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What is a hostel provided by a local authority?

Basic info

In Regulation 2 of the Housing Benefit Regulations 2006 a hostel is defined as a building which has certain characteristics (discussed below) and which is:

- (i) managed or owned by a registered housing association; or
- (ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or
- (iii) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community

This definition does not cover a hostel that is owned and run directly by a local authority. But Reg 75H says that a local authority building which otherwise has the characteristics of a hostel is Category 4 “specified accommodation”.

Detailed requirements

Relevant authority

Reg 75H says the hostel counts as Category 4 specified accommodation if it “would be a hostel within the meaning of regulation 2(1) (interpretation) but for it being owned or managed by a relevant authority”. A “relevant authority” means “an authority administering housing benefit” (Reg 2). In England, the county council in an area where there is still two-tier local government does not administer HB so it cannot be a Category 3 specified accommodation provider. However, it is almost certain that a building run or owned by an English county council and which would otherwise be a “hostel” as defined in Reg 2 will fall within Category 1 exempt accommodation or Category 2 specified accommodation.

Care, support or supervision

Reg 75H says that the claimant must receive care, support or supervision in a Category 4 hostel.

Other building characteristics

Any hostel, including a Category 4 hostel, must be a building in which there is provided “domestic accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both”.

Other than in separate and self-contained premises:

- There is no definition of “premises” in the HB Regulations and no case law on the subject. It is suggested that “separate and self-contained premises” means something more separate than flatlets with their own cooking facilities and

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bathroom. “Premises” suggests a tract of land with its own Land Registry title: in the case of a self-contained flat this could perhaps mean that a separate leasehold title has been carved out of the building’s freehold estate or, at the very least, the flat is subject to a tenancy agreement granting exclusive possession. But if the flats are occupied under licence agreements in order to enable hostel staff (including support workers) a degree of access and control over the entire building the mere fact that licensees can wash and prepare food in their private living space does not mean that they are occupying separate “premises”.

Board or facilities for the preparation of food:

- A natural reading of these words is that the service users receive prepared meals or have access to shared facilities where they can prepare their own meals. But in an unreported February 2015 judicial review case, Alexander Sobko v Royal Borough of Kensington and Chelsea, the High Court said that the reference to “adequate cooking facilities” means facilities for the use of the landlord: if the occupiers have access to a shared kitchen where they can prepare their own meals it isn’t a hostel. This is an odd decision in many ways – it is not clear how a challenge to the local authority’s HB decision came to be heard in the High Court rather than in the specialist Tribunal system.