



Evidence submitted by Chartered Institute of Housing Scotland: 13 August 2019

About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world including over 2,000 in Scotland.

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1. General comments

- 1.1 CIH Scotland welcomes the opportunity to respond to the Scottish Government's consultation on improving Temporary Accommodation Standards and extending the Unsuitable Accommodation Order (UAO). The Scottish Government has set ambitious targets for reducing homelessness and transforming the way that we support people who do become homeless. In tackling homelessness, the priority should be prevention but there will always be a need for some temporary accommodation. We agree that where temporary accommodation is needed, the homes used should be good quality and the time spent there should be as brief as possible.
- 1.2 We fully support the principles set out in this consultation and welcome the suggested use of standards developed by CIH Scotland and Shelter Scotland as the basis for a revised set of standards for temporary accommodation. However, we do have some concerns about how local authorities will be supported to implement the proposed changes, and with the suggestion that sanctions could be used to enforce standards, especially if these were in the form of a financial penalty. Imposing a fine on a local authority that may already be struggling to meet its legal obligations due to lack of affordable housing is likely to be counterproductive.
- 1.3 Consideration must also be given to the impact that these proposed changes will have alongside other changes to homelessness legislation and policy. In our response to the Scottish Government consultation on removal of local connection and the duty to assess intentionality we raised concerns that these measures could lead to increases in homeless presentations in some areas which could make it more challenging for some local authorities to meet an extended UAO obligation. Local authorities are also all now working towards implementation of their Rapid Rehousing Transition Plans (RRTPs). The timing of any new obligations should be aligned as far as possible with work that is already being carried out.

2. Consultation Questions

Section 2: Proposed changes and questions on the Unsuitable Accommodation Order (UAO)

Question 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:

- ☒ A: Extend the restriction to all homeless people from an agreed date?
- ☐ B: Extend the restriction to all homeless people but introduced incrementally over a period of time?

C: Not extend the restriction to all homeless people?

Please explain your answer:

We agree that the Unsuitable Accommodation Order should be extended to all households. If accommodation is deemed unsuitable for one household type, it should not be deemed suitable for another.

However, local authorities will need time and support to be able to meet new obligations. Data shows that the number of breaches of the UAO increased following the introduction of regulations to reduce the time limit from 14 to seven days. Further extension of the UAO without changes to the supply of mainstream temporary accommodation or affordable settled accommodation to help people move out of temporary accommodation more quickly will almost certainly result in an increase of breaches.

The Scottish Government should also take into account the possibility of unintended consequences arising from extending the UAO if local authorities do not have suitable alternative accommodation in place and especially if they may face a financial penalty for breaching the UAO. Research conducted by Heriot Watt University (<http://bit.ly/2JHUQWm>) states that a rigid 'no B&B' policy adopted by Dundee City Council had led to some cases where families could not be accommodated and had to move into overcrowded accommodation or split between different 'care of' addresses with family and friends.

The UAO should be extended to all households in line with the timing for Rapid Rehousing Transition Plans (RRTPs). Local authorities should be given flexibility within this time to meet the deadline in a way that aligns with the needs of their residents and their wider plans for transforming the use of temporary accommodation.

If there is a case where a local authority will legitimately struggle to meet the criteria within this timescale, the Scottish Government should work with them to plan a realistic transition period. We would not want to see a scenario in which temporary accommodation deemed to be unsuitable was closed down with no alternative accommodation being available.

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

As set out above, local authorities will need time to plan for any changes introduced. Some local authorities already struggling to meet existing obligations and extending the UAO without increasing the supply of mainstream temporary accommodation or affordable settled accommodation is likely to increase the number of breaches. Local authorities are already working to implement RRTPs and this work will contribute to reducing the use of temporary accommodation as far as possible and moving towards the use of more

mainstream furnished accommodation rather than hostels and B&Bs where temporary accommodation does need to be used.

The UAO should be extended to all households in line with the timing for Rapid Rehousing Transition Plans (RRTPs). Local authorities should be given flexibility within this time to meet the deadline in a way that aligns with the needs of their residents and their wider plans for transforming the use of temporary accommodation.

