 69 of the Housing and Regeneration Act 2008 define social housing in England as accommodation for rent at below market rent with allocation rules designed to ensure that it is provided to people whose needs are not met by the commercial housing market. There is nothing to restrict the meaning of “social housing” to property provided by a not-for-profit body. Section 115 of the 2008 Act says that a provider of social housing must be registered either as a profit-making



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organisation or a non-profit making organisation. Section 115 defines “non-profit making organisation” in substance in much the same way as “housing association” is defined in the Housing Associations Act 1985, which in turn is imported into the HB Regulations (see What is a housing association?). It would appear that a profit-making organisation registered as a provider of social housing in England is not likely to be a “housing association and, therefore, is unlikely to satisfy the exempt accommodation landlord condition.

How does the local authority know whether a registered provider in England is profit-making or non-profit making?

The register of social housing providers maintained by the Homes and Communities Agency records whether the organisation is profit-making or not. In January 2016 of the 1778 registered providers in England just 30 were profit-making organisations.

HB when a registered housing association provides exempt accommodation anywhere in Great Britain

Exempt accommodation is often an “underlying” status for a registered housing association tenant: normally, the only HB restrictions that affect registered housing association tenants are the maximum rent (social sector) (or “bedroom tax”) and the benefit cap (but see below for changes expected in the future which might affect exempt accommodation). If the claimant is not affected by either of these mechanisms, the fact that s/he occupies exempt accommodation makes no practical difference to the HB award. But if the bedroom tax or benefit cap would otherwise apply, the claimant can rely on his/her underlying status as a tenant of exempt accommodation in order to avoid those restrictions.

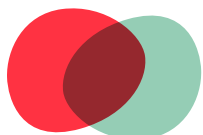
Very rarely, a local authority will decide to refer a registered housing association tenancy to the Rent Officer for a Local Reference Rent to be set. In theory the local authority must do this if it considers the rent charged for the dwelling to be unreasonably high. The effect on the claimant’s HB award then depends on whether the claimant occupies exempt accommodation:

- If the claimant does not occupy exempt accommodation, HB is limited to the Local Reference Rent
- If the claimant does occupy exempt accommodation the local authority will find it very difficult to restrict the claimant’s HB but it will receive subsidy from central government derived from the Rent Officer’s valuation, which takes no account of the higher costs associated with exempt accommodation (see How do the HB subsidy arrangements work in exempt accommodation?).
 - This provides a strong disincentive to the local authority to make the Rent Officer referral in the first place
 - As a result it is extremely rare for a registered housing association tenant in exempt accommodation to experience any kind of rent restriction

Registered housing associations and welfare reform

Registered housing associations are affected by two government policies announced in 2016:

- 1% annual reduction in rents for four years from 2016



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- Private sector Housing Benefit limits (known as LHA) to apply social housing from 2018