Temporary Accommodation Standards Framework



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Introduction

The Scottish Government ran a <u>consultation on improving temporary accommodation</u> <u>standards</u> on improving temporary accommodation standards in 2019. The consultation covered proposed changes to three main areas:

- the Unsuitable Accommodation Order
- advisory standards for temporary accommodation
- the development of a temporary accommodation standards framework

In May 2020, the Unsuitable Accommodation Order was extended to all homeless households and new advisory standards for temporary accommodation were created and published in November 2019 in the interim Code on Guidance on Homelessness.

A short-term working group was established in October 2021 to develop a new standards framework, which will ensure that all temporary accommodation throughout Scotland is of a consistently high quality. To ensure compliance with existing and new standards in temporary accommodation, the working group members considered:

- how the advisory standards can be incorporated into a Temporary Accommodation Standards Framework (TASF)
- what the necessary processes required are to ensure the TASF is implemented by local authorities
- whether legislative changes are needed in order to implement the TASF
- what the necessary timescales are for the TASF implementation
- consider the support local authorities may require to overcome any barriers they face as they work towards full implementation of the TASF
- consider what the Scottish Government can do to help local authorities in their efforts to ensure compliance with the TASF
- consider how the TASF can be regulated (monitored, assessed, and reported), including who should take on the regulation role

Background

The Homelessness and Rough Sleeping Action Group (HARSAG) recommended that the Scottish Government work with the Scottish Housing Regulator to explore options for enforcing new temporary accommodation standards. It believed that better standards could be achieved through the introduction of legal mechanisms to ensure that all temporary accommodation used by local authorities in exercising their statutory duties reaches a certain standard.

In exercising their statutory duties, local authorities across Scotland utilise a diverse portfolio of temporary accommodation beyond bed and breakfast accommodation, including local authority, housing association and private rented sector housing stock and hostels. Most people who are homeless are accommodated on a temporary basis in the social rented sector.

Across all of these different types of accommodation, there already exists a wide variety of legislation that cater for physical standards of accommodation, which are largely tenure specific. These include the Tolerable Standard which applies to all property, the Scottish

Housing Quality Standard which applies to social rented sector properties, HMO Licencing for B&B and hostels and the Repairing Standard in the private rented sector.

At the time of the 2019 consultation, existing legislation and regulation did not provide a comprehensive set of standards across all temporary accommodation stock. In developing a TASF, the aim is to ensure that any time spent in temporary accommodation causes minimal harm.

Considering HARSAG's views and recommendations, we proposed that a TASF includes and points to existing legislative and regulatory mechanisms that set accommodation standards, while addressing gaps to ensure that standards in temporary furnished flats in the private and social rented sector, hostels, B&Bs and refuges are of a consistent, high quality.

To take forward HARSAG's recommendation, a working group was established to produce a new TASF and to consider how the framework can be regulated and legally enforced. The advisory standards for temporary accommodation published in the **Homelessness** Code of Guidance¹ in 2019 were developed using the 2011 Guidance on Standards for Temporary Accommodation published by Chartered Institute for Housing (CIH) Scotland and Shelter Scotland as a basis.

The framework for the temporary accommodation standards was also based on those already published. Although the standards presented in this document have been updated with input from the working group, many are not new, nor are the definitions. Instead, these build upon and consolidate those of previous versions as well as the existing standards covered by legislation.

For the purposes of this standards framework, the terms 'applicant', 'resident' and 'tenant' are used in this document to describe and refer to the homeless household.

During the TASF development, the working group has agreed on the general principles, although there were some differences in opinion on some of the specifics, such as whether the framework would be included via legislation or solely within the Scottish Social Housing Charter. A formal consultation on the agreed standards framework would inform the most appropriate approach.

Unsuitable Accommodation Order

The Unsuitable Accommodation Order² (UAO) was extended to all homeless households in May 2020. The extension means that the maximum number of days that local authorities can use unsuitable accommodation for any homeless person is seven days and has the effect of ending stays in unsuitable accommodation, such as B&Bs, apart from in emergencies.

UAO guidance was published in January 2021 to help local authorities in their duties to assist people who are threatened with or who are experiencing homelessness. The guidance aims to explain the changes that were created by the new legislation as well as

¹ See Annex A, page 112.

² All articles of the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Orders (2020/139 and 2020/419) apply.

providing clarity on the definitions and exemptions to assist local authorities with the implementation of the UAO extension.

Unsuitable accommodation

In all circumstances, accommodation must meet article 4 of the UAO. That means that accommodation is deemed unsuitable if it is:

- (a) not wind and watertight;
- (b) not suitable for occupation by a homeless household, taking into account the needs³ of the household; or
- (c) not meeting minimum accommodation safety standards.