If there is a case where a local authority will legitimately struggle to meet the criteria within this timescale, the Scottish Government should work with them to plan a realistic transition period. We would not want to see a scenario in which temporary accommodation deemed to be unsuitable was closed down with no alternative accommodation being available.

Question 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 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?

Not applicable

Question 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 set out above, option A will give landlords maximum flexibility to meet their obligations in a way that best reflects the needs of their residents and their wider work to transform the use of temporary accommodation.

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

Extending restrictions to all households will potentially have a positive impact by ensuring all homeless households are entitled to good quality accommodation or that time spent in unsuitable accommodation is kept to a minimum. We fully support this ambition but have noted our concerns with the timescales and support that will be available for local authorities to meet any new obligations.



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

As we have set out above, extending the UAO without adequate time and support for local authorities to be able to meet their new obligations could result in an increase in breaches or leave some households without access to suitable accommodation.

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

- ☐ Yes
- ☒ No
- ☐ Don't know

Please explain your answer:

We agree that the definition of unsuitable accommodation should cover the location and facilities available. However, the physical standards covered in the definition are very minimal, only referring to the requirement for accommodation to be 'wind and watertight'. As with all forms of accommodation,

we would like to see stronger emphasis on physical and safety standards aligned across all tenures. While we understand that minimum standards are dealt with elsewhere in legislation (through the Tolerable Standard, Repairing Standards, Scottish Housing Quality Standard, Energy Efficiency Standard for Social Housing and HMO Licensing), the impression given in the Unsuitable Accommodation Regulations suggests a very low standard of accommodation is allowable.

Question 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?

- ☒ Yes
- ☐ No
- ☐ Don't know

If not please provide an explanation of how you feel the definition should be amended to take account of the extension.



Yes, if

the principle is that all households should be afforded the same rights and standards of accommodation then the same definition should apply to all households.

Question 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?

- ☒ Yes
☐ No
☐ Don't know

Please explain your answer:

These exemptions will help to ensure that vital services such as those supporting people fleeing domestic violence and continue to provide accommodation and support to those who need it when they need it. Consideration should also be given to whether there are some other forms of temporary accommodation which may not meet UAO standards but provide a vital service without which local authorities would not be able to accommodate homeless households without breaching the UAO. Particular concerns have been raised by some providers about whether en suite facilities would be able to be retrofitted in all accommodation.

Question 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 Order 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?

Research to identify the extent of accommodation currently being used which would be in breach of an extended UAO would be helpful in calculating the cost of upgrading or re-commissioning accommodation.

As mentioned above, local authorities are already working towards implementing RRTPs which focus on reducing the use of temporary accommodation and the amount of time households have to spend there. Continuing to focus on achieving this, with financial support from the Scottish Government will support the aims of an extended UAO and the minimum standards proposed in the next section of this consultation.

Continued investment in preventing homelessness and increasing the supply of affordable homes will also be vital in reducing the use of temporary accommodation.

- Would sanctions provide an appropriate mechanism to encourage compliance?

- ☐ Yes
☒ No
☐ Don't know

We strongly oppose the use of sanctions. Imposing a financial penalty will not be beneficial, local authorities should be supported to comply and work constructively with Scottish Government to identify and address barriers to doing so.

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

Not applicable

Question 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?

- ☒ Yes
☐ No
☐ Don't know

Please explain your answer:

We believe that there is a role for the Scottish Housing Regulator (SHR) in supporting compliance with new obligations. However, it is not clear how this would be carried out and therefore what enhanced responsibilities or powers would look like in practice. It is also likely that the SHR would require additional resource to be able to carry out effective monitoring and intervention of necessary and this must be factored into any new regulatory regime.

Section 3: Proposed changes and questions on Advisory Temporary Accommodation (TA) Standards



Question 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.

Yes, we agree that the standards developed by CIH Scotland and Shelter Scotland provide a good basis for advisory standards. However, these should be revised with input from homeless households to ensure these still reflect people's experience and aspirations.

