

Scottish Government Consultation on Improving Temporary Accommodation Standards

Shelter Scotland
response

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KEY POINTS

- We believe that people should have **greater enforceable rights to better accommodation**, and there is an enhanced role for the Scottish Housing Regulator (SHR) in achieving this.
- Shelter Scotland are also submitting a lived experience response on behalf of our Time for Change group. This can be found on our policy library [here](#).
- Shelter Scotland **strongly supports the need for reform** to protect people at risk of rooflessness who require good quality, safe and appropriate temporary accommodation. We are broadly in agreement that this should be delivered by extending the Unsuitable Accommodation Order and the introduction of minimum standards around temporary accommodation.
- We recognise that **there is good quality temporary accommodation used in many parts of Scotland**. We commend those providers that are succeeding and call on those who fail in their duties to raise their standards accordingly.
- We believe that Scottish Ministers should consider these proposals within the context of the abject failure of Scotland's two largest councils to uphold existing duties placed on them. In particular the 3,535 occasions in 2018/19 (95% in Glasgow) that local authorities failed to accommodate someone who had the right to temporary accommodation and the 620 breaches (75% in Edinburgh) of the existing Unsuitable Accommodation Order.
- **The evidence shows clearly that extended stays in temporary accommodation pose a risk to the health and wellbeing of individuals**. Shelter Scotland supports people every day whose lived experience demonstrates the long-term damage done to their lives, and policy and practice should seek to reduce the harm caused.
- We believe that **there is a key role for a well-funded, evidence based and authoritative Housing Regulator to facilitate and support local authorities** to phase out the use of unsuitable accommodation. We are concerned however that the existing regulator has not been able to intervene sufficiently to stop the current failures within Edinburgh and Glasgow. Any new responsibilities must be accompanied with additional resources and capacity.
- There is also a role for the Scottish Government in ensuring that local authorities are **properly and sustainably resourced** to meet these asks and understand that this will be a particularly difficult challenge for a small number of larger authorities, who will require added support.

About Shelter Scotland

- Shelter Scotland helps over half a million people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help. We're here so no one has to fight bad housing or homelessness on their own.
- Shelter Scotland has long campaigned for legally enforceable standards in temporary homeless accommodation. We believe that temporary accommodation is a critical part of the homelessness system but should be as short a period as possible with the necessary support to make the transition away from homelessness as successful as possible. Temporary accommodation was a core element of our Far From Fixed campaign in 2016 and a key focus for Shelter Scotland when we participated in the Homelessness and Rough Sleeping Group between 2017 and 2018. We continually monitor how temporary accommodation is used in Scotland and have reported on this annually since 2015.

SECTION 2: PROPOSED CHANGES AND QUESTIONS ON THE UNSUITABLE ACCOMMODATION ORDER (UAO)

HARSAG recommended the following actions on unsuitable accommodation:

- 1. Extend the 7 day restriction of time spent in unsuitable temporary accommodation to all people experiencing homelessness.**
- 2. Develop a timetable for the implementation of the extension.**

1. Scottish Ministers have used their powers under the Homelessness etc. (Scotland) Act 2003 to limit the use unsuitable temporary accommodation for families and children to a maximum of 7 days via The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2017. HARSAG has recommended that this restriction be extended to all people experiencing homelessness. Do you think we should:

OPTION A - Extend the restriction to all homeless people from an agreed date.

OPTION B - Extend the restriction to all homeless people but introduced incrementally over a period of time.

OPTION C - Not extend the restriction to all homeless people.

Shelter Scotland believes that **Option A**, is the fairest and the most in line with the spirit of the HARSAG's work. We therefore support this proposal to extend the restriction from an agreed date. The spirit of the Ending Homelessness Together action plan is that of continually raising standards across Scotland, and no groups should be arbitrarily excluded from this.

The Scottish Government must be aware of the structural and systemic problems such as supply and culture which may threaten the success of the proposed policy, and local authorities should be supported to be able to avoid using unsuitable accommodation for anyone by the agreed date. For example, the removal of priority need was set for a fixed date of 31st December 2012 and like the proposed extension of the Unsuitable Accommodation Order, this policy was designed to offer parity of service to often excluded groups, namely single men. While most homelessness services have indeed changed to align with the policy, we know that, for a variety of reasons, people (most often single men) are still turned away from accessing the services that the removal of priority need should have granted them. Further, the Unsuitable Accommodation Order time limit was recently changed from 14 days to 7 days, but we have evidence that this small change is not being fulfilled; indeed, recent homelessness statistics showed that there were 620 breaches of the Order in Scotland last year.

The extension of the Unsuitable Accommodation Order may also present the opportunity for local authorities to take a strategic look at what their temporary accommodation stock currently looks like and how to improve it at the same time as reduce reliance. This is especially regarding winter night shelters which shouldn't even have become part of the fabric of a local authority's TA provision, but we find it to be heavily relied upon and considered an intrinsic part of meeting need.

The most important element of this consultation is that there should be progress towards creating a stronger legal framework overall which allows individuals to challenge and access redress when their rights are breached.

It is our experience that there is low awareness of the rights under the Unsuitable Accommodation Order, which renders it ineffectual if it is not exercised. As a result of low awareness, we have worked with many people who have consequently been in B&Bs for far longer than the law allows, and this suggests that increasing awareness of rights should be a key focus going forward, as well as there being a consequence for local authorities who routinely break the law.

We have extensive evidence from working with families and the horrendous conditions they have experienced despite the apparent protections of the Unsuitable Accommodation Order. Again, this shows that the law is not always being realised in practice and there is little consequence for local authorities who break the law. However, we believe that understanding the root causes of the problem and applying effective supportive interventions are critical. This approach is explored in more detail later in the consultation.

