

LEONARD PAYNE

Complex Law. Clear Intelligence.

Supported Exempt Accommodation

Legal Analysis | Intelligence | Consultancy



leonardpayne.com
rev.leonard.payne@gmail.com

The Definitive Voice in Supported Exempt Accommodation Law

I am the author of the definitive legal handbook on UK supported exempt accommodation and the publisher of Supported Housing Briefing — the sector's only weekly intelligence service dedicated to supported housing law and policy.

My practice sits at the intersection of Housing Benefit law, exempt accommodation regulation, and the operational reality of providers delivering services to people with complex needs. I work exclusively with charities, registered providers, and nonprofit organisations navigating the legal and financial framework that governs their right to operate and their ability to sustain viable services.

The supported housing sector is under more scrutiny than at any point in its history. Local authorities are challenging exempt accommodation status, imposing locally invented approval regimes, and demanding evidence thresholds that do not exist in legislation or case law. Providers are losing Housing Benefit claims, being misclassified, and in some cases closing services — not because they are failing their residents, but because they lack the legal and technical capacity to defend what they do.

That is where I operate. I provide the legal analysis, the evidencing frameworks, and the strategic guidance that enables good providers to hold their ground.

What I Do

Housing Benefit disputes and appeals. When a local authority refuses or restricts a provider's Housing Benefit claim, I analyse the legal basis of the refusal, prepare the evidential response, and where necessary take the matter through to the First-tier Tribunal (Social Entitlement Chamber). My work covers initial refusals, reconsideration requests, and full tribunal representation.

Exempt accommodation status challenges. I advise providers whose supported exempt accommodation status is being questioned — whether through formal challenge, informal gatekeeping, or the imposition of local approval regimes that have no basis in statute. I ground every response in the actual legislation and the binding case law.

Rent breakdowns and eligible service charges. I restructure provider rent schedules to properly reflect the Intensive Housing Management and care, support or supervision being delivered, ensuring that eligible charges are correctly identified, evidenced, and defensible under scrutiny.

Strategic compliance and governance. I help providers prepare for the regulatory environment created by the Supported Housing (Regulatory Oversight) Act 2023, including compliance frameworks, governance structures, and evidence systems designed to withstand inspection and challenge.

Original Legal Analysis

My authority in this sector rests not on commentary but on original case law analysis that has shaped how providers and their advisers understand the legal framework. The following represents work that I developed and published before others in the field reached the same conclusions.

The IHM/CSS Overlap: Same Activity, Two Legal Tests

The supported housing sector has long operated on the assumption that Intensive Housing Management and care, support or supervision occupy separate legal categories. IHM is treated as the property layer. CSS is treated as the personal layer. Providers record them in different columns. Housing Benefit teams assess them against different criteria. Training materials present them as distinct.

This separation is operationally convenient. It is also legally wrong.

I identified and published the analysis demonstrating that the Upper Tribunal, in *Chorley BC v IT* [2009] UKUT 107 (AAC), established through the Turnbull seven-point framework that repairs and maintenance activities can themselves constitute support when delivered at enhanced intensity because of a tenant's needs. Point 6 of the Turnbull framework is decisive: the fact that a landlord is compensated for enhanced repairs through the rent does not prevent the same activity from counting as support.

This was confirmed a decade later in *Allerdale BC v JD* [2019] UKUT 304 (AAC), where the Tribunal held that "support" does not carry a single fixed meaning across different statutory provisions. The CSS threshold under Schedule 1(f) and the IHM framework under Regulation 12 are not competing categories — they are overlapping legal tests applied to the same activity from different directions.

The practical consequence is significant. Providers whose local authorities demand evidence of CSS "over and above" the IHM already being delivered are being held to a test that does not exist in law. My published practice note, "Same Activity, Two Legal Tests: The IHM/CSS Overlap the Sector Won't Talk About," remains the most detailed analysis of this issue available in the sector.

The Hazard-Ready Compliance Framework

Following the Housing Ombudsman's findings on hazard detection failures across social landlords, I developed Hazard-Ready — an eleven-module, 126-point scored compliance workbook designed specifically for supported exempt accommodation providers. The framework addresses the unique vulnerability of SEA providers to hazard-related findings: their residents are, by definition, people who require care, support or supervision to sustain their tenancies, and are therefore disproportionately affected by undetected hazards.

The workbook incorporates the Reliance Test — an eight-question assessment derived from the Reliance Social Housing CIC precedent, in which a severe maladministration finding by the Housing Ombudsman triggered a chain of consequences from Housing Benefit clawback to loss of exempt accommodation status. The framework maps HHSRS obligations under the Housing Act 2004, Awaab’s Law requirements, Complaint Handling Code compliance, and SHROA readiness into a single scored assessment.

Housing Benefit Appeals: Challenging Procedural Errors

My appellate work has exposed procedural irregularities in how some local authorities process Housing Benefit disputes. In one recent case, I successfully challenged a Midlands authority’s attempt to introduce a mandatory reconsideration stage into the Housing Benefit appeals process — a stage that does not exist in HB law. The claim was forwarded to the First-tier Tribunal after I demonstrated that the authority’s procedural requirements had no statutory basis under the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations.

This kind of procedural gatekeeping — where authorities invent process steps that deter or delay legitimate appeals — is more common than the sector recognises. Identifying it requires detailed knowledge of the appellate framework, not just the substantive law.

Case Studies

CASE STUDY 1

Midlands Domestic Abuse Provider — Overcoming a Locally Invented Approval Regime

Client	Registered charity operating a domestic abuse provider network for men and women
Location	Midlands
Problem	Refused SEA status under a locally invented approval regime
Outcome	Accepted as SEA provider; now operates 90 units successfully

A small registered charity providing supported accommodation across a network of separate houses for men and women fleeing domestic abuse was refused supported exempt accommodation status by their local authority. The council had developed its own published approval regime that imposed requirements with no basis in statute — including a mandatory minimum number of hours of support per resident per week.