Question 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 within the CIH Scotland/Shelter Scotland guidance. Do you think these standards are still relevant and fit for purpose?

- ☒ Yes
- ☐ No
- ☐ Don't know

Please explain your answer:

As stated above, while we think the standards developed by CIH Scotland and Shelter Scotland provide a good basis for revised guidance, the views of people who have experienced homelessness should be considered in order to ensure that the standards still reflect the experience and aspirations of homeless households.

Question 3: Please tell us whether there are any additional standards that you consider should be added to this framework? Please explain your answer:

No further comments.

Question 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 please explain your answer:
- Think that the new standards should also be published elsewhere and please explain your answer:

Yes, we agree that it would be appropriate to include new standards within the revised Code of Guidance.

The standards should also be published separately and proactively promoted to members of the public. The publication should be accessible and help people to understand their rights, what they should expect from temporary accommodation and how to make a complaint if they do not think that standards are being met.

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

As stated above, we fully support the Scottish Government's ambitions to reduce homelessness and to transform the use of temporary accommodation. However, we do have some concerns about the resources required to implement changes and how the timescales for change will align with ongoing work to implement RRTPs.

When introducing advisory standards, the Scottish Government should be clear that these are the standards that all local authorities should be achieving or working towards and that legislative standards will follow. The advisory standards will allow some time for local authorities to identify where they will need to make improvements and for the standards themselves to be tested before legislation is introduced.

Question 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?

- ☒ Yes
☐ No
☐ Don't know

Please explain your answer:

It would be helpful for existing legal obligations to be set out in the guidance.

Section 4: Consultation questions on Enforceable Temporary Accommodation (TA) standards



Question 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 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?

- ☒ Yes
☐ No
☐ Don't know

Please explain your answer:

We agree that existing legislation should be used as the basis for any new framework being introduced. As a first step, Scottish Government should set out where there are gaps in the existing legislation and what would be required for these to be addressed. Analysis should be undertaken to ascertain how much accommodation currently would not meet standards and the cost of either improving this accommodation or decommissioning if it is simply not fit for purpose.

Question 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.

Local authorities will be best placed to inform the Scottish Government of their processes and procedures for monitoring temporary accommodation standards.

Question 3: It is possible that some local authorities may not be able to meet the 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?

- ☐ Yes
☒ No

Don't know

Please explain your answer:

As stated above, we strongly disagree with the proposal to introduce financial penalties. The Scottish Government and SHR (if they are to play a more enhanced role in monitoring and enforcement of temporary accommodation standards) should work with local authorities to understand any barriers to compliance and work with them to resolve these within realistic timescales.

Question 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.

Local authorities should be supported to meet any new standards introduced. This should include financial assistance where appropriate and adequate time to meet the standards.

Question 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 the SHR to take on this role utilising their current powers or by extending their current powers?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer:

As with the monitoring and enforcement of an extended UAO, we do agree that there is a role for the SHR in supporting compliance with new requirements. However, as it is not clear what this would look like it is difficult to comment on whether existing powers are adequate. In any case, if the SHR is to play an enhanced role in monitoring and enforcing temporary accommodation standards, it must be well resourced in order to be effective.

Question 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 will need to take into account as they develop a new standards framework for temporary accommodation?



The new

group should include representation from people who have experienced homelessness as well as housing practitioners who will be familiar with the challenges of implementing new standards. The group will need to take into account:

- the extent to which the voluntary standards already being achieved;
- Whether there are issues with the standard of accommodation being offered in particular areas and if so, what the reasons for this are;
- existing legal standards and the extent to which these are being met;
- if current legal standards are not being met, whether this is an issue with enforcement, practical issues or lack of resources; and
- whether there is a requirement for additional legislation and how this would be enforced.

It will be important for the group to understand the extent to which voluntary standards are being achieved and how effective these have been before considering what additional legal requirements are required. If there are issues with the supply of homes or the cost of meeting minimum standards simply introducing new legislation will not address this.