Case study

Client was an 8-month pregnant woman fleeing domestic abuse who was accommodated in a B&B for three weeks. She was given a room on the 4th floor in a building with no lift, and she was so exhausted and uncomfortable due to her experiences and late stage of pregnancy that she struggled to climb the stairs. She had to share a bathroom with other residents, most of whom were men. There were basic cooking facilities available, but these were on the ground floor and did not include and secure storage for food, or fridge space. The combination of the expense and inconvenience of these cooking arrangements meant that she did not eat very much. The client said that she had been so low at this point that she did not see a way forward and was not sure that she and her baby would survive.

Source: **Evidence from partner organisation**

Households without children or a pregnant woman have never been protected from bad quality temporary accommodation through legislation and as a result have been exposed to some of the worst conditions and experiences imaginable. Even more concerningly, while the removal of priority need legislated for improved access to services, we have found that this is not guaranteed, and we

know of many people being turned away entirely from temporary accommodation which they have a legal right to access. It is therefore overdue that these groups should be entitled to more protection from environments which can be damaging to health and wellbeing.¹² Where access is upheld, again, there is no guarantee that temporary accommodation will be of a good standard. The following case studies demonstrate the poor standards that single people must endure, sometimes despite even having a disability.

Case study

Linda is 48 and has severe, chronic fibromyalgia and is a wheelchair user. Linda is also partially-sighted. Linda became homeless due to being unable to afford the mortgage after her marriage had broken down a few years previously. She approached the council for advice and assistance four months before she had to leave her home in summer 2015. She was allocated two types of temporary accommodation over the period of a year, neither of which were accessible for wheelchair users. The first was a tenement block without a lift, and the second was a multi-storey building with lifts which were often out of order. Eventually, she borrowed a caravan and parked it outside so if the lift was broken, she had somewhere to sleep, which happened on two occasions. There has also been a power cut and a fire since she has lived in the multi-storey and all the disabled people in the building were stuck. Linda called this point in her life a time spent stuck in limbo.

**Client has given their permission for their real name to be used*

Case study

Client is a single male UK National with heart problems and depression. He made a homeless presentation to Glasgow City Council and was provided with one night's emergency accommodation and then was advised that no more accommodation was available. Between that point and contacting Shelter Scotland for assistance, the client slept rough and sofa surfed for three weeks. The adviser contacted Glasgow City Council on the client's behalf. The caseworker for the client contacted the adviser later that day to inform them that emergency hotel accommodation had been found and arrangements would be made to get the client a casework appointment the following day to arrange alternative accommodation. Shelter Scotland is of the view that interim accommodation should have been provided throughout the period and are concerned to note that this client had no accommodation until he asked Shelter Scotland to intervene on his behalf.

¹ Shelter (2004); [Sick and Tired - The Impact of Temporary Accommodation on the Health of Homeless Families](#)

² Crisis (2018); ["I won't last long in here": Experiences of unsuitable temporary accommodation in Scotland](#)

2. If the consensus for extension is option A what date would you suggest as the legal date for implementation?

Most local authorities do not report any breaches of the UAO, and this would suggest that the date for implementation does not need to be very far away. Looking back to the phasing out of priority need, the 10-year implementation period was indeed seen to be too long by some local authorities.

However, there are local authorities who rely heavily on accommodation which would be deemed unsuitable for other groups without children, and they should be intensively supported to move away from this; the proposed policy would mean a significant shift in practice and considering that 3,660 single people were accommodated in B&B last year, this may be a significant challenge to local authorities who are already struggling to move away from B&Bs for families, let alone everyone else who would benefit from this policy. However, this is not a suggestion that pace of change should be slowed; **we recommend that the implementation date of the extension of the Unsuitable Accommodation Order is no more than two years away.**

All local authorities have now submitted a Rapid Rehousing Transition Plan for their area, most of which contain improvement and expansion plans for temporary accommodation. In theory, suggesting a date of implementation is moot when work to raise the standards of temporary accommodation generally is underway, as if this work is successful, local authorities would cease using substandard accommodation entirely and there would be no requirement for an Unsuitable Accommodation Order. Therefore, this measure is contingent on the success of bringing temporary accommodation up to standard.

3. If the consensus for extension is option B:

- What types of experiences, circumstances or characteristics would you prioritise in the incremental extension?
- Would you prefer a consistent national approach to the transition or for local authorities to take forward based on their own local circumstances?
- By what date do you consider it would be reasonable for all homeless households to be covered by the extended Order?

We don't believe that an incremental extension is fair or in the spirit of the Scottish Government's plan for homelessness and would result in arbitrary service differences which would exceed what would be normally expected of natural local context differences. There should be a consistent national approach to the transition with a fixed date agreed, even if this presents a challenge for certain local authorities.

4. In your opinion is option A or B the best way to avoid an increase in the number of breaches of the Order? Please explain your answer.

As much as an incremental approach (Option B) may help to reduce breaches in a staged way, if the date for the extension of Unsuitable Accommodation Order is a reasonable period of time away and local authorities are involved in setting this date and planning for it and are supported to achieve it, we do not anticipate to see a huge increase in the number of breaches. Otherwise, the best way to avoid an increase in the number of breaches is to properly understand the barriers facing each local authority in reducing breaches and supporting them to overcome this.

As outlined in question 2, if the concurrent work on improving temporary accommodation is successful, there should be no breaches at all, as local authorities would not be placing anyone into temporary accommodation which would be deemed unsuitable.