This is a quantitative test. The case law is clear that the threshold is qualitative, not quantitative: the question is whether the support provided is likely to make a real difference to the claimant's ability to live in the property (CH/200/2009), not whether it reaches an arbitrary number of hours. The DWP's own guidance at paragraph 151 confirms that there is no set number of hours that must be provided.

I reviewed the council's published approval document, identified every requirement that lacked a statutory or case law basis, and prepared a detailed submission setting out the actual legal framework governing exempt accommodation status. The submission demonstrated that the provider met the statutory criteria and that the council's locally invented gateway requirements were legally unsustainable.

The council accepted the provider as a supported exempt accommodation provider. The charity now operates 90 units of supported accommodation for domestic abuse survivors across the Midlands, with Housing Benefit claims processed on the correct legal basis.

CASE STUDY 2

East Anglia Faith-Based Provider — 400% Income Increase Through Rent Restructuring

Client	Registered charity providing supported housing, run by a local Christian community
Location	East Anglia
Problem	15-bed unit operating on £80/week per unit; financially unsustainable; trustees funding from personal resources
Outcome	Income increased by 400% through rent and service charge restructuring

A small registered charity in East Anglia, founded and run by a group of local Christians, operated a 15-bed supported housing unit for vulnerable adults. The accommodation was providing genuine, committed support — but the charity was requesting just £80 per week per unit from the local authority. At that level, the service was financially unsustainable. Trustees were subsidising operations from their own personal resources simply to keep the doors open.

The problem was not the quality of the service but the financial structure. The charity had never had specialist advice on how to construct a rent schedule and breakdown of eligible service charges that properly reflected the Intensive Housing Management and support actually being delivered. They were, in effect, giving away services that Housing Benefit regulations entitled them to fund.

I carried out a full review of the service, identified every eligible charge that could lawfully be included in the rent breakdown, restructured the schedule to reflect the actual cost of delivery, and worked with the provider to present the revised claim to the local authority with full supporting evidence.

Over a short period, the provider's income increased by 400%. The charity moved from a position where trustees were personally funding a deficit to one of financial sustainability. The 15-bed service continues to operate, properly funded, delivering the same quality of support that it always had — but now with the financial foundation to sustain it.

This case illustrates a pattern I see repeatedly across small faith-based and community-led providers. The support is real. The commitment is genuine. But without specialist knowledge of the Housing Benefit regulations and the eligible charges framework, these organisations systematically undercharge — and the people who suffer are the residents whose services are one financial shock away from closure.

Publications and Intelligence

The Definitive Legal Handbook on Supported Exempt Accommodation

The most comprehensive single reference on the law governing supported exempt accommodation in the UK. Covers the statutory framework, the case law, the regulatory landscape, and the practical application of the legal tests that determine exempt status, Housing Benefit eligibility, and provider compliance. Available as a free resource at leonardpayne.com.

Supported Housing Briefing

A weekly intelligence service covering supported housing law, policy, and regulation. Each issue synthesises the week's developments across government policy, regulatory action, case law, and sector analysis into a single, concise briefing for compliance managers and provider leadership. Subscribe free at supportedhousingbriefing.co.uk.

Published Practice Notes and Briefing Papers

"Same Activity, Two Legal Tests: The IHM/CSS Overlap the Sector Won't Talk About" — the definitive analysis of why Intensive Housing Management and care, support or supervision are not separate legal categories, grounded in the Turnbull framework and the Allerdale confirmation.

"Hazards, Housing Benefit, and the End of Exempt Status" — a briefing paper on how Housing Ombudsman hazard findings can trigger a chain of consequences from maladministration to Housing Benefit clawback to loss of exempt accommodation status, with particular reference to the Reliance Social Housing CIC precedent.

"When Good News Kills Your Appeal" — a practice note on Housing Benefit appeal lapse mechanics under Schedule 7 CSPSSA 2000 and the D&A Regulations, identifying a statutory drafting deficiency that can extinguish live appeals.

DualRecord

A multi-tenant software platform designed to solve the IHM/CSS evidencing problem identified in my published analysis. DualRecord allows supported housing providers to record each activity once and tag it against both the IHM cost dimension and the CSS legal test, ensuring that evidence is captured for both Housing Benefit eligibility and exempt accommodation status in a single entry. Available at dualrecord.co.uk

Hazard-Ready: The SEA Provider Compliance Workbook

An eleven-module, 126-point scored self-assessment covering every compliance domain now under scrutiny from the Housing Ombudsman, Awaab's Law, and the Regulator of Social Housing. Includes the Reliance Test, HHSRS gap analysis, Complaint Handling Code compliance, and quarterly review templates. Available at leonardpayne.com/hazard-ready.

Working With Me

I work on a retainer basis with charities, registered providers, and nonprofit organisations that need ongoing access to specialist legal analysis and strategic guidance in supported exempt accommodation. Retainer arrangements provide priority access to my expertise across Housing Benefit disputes, exempt status challenges, rent restructuring, compliance frameworks, and regulatory preparation.

I also accept fixed-fee instructions for specific pieces of work, including Housing Benefit appeals, rent breakdown reviews, and compliance audits.

If you are a supported housing provider facing a challenge to your exempt accommodation status, a Housing Benefit refusal, or financial pressure from an inadequate rent structure, I can help.

Get in Touch

rev.leonard.payne@gmail.com

leonardpayne.com

Supported Housing Briefing: supportedhousingbriefing.co.uk

DualRecord: dualrecord.co.uk

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