

ANGUS COUNCIL

COMMUNITIES COMMITTEE - 24 SEPTEMBER 2019

CONSULTATION ON TEMPORARY ACCOMMODATION STANDARDS

ABSTRACT

This report provides information to members on the Scottish Government's consultation on temporary accommodation standards and Angus Council's response, submitted 13 August 2019.

1. BACKGROUND

- 1.1 The Programme for Government announced by the First Minister on 5 September 2017 set out a new commitment to eradicate rough sleeping, transform the use of temporary accommodation in Scotland and end homelessness. Ministers subsequently established the Homelessness and Rough Sleeping Action Group (HARSAG) to make recommendations on how these transformational changes can be achieved.
- 1.2 In June 2018, the HARSAG completed their work, producing a comprehensive set of 70 recommendations aiming to secure strategic changes at both national and local level which would help support delivery on the front-line. All 70 recommendations have been translated into the Ending Homelessness Together High Level Action Plan which was published by the Scottish Government and COSLA on 27 November 2018. This plan sets out the actions required to end rough sleeping and homelessness.
- 1.3 The Scottish Government are consulting on taking forward their commitment to transform temporary accommodation by extending the Unsuitable Accommodation Order to all homeless households and introducing a legally enforceable standards framework.

2. CURRENT POSITION

- 2.1 The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2017 limits the time that local authorities can place homeless applicants that are pregnant or a household which includes dependent children in temporary accommodation that is unsuitable for no longer than 7 days, unless exceptional circumstances apply. Unsuitable accommodation is defined in the order as accommodation which does not meet standards relating to physical properties of the accommodation, its proximity to health and education services and its suitability to be used by children. Consequently the use of bed and breakfast accommodation for such households is deemed unsuitable.
- 2.2 Although Angus only had 12 B&B placements recorded in 2018/19 (reduced from 42 in 2017/18), there were 4 households with dependent children placed into bed and breakfast accommodation and one recorded breach of the Unsuitable Accommodation Order in 2018/19.
- 2.3 In 2011, Shelter Scotland and Chartered Institute of Housing Scotland (CIH Scotland) published Guidance on Standards for Temporary Accommodation which contains a list of standards that went beyond just physical, proximity and safety standards. Although this guidance is not statutory, it was intended as good practice guidance for temporary accommodation providers.
- 2.4 The Housing Options HIT have recently drafted service standards covering affordability, assessment and provision of support, managing arrears, physical standards and location, management of temporary accommodation and the provision of bed and breakfast accommodation. These standards reflect the existing Guidance on Standards for Temporary Accommodation and will be published on the council's webpages once finalised.

3. PROPOSED CHANGES

- 3.1 The Scottish Government are consulting on taking forward the commitment made on transforming temporary accommodation by:

- Extending the seven-day restriction on time spent in unsuitable temporary accommodation to all people experiencing homelessness; and
- Introducing a legally enforceable temporary accommodation standards framework, based on the current Guidance on Standards for Temporary Accommodation.

4. CONSULTATION RESPONSE

- 4.1 Extending the Unsuitable Accommodation Order to all homeless households ensures that people are not housed in inappropriate or unsafe accommodation for extended periods. It ensures people can access the support and services they require, have access to the facilities they need and do not face restrictive rules which limit their ability to maintain a normal life. The costs of using bed and breakfast can be high so extending the restriction will also generate savings for local authorities.
- 4.2 While we are in favour of extending the Unsuitable Accommodation Order so that the law is equitable for all homeless households, we feel that extending the restrictions will only be achievable if it is introduced incrementally over a period of time, in line with the implementation of Rapid Rehousing. In our view, vulnerable groups (as defined in the HL1 'special household characteristics') should be prioritised prior to the extension being applied to all homeless households. While bed and breakfast accommodation makes up only 1% of temporary accommodation placements in Angus, it makes up a large proportion of temporary accommodation placements in Edinburgh and Highland and this reliance of B&B in some local authorities shows there is a requirement for local authorities to take forward the extension based on an assessment of local circumstances. However, the requirement to continue to use unsuitable accommodation should be evidence based and subject to scrutiny.
- 4.3 We agree that the existing Guidance on Standards for Temporary Accommodation provides an appropriate basis for the Scottish Government advisory standards framework and think it is appropriate for the standards to be included within the refreshed Code of Guidance. Although the standards are generally relevant and fit for purpose, they need updated to reflect the changes in the welfare system and the introduction of Health and Social Care Partnerships. The standards should reflect the responsibilities of all services, including health and social care services, to support people who are homeless and living in temporary accommodation.
- 4.3 In our view, sanctions, such as penalties or fines to encourage local authority compliance with the Unsuitable Accommodation Order and temporary accommodation standards framework would not be appropriate. Working alongside and engaging with the local authority and other stakeholders to agree an improvement plan and targets, in our view, would be more effective. In our view, the Scottish Housing Regulator has adequate powers to effectively monitor and assess the implementation of the extended order and standards.

Appendix 1 sets out the full draft consultation response.

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Temporary Accommodation Standards Consultation Response

1. Scottish Ministers have used their powers under the Homelessness etc. (Scotland) Act 2003 to limit the use of 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.

Option B - Extend the restriction to all homeless people but introduced incrementally over a period of time. While Angus Council is in favour of extending the Unsuitable Temporary Accommodation Order so that the law is equitable for all homeless households, we feel that this would only be achievable if it was introduced incrementally over a period of time, in line with the implementation of Rapid Rehousing.