Lastly, it is not in the spirit of the HARSAG to introduce new tiers or to decide which groups to extend the Unsuitable Accommodation Order to first (Option B). This approach also incurs more administrative burden to distinguish and correctly apply the rules, and more difficulty in ascertaining when a breach has occurred. If breaches do rise, this indicates that there is a problem to be addressed, and the Scottish Housing Regulator and the Scottish Government should be triggered into finding out more about the causes of this.

5. Please tell us about positive impacts that extending the restriction to all homeless people may have.

Homelessness and poor housing are directly linked to several negative impacts, including mental health, physical health and life chances. Many people we work with have one or more mental health issues. This is reflected in recent research by NHS Health Scotland which showed that homelessness and poor health are inextricably linked, and that people who are homeless experience poorer mental and physical health than the rest of the population.^{3 4}

We believe that extending the Unsuitable Accommodation Order to them would have a positive effect on them by;

- not keeping them in poor conditions which can exacerbate mental health issues for uncertain lengths of time
- giving them more rights and helping them move on from homelessness more quickly
- giving them more certainty over what will happen

³ Scottish Government (2018); [Health and Homelessness in Scotland](#)

⁴ Shelter Scotland (2018); [Health and homelessness 2018](#)

One group that the extension of the Unsuitable Accommodation Order would have a positive impact upon is parents with children who don't live with them. Hostels are generally classified as unsuitable accommodation and are commonly allocated to single men. Many of these hostels have restrictive rules in terms of curfews and visitors, which is very problematic for single men who have children.⁵ These rules have meant that during their homelessness, many fathers could not see their children or have them to stay as per care or shared custody agreements. This experience was also reflected by participants in GHN's Aye We Can consultation⁶;

"Not being allowed visitors means my children cannot come to see where I stay, and they worry about the conditions I am living in." (West of Scotland Hub)

6. Please tell us about any negative implications that may result from us extending the restriction to all homeless people.

Extending the Unsuitable Accommodation Order to all homeless people will have significantly more benefits than drawbacks, however we must acknowledge that without the proper support and preparation, local authorities may struggle to manage this, and more breaches may occur.

The Scottish Government and the Scottish Housing Regulator should work closely with local authorities to ensure they are supported to deliver the best possible temporary accommodation experience and avoid breaches. Where breaches do occur, there should be a "supportive intervention" approach applied, with the intention of ending the breach as soon as possible and put in place measures to prevent it reoccurring.

7. Do you believe the current definition of unsuitable accommodation set in 2004 as set out in legislation (Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014), which focusses on the location of the accommodation and the facilities the accommodation offers, is still the most appropriate or are there any factors you would like to see changed? Please explain.

We believe that the current wording of certain sections of the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 is unclear and should be reviewed for clarity and to allow people to easily understand their rights.

⁵ Shelter Scotland (2019); [Response to the Social Security Advisory Committee's call for evidence on social security and separated parents](#)

⁶ Glasgow Homelessness Network (2018); [Aye We Can – Final Report](#)

The current definition of unsuitable accommodation as set out in the legislation⁷ is;

In all circumstances, accommodation is unsuitable if it is—

- (a) not wind and watertight; or*
- (b) not suitable for occupation by children.*

Article 5 sets out further criteria which would make accommodation unsuitable, however this is not applicable for the following “exemption reasons” - the applicant is requiring accommodation due to an emergency; if they have been offered suitable accommodation but rejected it or are being housed in accommodation for people fleeing domestic abuse. This criterion includes accommodation which;

- (a) is outwith the area of the local authority which is subject to the duty to accommodate under section 29 of the 1987 Act;*
- (b) is not in the locality of facilities and services for the purposes of health and education which are being used, or might reasonably be expected to be used, by members of the household, unless those facilities are reasonably accessible from the accommodation, taking into account the distance of travel by public transport or transport provided by a local authority;*
- (c) lacks within the accommodation adequate toilet and personal washing facilities for the exclusive use of the household;*
- (d) lacks adequate bedrooms for the exclusive use of the household;*
- (e) is accommodation within which the household does not have the use of adequate cooking facilities and the use of a living room; or*
- (f) is not usable by the household for 24 hours a day.*

As outlined in our answer to question 1, we are concerned that some of the wording of the legislation is unclear and it is therefore difficult for people to understand and exercise their rights. The phrasing “not suitable for children” is especially unclear and open to interpretation. We would like to see this phrasing expanded for clarity, with accompanying guidance in the updated Code of Guidance.

The “exemption reasons” in our view are too wide and we believe are used excessively by local authorities. The first “exemption reason” where the local authority believes that the applicant may be homeless or threatened with homelessness as a result of an emergency, such as flood, fire or other disaster” is a particular example of this. However, we know that unsuitable accommodation is used by some local authorities as a matter of course and part of the homeless process rather than only in emergency situations, with the excuse that the shortage of temporary (and permanent) accommodation constitutes an emergency.

⁷ [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2014](#)

Further, we do not believe that where a person has rejected accommodation based on location (Article 6b of the legislation), local authorities should be allowed to use unsuitable accommodation. We do not believe this to be in practice in most local authorities, but emphasise that this exemption is excessive, and the rejection of accommodation is usually for a very good reason.

8. In extending the Order do you think the same definition should apply to all homeless households as it currently does to families with children and pregnant women? If not, please provide an explanation of how you feel the definition should be amended to take account of the extension.

The same definition should be applied to all homeless households, primarily because creating sub-tiers would not be in line with the spirit of the HARSAG and the Ending Homelessness Together plan, and for practicality. If all accommodation had to fulfil a certain definition, it would make procurement of such accommodation easier for commissioners and providers. This approach would also bring the overall standard up and move away from patchy and variable accommodation standards, which is what we see now.

9. The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 contains exemptions for certain types of refuges and supported accommodation. With the extension of the Order to all homeless households, should these exemptions still apply and do you think any other exemptions should be considered?

In our view, the standard of these accommodations is usually very good, and understand that some refuges may breach the Order by not fulfilling various criteria such as having shared bathroom facilities. However, we believe these accommodations meet specific needs and can provide specialist support that is not routinely available in mainstream temporary accommodation. We believe there is an important role for these accommodations as supportive environments, especially refuges for domestic abuse survivors, and these approaches should not be unnecessarily constrained by small breaches of aspects of the Order. We also believe that Scottish Women's Aid refuges are subject to a service standards framework. We therefore cautiously support exemptions for certain types of refuges and supported accommodation but emphasise that these exemptions must be proportionate and routinely reviewed.

10. We have already outlined that some local authorities have breached the current UAO, so that may mean it is likely that some local authorities will face challenges in meeting the extension of the UAO to all homeless households. We are interested to hear your views on whether additional measures should be introduced to help ensure local authorities do not continue to breach the UAO.

• What additional support should be in place for local authorities to minimise the number of breaches of the Order?

In order to support local authorities to minimise the number of breaches of the Order, we suggest that there should be a single point of contact at the Scottish Housing Regulator for advice and support. The Regulator should also consider convening a thematic group to support the transition to the extension of the Order to all groups. Additionally, proper and sustained funding is central to ensuring that local authorities can eradicate breaches, as well as an adequate supply of good quality social housing for people to move on quickly to.

• Would sanctions provide an appropriate mechanism to encourage compliance?

Yes, we believe that “sanctions” are an appropriate mechanism to encourage compliance with the extension of the Order, but these must be carefully considered.

Currently, there are limited redress mechanisms in place if a local authority breaches the Unsuitable Accommodation Order, but only for families. Judicial Review has been used before as a remedy to hold local authorities to account, however is time-consuming and costly and has not yet resulted in a case being brought to court and precedent set. Given the legal resources involved and the lack of available solicitors trained in housing issues in Scotland, there is a subsequent issue around access to justice.

In terms of other sanctions, we suggest that financial sanctions will not be appropriate in individual cases, however the impact of unsuitable accommodation on the person can't be understated and must be acknowledged. Our thoughts around this are expanded upon in the next section.

We believe local authorities for the most part try to not use unsuitable accommodation but are often limited by the resources they have. However, we also know of people who have been put in unsuitable accommodation with no knowledge of their rights or the time limit of the Unsuitable Accommodation Order and have been unaware and unable to challenge this. We also have experience of people being “forgotten about” and left in temporary accommodation with little or no contact from the housing officer responsible for their case, and progress only happens when they contact us or another housing advocacy organisation. This cannot be allowed to continue, and local authorities must be strongly directed away from this.

Further, while we help as many people as we can, as do many organisations throughout Scotland, we rely for the most part on people being aware of our services and feeling able to come to us for help; we know that there are many

people that we aren't reaching and who are in abysmal temporary accommodation without knowledge of their rights. The system must therefore change in that people are as a matter of process informed about their rights, and do not need to rely on advocacy to ensure their rights are upheld.

Shelter Scotland has long worked with children's organisations to understand their experiences of supporting families in unsuitable temporary accommodation. Most of the families have or have had another social care related issue which triggered their receiving support from our partner organisations, and we continue to find that housing issues are overwhelmingly present in their situations. Many families our partner organisations have worked with were homeless or had been placed into unsuitable temporary accommodation without any knowledge of their rights. If they had not been linked up with support organisations, this infringement of rights and housing situation would never have been discovered, and they may have continued to stay in unsuitable accommodation for far longer, had we not been able to intervene.

Therefore, we believe that there are numerous households who have felt the negative effects of breaches, but there has been little consequence for the local authority, nor impetus on the local authority to improve the situation.

• If so, what sanction would you consider to be an appropriate one?

While we agree with the concept of sanctions, we are concerned that if local authorities were fined for breaches, this may have a detrimental impact on their ability to fulfil their statutory obligations and provide good quality temporary accommodation to everyone for whom they have a duty.

For Shelter Scotland, the overriding issue is around ensuring stronger rights for people and believe that the Scottish Housing Regulator has a role to play in proactively inspecting, monitoring, assessing and taking firm action in a shorter period to ensure local authorities comply with the law, including definitively ending the use of certain accommodations. We suggest forming a standard protocol to ensure consistent intervention, such as the below;

- Where there is an individual and isolated breach, the local authority must report this to the SHR and rectify this within two working days;
- Where there are continued and/or systemic breaches (e.g. more than one breach per month), the SHR must intervene, convene meetings with the appropriate local authority officials, put a publicly available improvement plan in place within one month and monitor the implementation of the plan for the following six months. The households affected must be re-accommodated as soon as possible;
- The SHR must notify the Housing Minister of any continued or systemic breaches, and directly report this to the Local Government and Communities Committee and continue reporting regularly until the issue is resolved.

We acknowledge that the above protocol may not resolve the situation in all cases. Where breaches are still regularly occurring more than a year after UAO is introduced, we believe that the SHR should have the power to take more direct action and install interim managers or improvement teams in local authorities to better understand of the root causes of the problem and act to address this. However, interventions such as these come with a significant cost and we believe it would be appropriate for the cost to be borne by the council itself. Therefore, there would be a financial consequence for systemic failure, but importantly, it would be couched very much in supportive steps.