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

- What types of experiences, circumstances or characteristics would you prioritise in the incremental extension?

In our view, vulnerable groups (as defined in the HL1 'special household characteristics') should be prioritised prior to the extension being applied to all homeless households.

- Would you prefer a consistent national approach to the transition or for local authorities to take forward based on their own local circumstances?

We recognise that the use of B&B is higher in other local authorities. While B&B makes up only 1% of TA placements in Angus, it makes up a large proportion of TA placements in Edinburgh and Highland. The reliance of B&B in some local authorities evidences a requirement for local authorities to take forward the extension based on an assessment of local circumstances. However, the requirement for continued use of unsuitable accommodation should be evidence based and subject to scrutiny.

- By what date do you consider it would be reasonable for all homeless households to be covered by the extended Order?

Any date should be aligned with and included as part of the local authority's rapid rehousing transition plan. This would ensure that a realistic and achievable date could be agreed based on local circumstances and in line with the implementation of actions identified locally to meet the objectives of rapid rehousing.

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.

In our view, option B would be the best way to avoid an increase in the number of breaches reported. There were 620 breaches of the unsuitable accommodation order recorded across Scotland in the year up to March 2019. This is significantly higher than previous years, following the reduction of the maximum time from 14 to 7 days in September 2017. A flexible approach, taking consideration of local circumstances and progression towards rapid rehousing will ensure that other suitable options are available for homeless households when the order is extended.

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

Extending the restriction to all homeless people ensures that people are not housed in inappropriate or unsafe accommodation for extended periods. It ensures people can access the support and services they require, have access to the facilities they need and do not face restrictive rules which limit their ability to maintain a normal life. The costs of using B&B can be high so extending the restriction will also generate savings for local authorities.

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

If the extension is not done in a planned way, in line with the implementation of rapid rehousing, there is a risk that the number of breaches reported will significantly increase or local authorities will fail in their duty to provide TA when required. Multiple TA placements should be minimised and extending the restrictions could also see an increase in the number of multiple TA placements people experience if there isn't suitable secure accommodation available within the 7 day period.

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.

The current definition is appropriate however this is an opportunity for the definition of unsuitable accommodation to mirror the new standards proposed for temporary accommodation, particularly if these will be enforced by new legislation.

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.

As above.

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, only the location of the accommodation should be considered for any of the exemptions. The facilities should not be exempt under any circumstances.

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?

Implementation, in line with RRTPs should help minimise the number of breaches reported. Ensuring Registered Social Landlords increase their allocations to homeless households will also help improve access to housing and minimise the requirement for TA.

- Would sanctions provide an appropriate mechanism to encourage compliance?

In our view, sanctions would not be appropriate. Working alongside and engaging with the local authority and other stakeholders to agree an improvement plan and targets would be more effective.

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

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.

In our view, the SHR have adequate powers to effectively monitor and assess the implementation of the extended order.

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 guidance⁹ 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.

We agree that the existing CIH Scotland / Shelter Scotland standards provide an appropriate basis for the Scottish Government advisory standards framework.

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 think that the standards are relevant and fit for purpose however need updated to reflect the changes in the welfare system and the introduction of health and social care partnerships. The standards should reflect the responsibilities of all services, including health and social care services, to support people who are homeless and living in TA.

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.

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;

We think it is appropriate for the standards to be included within the refreshed Code of Guidance, this ensures the guidance is held in one place and is accessible.

- Think that the new standards should also be published elsewhere and explain your answer.

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

Local authorities could be asked to demonstrate how they meet or plan to adopt the new standards for temporary accommodation as part of their Rapid Rehousing Transition Plan. All local authorities should be expected to publish their temporary accommodation standards.

The recent gypsy traveller site standard survey was a good tool to report on how we were meeting the minimum standards and included customer views.

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, in our view it is important that there is reference to the other legislative standards and these are adhered to in the provision of TA.

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.

We are in agreement with this approach as it will hopefully mitigate against any duplication where existing standards (e.g. SHQS) are currently being monitored.

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.

The majority of Angus Council's temporary accommodation is within social housing, which must meet SHQS. All temporary accommodation occupants are asked to complete a satisfaction survey on exit from temporary accommodation. These returns are monitored by the housing management team as an indicator in our performance management framework. Service standards, covering affordability, assessment and provision of support, managing arrears, entries and exits to TA, physical standards / location, and management of TA and the provision of B&B have recently been revised and will be published on the council's website. These standards will be monitored by a working group set up to oversee Housing Options and Homelessness performance in Angus.

Work is ongoing to set up a process to monitor and review women's refuge accommodation provision.

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.

In our view, sanctions would not be appropriate. Working alongside and engaging with the local authority and other stakeholders to agree an improvement plan and targets would be more effective.

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.

There is an opportunity for the definition of unsuitable accommodation to mirror the new standards proposed for temporary accommodation, this would ensure any breaches were monitored and addressed. A review of HL1 / HL3 could be completed to cover the new standards in existing reporting mechanisms.

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.

In our view, the SHR have adequate powers to effectively monitor and assess performance in meeting new standards.

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?

- changes in the welfare system
- the introduction of health and social care partnerships
- . implementation of Rapid Rehousing / role of RRTPs
- if reporting against the new standards can be incorporated into existing reporting via HL1 / HL3
- local circumstances of local authorities