11. The performance of local authorities against their obligation to comply with the UAO will continue to be monitored, including any extension if introduced, by the Scottish Housing Regulator (SHR) as part of its role in assessing performance on discharging of their statutory duties.

Would you like to see the SHR gain any enhanced responsibilities in order to effectively monitor and assess the implementation of the extended Order?

Please explain your answer.

Yes, when a local authority breaches the UAO, the SHR should have added responsibilities and powers to effectively and proportionately monitor and assess the implementation of the Order, as set out above in our response to Question 10 around sanctions. Additional expectations placed on the SHR should be matched with the resources and capacity to deliver. We believe that the SHR's ability to affect positive change is limited at present especially in that it does not currently have a direct enforcement role. Shelter Scotland believes that this power is now necessary to guarantee the interest of those seeking temporary accommodation.

However, it must first be acknowledged that the SHR does already have several other powers and we believe that they have not been used to best effect at the time of writing. For example, the SHR produced an improvement plan for Glasgow City Council after its inspection in 2009, however we do not believe that this has resulted in a discernible improvement in homelessness services as experienced by our clients in the ten years since. In this light, the SHR must be able to take more effective steps, and implement these as and when appropriate, and be able to implement further measures such as installing interim managers if the situation requires it.

SECTION 3: PROPOSED CHANGES AND QUESTIONS ON ADVISORY TEMPORARY ACCOMMODATION (TA) STANDARDS

HARSAG recommended the following actions on temporary accommodation standards:

- 1. Build on existing standards work, co-produce new standards for temporary accommodation with stakeholders.**
- 2. Work with the Scottish Housing Regulator to explore options for enforcing new standards.**
- 3. Review relevant data collections to ensure that the new standards can be monitored and their impact assessed.**

1. HARSAG recommended that we build on the existing standards and to work with stakeholders to produce new standards for temporary accommodation to ensure a consistent standard of provision across the country. As a first step in this process we are looking to adopt and update the standards contained within the guidance published by CIH Scotland and Shelter Scotland to produce an advisory standards framework for all types of temporary accommodation.

Please confirm whether you agree that the existing CIH Scotland/Shelter Scotland standards provide an appropriate basis for a Scottish Government advisory standards framework. If not, please explain your answer.

Shelter Scotland believes that the CIH Scotland/Shelter Scotland standards produced in 2011 provide a basis for the new standards, and that emphasis should be on effective implementation. However, we question whether advisory standards are a necessary part of the journey towards an enforceable standards framework or whether it would be more effective, especially on the part of clients to move to enforceable standards as quickly as possible. If consensus is for advisory standards to be introduced, we believe that this should be for a prescribed and brief amount of time e.g. for no more than a year.

According to Scottish Government statistics, on 31st March 2019 there were 10,989 households, 3,415 families and 6,795 children in temporary accommodation.⁸ Households spent an average of 180 days in temporary accommodation, with families spending slightly longer - 219 days. This suggests

⁸ Scottish Government (2019); [Homelessness in Scotland: Annual Publication 2018-19](#)

that there is increasing need for temporary accommodation, but this should not be an excuse for poor quality accommodation. Every day, we support people living in accommodation far below the standard that would be expected of a progressive nation, and it is upon these experiences that our 2011 guidance is based.

Physical standards

Scotland's temporary accommodation is in the main, acceptable and decent quality. Most temporary accommodation is flatted accommodation provided by the local authority, which is generally the best type of temporary accommodation available.

However, it is apparent that local authorities are struggling to sustainably move away from using B&B and hostel accommodation, and these are the types of accommodation which in our experience are generally of the worst physical standards. We cannot overemphasise the poor quality of some temporary accommodation enough - we know it has got to the point that many people have turned down temporary accommodation due to certain accommodations' notoriety and poor standards. To make matters worse, in some areas this is understood as refusal of assistance and can have an impact on a person's homeless application and ability to access alternative accommodation. **It is shameful that standards are so bad in some areas that a person at one of the worst times of their life would rather sofa surf than stay in accommodation which is meant to keep them safe and be the first stage out of homelessness.** The sheer number of examples and anecdotes from clients about the physical standards of temporary accommodation is disgraceful; many of our clients have been allocated accommodation without proper locks on doors, where mattresses have been dirty, where there are insect infestations where shared bathroom facilities have been unclean and unhygienic, among many other aspects.

We understand that in areas of high pressure, local authorities have a duty to provide temporary accommodation to a lot of people, which often far surpasses the stock they have available. In order to meet this need, they have plugged the gap by commissioning private B&Bs and hostels, which are not generally held to high standard, indeed they were never intended to be suitable for families to live in. The following are some case examples of the poor quality accommodation experienced by our clients;

Case study

Client was a young woman with a toddler who became homeless in the middle of summer 2018. She became homeless after losing accommodation due to not being able to pay rent because of losing her job and sofa surfed for nearly a month. She was allocated B&B accommodation within which there were no

cooking facilities, fridge or fan and the family was unable to sleep at night due to the heatwave at the time as she was unable open the windows at night. The client approached Shelter Scotland for assistance and an adviser advocated on her behalf to the council based on unacceptable conditions and because the client was nearing the seven-day Unsuited Accommodation Order time limit. The situation was resolved shortly afterwards, and the client was accommodated, just on the seven-day limit.

Case study

Client was a disabled father from the central belt became homeless when his relationship broke down. The council initially refused to accommodate him, which gave him no option other than to sleep in his car. After calling Shelter Scotland, the council put him in an upstairs room at a Bed and Breakfast.

He said: “The Shelter Scotland adviser was amazing. She spoke to the council on my behalf and told them they were breaching my legal rights. They put me into a B&B, miles from my kids. It was on the first floor, so I was up and down stairs, which is hard to do on crutches, and it was also filthy with ants on the table. At the time I was thinking it was a start. I’ve got a roof over my head. I was there for five nights and then the council offered me a one-bedroom place. When they told me, it was in the same village as my kids I was over the moon but it’s actually just round the corner so they can come round and see me whenever they like – that’s just the icing on the cake.”

Suitability standards

Shelter Scotland has long advocated for clients who have not only been allocated poor quality temporary accommodation for long periods of time, but also clients whose temporary accommodation was physically not suitable for them. This has included people with restricted mobility who have been given accommodation up several flights of stairs, often with no working lift, and accommodation which is not big enough for their family to live comfortably.

Case study

A couple and their three children lost their home because their landlord had defaulted on his mortgage and it was being repossessed. Their council put them into a B&B initially saying it would be two days.

“We thought we could cope with two days, but our stay just kept getting longer and it was so hard. One of our girls has disabilities. There were about 20 stairs to our room which is too much for her. **The room had one double bed and two singles for five of us.** It’s affected us all. We’ve not been sleeping, and we’ve all been ill. Our daughter needs a routine but that’s been non-existent. We’ve all been living out of suitcases and with nowhere to cook or do laundry we’ve been

at our friends and family's houses a lot. We've burned through £200 in fuel driving about."

The couple contacted Shelter Scotland after learning that the maximum stay in a B&B should be seven days. Shelter Scotland's Law Service threatened legal action and the couple were offered an upstairs temporary flat meaning they still had to carry their disabled daughter upstairs.

**the clients names have been changed*

The affordability of temporary accommodation has long been a problem, with research commissioned by Shelter Scotland showing that some local authorities are charging up to 282% above the applicable LHA rate.⁹ This charging model was creating a perverse incentive for households to remain out of work or leave work so that these costs could be covered by housing benefit. Indeed, some temporary accommodation costs much more than equivalent accommodation in the private rented sector, thus creating an unjust and frustrating system where many people are becoming homeless due to not being able to afford private rents, but then being liable for often higher costs for temporary accommodation, which is meant to be a safety net. The homelessness code of guidance for local authorities in England¹⁰ is an example of good practice especially in terms of setting out affordable charges for temporary accommodation;

Para 17.46 *"Housing authorities will need to consider whether the applicant can afford the housing costs without being deprived of basic essentials such as food, clothing, heating, transport and other essentials specific to their circumstances. Housing costs should not be regarded as affordable if the applicant would be left with a residual income that is insufficient to meet these essential needs"*

Case study

Joe* is working fulltime on minimum wage and is living in temporary accommodation. The charge for his temporary accommodation is nearly half of his monthly take home pay and he is having to use foodbanks and free food places as a result. He has seriously considered whether to give up work so that housing benefit covers his temporary accommodation and he may be financially better off overall but has decided to continue to work in the hope that he will soon move out of temporary accommodation.

**the client's name has been changed*

Location and network standards

⁹ Evans, A. (2016); [Funding Homelessness Services in Scotland](#)

¹⁰ [Homelessness code of guidance for local authorities](#)

Becoming homeless is understandably a very stressful time for households, and a time where support networks are very much needed. Unfortunately, pressures on temporary accommodation have meant that we have worked with many people who have been accommodated far away from these networks. Again, the English Code of Guidance is helpful for development of policy in this area as it states;

Para 17.58 “The Secretary of State considers that applicants whose household has a need for social services support or a need to maintain links with other essential services within the borough, for example families with children who are subject to safeguarding arrangements, should be given particular attention when temporary accommodation is allocated, to try and ensure it is located in or close to the housing authorities own district. Careful consideration should be given to applicants with a mental illness or learning disability who may have a particular need to remain in a specific area, for example to maintain links with health service professionals and/or a reliance on existing informal support networks and community links. Such applicants may be less able than others to adapt to any disruption caused by being placed in accommodation in another district.”

Case study

Client is a female lone parent with several children. She had a housing duty owed to her by Glasgow City Council after leaving her home due to domestic violence. Due to low turnover of family-sized housing stock in her children’s school catchment area, she was residing at her parents’ house while waiting for suitable accommodation. However, due to the overcrowding at her parents’ house, the client needed to leave and approached the council for temporary accommodation. Shelter Scotland advisers tried for a week to contact the casework team via telephone and email but got no response. The client presented to the casework team in person but was told that her caseworker was unavailable. The client contacted the casework team repeatedly and eventually found herself facing street homelessness with her children as the situation had deteriorated with her parents. Shelter Scotland was finally successful in contacting the casework team, who eventually arranged a private hotel for the family that afternoon for two nights. On the third night, no temporary accommodation could be found due to a football match being played in the city and all accommodation being booked. As a result, the client was forced to split up her children between family and she stayed with a friend. On the fourth night, a temporary furnished flat was sourced, and the family moved in.

Source: **Evidence of Gatekeeping in Glasgow City Council**

Service standards

We have significant concerns about the service provided to people in temporary accommodation in some areas, especially to those who are accommodated in private B&Bs and hostels. From our advice staff and clients, we have anecdotally

heard of B&Bs located in isolated areas where there is no onsite support staff, and where there are very infrequent visits by council or support organisation staff. We have also heard reports of the difficulty experienced by many people in getting in touch with their case officer. Concerningly, it is often the case that something has happened or gone wrong (such as a housing application being frozen) and the person has not been informed. Homeless households must at the very least be able to easily contact the officer managing their case and receive regular updates as to their case and estimates as to how long they will be in temporary accommodation, to minimise disruption to their everyday lives.

Management standards

Our experience and the experience of other organisations supporting families in B&B is that there are problems around communication with council housing officers, and a lack of onsite support staff. This is particularly the case for B&Bs, which clients have told us house lots of very vulnerable people, and the staff are employed by the B&B as hospitality staff and are therefore not trained support staff. Staff in these B&Bs have relayed to Shelter Scotland and partner organisations that they are not equipped to de-escalate a situation if it arises and cannot support people who often have several support needs.

Storing belongings is a significant problem for people who have approached Shelter Scotland for help. There is patchy provision between councils in terms of what storage they can provide for households in temporary accommodation, and when storage is available, we are aware that households have had issues in getting access to their belongings when needed.

Case study

Client is a lone parent with four children who lost her home in Edinburgh as her landlord decided to sell. Despite eight weeks' notice the council had no suitable temporary housing available and put the family in a private sector leased flat and their belongings into storage.

She said: "I sleep on the sofa here. The two boys share a bedroom and the two girls could share a room, but the bed provided by the council has a hard mattress and it is agony for me to sleep on because I have a prolapsed disc in my back. I told the council I needed the orthopaedic mattress from my bed in storage, but they refused to let me swap the beds.

We went to collect some things from storage for our first Christmas here and some of our furniture was covered in mould and dampness. I've left personal photos and things that have sentimental value and I'm dreading to see what state they're in."

2. A summary of the standards that we propose to include in the advisory framework is shown earlier in this section with further detail contained with the CIH Scotland/Shelter guidance. Do you think these standards are still relevant and fit for purpose and explain your answer?

Yes, we feel these standards are still relevant and fit for purpose.

3. Please tell us whether there are any additional standards that you consider should be added to this framework and explain your reasons.

As above, we feel that these standards should be the springboard for discussion of any new standards and are not intended to constrain discussion or the creation of additional or enhanced standards.

4. On page 15 of this document we suggest that it would be appropriate for the agreed new standards for temporary accommodation to be included in the refreshed Code of Guidance on Homelessness which is due to be published later this year.

Please tell us if you:

- **Agree that it would be appropriate to include new standards for temporary accommodation within the refreshed Code of Guidance and explain your answer;**
- **Think that the new standards should also be published elsewhere and explain your answer.**

Shelter Scotland is not opposed to publishing the new standards for temporary accommodation within the refreshed Code of Guidance, however re-state the importance of awareness of rights and we suggest that they should be published in as many formats as possible to ensure increased awareness among people of their rights. This may include having rights leaflets given out to everyone who accesses temporary accommodation or have them available in temporary accommodation communal areas.

5. Do you have suggestions on how local authorities could/should be supported or encouraged to adopt the new standards for temporary accommodation?

We believe that the Scottish Housing Regulator should have an enhanced support role to play as well as a role in monitoring and enforcement, which we outlined in our response to Section 2, Question 10. In the run up to the implementation of improved standards, we suggest that the Scottish Housing Regulator convenes a Temporary Accommodation taskforce where local authorities can access information and advice and share best practice around temporary accommodation standards.

We believe that there is a lack of transparency in the temporary accommodation which is commissioned, which is important in improving standards, so call for information on this to be made clearer and made publicly available. New expanded data collection will be necessary to monitor the impact of new standards, therefore a review of what temporary accommodation metrics are published in the annual homelessness statistics would be helpful.

6. Page 9 of this consultation advises that there are already a number of other legislative standards relating to housing, that can apply to some or all types of temporary accommodation. Do you agree that a reference to these other legislative and regulatory mechanisms is made within the new set of accommodation standards? Please explain your answer.

Yes, Shelter Scotland believes that a reference to the other relevant legislative and regulatory mechanisms within the new set of standards would be helpful but must be done so in a way which helps people to understand and enforce their rights.

SECTION 4: CONSULTATION QUESTIONS ON ENFORCEABLE TEMPORARY ACCOMMODATION (TA) STANDARDS

1. HARSAG recommended we work with the Scottish Housing Regulator to explore options for enforcing new TA standards. In order to enforce standards it is likely this will need to be achieved through the introduction of legislation. We propose that rather than trying to create legislation that seeks to set a uniform standard across all types and tenures of temporary accommodation, that we develop a standards framework that recognises the existing legislation and regulation and seeks to fill in the gaps, utilising appropriate legislative mechanisms.

Do you agree with this approach? Please explain your answer.

Currently, there are numerous pieces of legislation and guidance around temporary accommodation, and we believe that this creates a scattered and confused starting point, for both individuals, local authorities and other TA providers.

Further, there are arbitrary differences between what standards are expected between different types of temporary accommodation, in that local authority-owned temporary accommodation is subject to the Scottish Housing Quality Standard, yet commissioned accommodation is often not. **Any temporary accommodation which is used should be fit for purpose and good quality, regardless of type.**

In terms of the approach we wish to see the Government take, we emphasise that underpinning it all, people must have strengthened and enforceable rights to good temporary accommodation. There must be a strong ambition around this, which meets the ambition of the Scottish Government's overall homelessness plan. In this light, **we believe that the process could be expedited to mean that enforceable standards could begin to be enforced as soon as 2021, in line with our recommendation on the timeline on extending the Unsuitable Accommodation Order to all households.**

On one hand, we recognise that introducing a standards framework which recognises all existing guidance and legislation and filling in the gaps with legislative instruments would be an efficient way of implementing new standards. However, we feel that, like the Code of Guidance, this approach may not sufficiently strengthen people's rights or increase their ability to challenge on an individual level when standards are not met.

Additionally, we believe that there **should** be a uniform standard across all types and tenures of temporary accommodation, and there is little reason why this should not be the case. This approach would reduce ambiguity over which standard applies to each type of temporary accommodation and should be the case unless there are exceptional reasons as to why this would not work for local authorities.

Again, whichever mechanism is chosen, there must be strong enforcement and accountability when TA standards fall short of what is expected. As discussed elsewhere in this response, the Scottish Housing Regulator should have primary responsibility for this, but this must be proportionate. If an individual raises a complaint in an area where there are few similar issues, the local authority should have a responsibility to act, for example by moving the person within two days, and notifying the Scottish Housing Regulator. Where problems are thought to be more systemic and entrenched, the Regulator should have a duty to intervene and take appropriate measures, such as installing managers, developing improvement reports, alongside overseeing appropriate and timely reparations to the affected individuals who have been allocated substandard temporary accommodation.

2. We want to better understand how local authorities currently monitor the standard of temporary accommodation that is used to place homeless households. Please can you tell us what sort of processes and procedures are in place to:

- **assess the standards of these types of property;**
- **address issues where standards are not being met;**
- **monitor ongoing issues.**

According to the recent research into temporary accommodation in Scotland¹¹, the standards assessment, monitoring and issue resolution processes differ between local authority and between accommodation type. Our experience is that B&Bs are among the worst monitored temporary accommodation, which is reflected by several partner organisations in the sector. However, an example of good practice was the work of the Homelessness Taskforce in Edinburgh, which reviewed its temporary accommodation provision to bring up the standards of temporary accommodation, although this has now ended.

However, how temporary accommodation is monitored and how standards issues are assessed and addressed is unclear. This is concerning in and of itself and it is our experience that arguing on behalf of a client about standards is often rendered hopeless as there is simply no alternative accommodation to move them onto. Therefore, supply is the underlining issue, and we stress that if there

¹¹ Watts, B., Littlewood, M., Blenkinsopp, J. and Jackson, F. (2018); [Temporary Accommodation in Scotland: Final Report](#)

was enough permanent supply, local authorities would not have to resort to using poor quality temporary accommodation.

3. It is possible that some local authorities may not be able to meet new standards on temporary accommodation when introduced. Do you think that there should be sanctions, such as penalties or fines applied to those local authorities failing to meet the new standards? Please explain your answer.

Yes, we believe that there should be “sanctions” imposed on local authorities if they fail to meet the new standards, in line with our recommendations on sanctions for breaches of the Unsuitable Accommodation Order. Again, our approach to what should be really termed “supportive interventions” is outlined in Section 2. Additionally, it may be appropriate for the SHR to require the local authority failing to meet the new standards to produce additional information and data to inform future steps. It may be helpful for local authorities to have a temporary accommodation working group in order to share best practice and overcome obstacles.

We suggest that interventions should only be applied a year after the temporary accommodation standards are introduced, in order to allow time for local authorities to make the necessary changes or to communicate any problems or challenges which may arise in meeting the new standards. We anticipate this to be a matter of course, given the proposed staged approach and refresh to the Code of Guidance.

4. Please tell us about any other approaches or options that you consider are appropriate to implement to ensure that local authorities adhere to new temporary accommodation standards.

It would be amiss not to mention the amount of money that is spent on temporary accommodation by local authorities every year. Recent analysis of temporary accommodation expenditure¹² showed that between 2012 and 2017, local authorities spent over half a billion pounds accommodating households, with about a third of that paid to private providers. It is therefore relevant to suggest that this does not represent value for money, for clients or for the public, and therefore there is a discussion to be had around the “subsidy regime” and whether the mechanism by which TA is funded should be considered and changed so as to stop or discourage the use or commissioning of poor quality accommodation.

¹² The Ferret (2018); [Councils paid £660m for temporary homeless accommodation](#)

5. In line with the HARSAG recommendation, we also envisage a role for the Scottish Housing Regulator (SHR) in monitoring and assessing performance in meeting new standards.

Do you agree that it would be appropriate for SHR to take on this role utilising their current powers or by extending their current powers? Please explain your answer.

We believe that the Scottish Housing Regulator currently does not have the powers which would enable them to appropriately monitor, assess and most importantly, take affirmative action when local authorities fail to fulfil their duties. They are in our view the most appropriate and independent body to take on additional powers to ensure new standards are met and action is taken when it is not. In terms of what these sanctions should be, these are outlined in our response to Section 2 Question 10.

6. In establishing a Working Group to take forward the production of a new standards framework we will set terms of reference which will define their purpose, aims and objectives. In setting the remit of the group, what do you think the Group need to take into account as they develop a new standards framework for temporary accommodation?

Within the terms of reference, there must be the guiding principle and understanding that when people become homeless, this is often one of the most difficult times of their lives and the temporary accommodation provided to them must not do anything to make this situation worse. People's experiences are central to the framework, and regular consultation with people living in different types of temporary accommodation must be prioritised in order that the standards framework achieves the best possible outcomes.

Any standards framework must be sustainable, enforceable and workable; it must be easily measurable in that the difference between the current system and the system after the implementation of the standards framework must be discernible and easily evaluated.

This group should represent as broad a cross section of stakeholders as possible - not just housing providers but potentially social services, environmental health, third sector advocates, health and of course, some members with lived experience.

Shelter Scotland helps over half a million people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help.

We're here so no one has to fight bad housing or homelessness on their own.

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