Article 5 provides a list of further circumstances, where accommodation would be deemed to be unsuitable:

- (a) out with 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;
- (f) is not usable by the household for 24 hours a day.
- (g) is not in the locality of the place of employment of a member of the household, taking into account the distance of travel by public transport or transport provided by a local authority; or
- (h) is not suitable for visitation by a child who is not a member of the household and in respect of whom a member of the household has parental rights.

Under Article 6 of the UAO, the standards contained within Article 5 do not apply to accommodation where:

- (a) 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;
- (b) the local authority has offered the applicant accommodation that meets the requirements of article 5, but the applicant wishes to be accommodated in other accommodation that does not meet those requirements;
- (c) the accommodation is used wholly or mainly to provide temporary accommodation to persons who have left their homes as a result of domestic abuse and is managed by an organisation which—
 - (i) is not a public authority or a local authority; and
 - (ii) does not trade for profit;

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³ To ensure that the accommodation is suitable a needs assessment of the household is necessary in the provision of temporary accommodation.

(d) the accommodation is owned by a local authority and services relating to health, childcare or family welfare are provided to persons accommodated there.

Further to the UAO extension, additional types of accommodation were also included under article 7A of the UAO (Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020) (2020/419)), including shared tenancies, community hosting and rapid access accommodation. These supplementary types of accommodation are suitable under certain circumstances and for specific homeless households only.

Article 7A makes it explicitly clear that shared tenancies, community hosting and rapid access accommodation are never suitable accommodation options for families with children, pregnant people, and households where a person who exercises parental rights in respect of a dependent child who is not part of the household. This means that accommodation in the form of community hosting is not unsuitable by virtue of article 5, despite lacking adequate toilet and personal washing facilities for the exclusive use of the household and not being usable by the household 24 hours a day. Rapid access accommodation and shared tenancy are not unsuitable by virtue of article 5, despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

The UAO guidance should be read and used in conjunction with all other published guidance and legislation on homelessness where temporary accommodation is used and to assess whether temporary accommodation is suitable.

Provision of temporary accommodation

There are a range of duties, obligations and responsibilities placed on social housing landlords by legislation and through statutory guidance.

Under section 31 of the Housing (Scotland) Act 2010, Scottish Ministers, in the <u>Scottish Social Housing Charter</u> (the Charter), set the standards and outcomes that all social landlords⁴ should aim to achieve for their tenants and other service users when performing their housing activities. These include helping people who are homeless, duties around the safety of tenants' homes and promoting equality and human rights.

Social housing landlords also have requirements placed on them by other regulatory bodies, including the Scottish Housing Regulator, the Office of the Scottish Charities Regulator, the Equality and Human Rights Commission, the Care Inspectorate, Audit Scotland, and the Scottish Public Services Ombudsman. Landlords must ensure that they meet all of their legal duties and responsibilities and that they adhere to the relevant guidance and requirements of other regulators, including meeting their statutory duties to prevent and alleviate homelessness.

Under the existing regulatory requirements, social landlords, including local authorities, must submit a mandatory <u>Annual Assurance Statement</u> to the Scottish Housing Regulator to provide assurance that their organisation complies with the relevant requirements of <u>chapter 3 of the Regulatory Framework</u>. This statement also sets out the way in which they are addressing any material non-compliance. This includes regulatory obligations that apply to all social landlords and the Standards of Governance and Financial Management

⁴ Social landlord is the term for registered social landlords, housing associations, co-operatives and local authorities that provide housing and homelessness services.

that apply to Registered Social Landlords. The <u>mandatory guidance for social landlords</u> provides more detail on the relevant guidance applicable to landlords.

Prevention pathways are being developed and implemented for groups at greatest risk of rough sleeping and who are most represented among homeless figures. For example, the need for a sensitive and targeted preventative pathway that recognises the particular needs of people, mainly women and children, experiencing domestic abuse has led to the development of joint⁵ guidance in 2019. <u>Domestic abuse: a good practice guide for social landlords</u> was published to support social landlords to develop an informed response that:

- prevents women and children's homelessness
- supports victims of domestic abuse effectively
- holds perpetrators to account

Some local authorities already have a domestic abuse policy in place, but it is envisioned that all local authorities and Registered Social Landlords (RSLs) will develop their own domestic abuse housing policy using the domestic abuse good practice guide to ensure that the bullet points above are met.

Children placed in unsuitable temporary accommodation can affect the physical and mental health of children in the homeless system in many ways. The <u>Children and Young People (Scotland) Act 2014</u> expects public authorities to do all they can to implement and uphold children's rights under the United Nations Convention on the Rights of the Child (<u>UNCRC</u>).

Temporary Accommodation Standards Framework

The TASF should be applied by all social landlords to their temporary accommodation and also to any temporary accommodation stock used from other providers. This means that all local authorities have responsibility to ensure that the temporary accommodation they provide to fulfil their duty to accommodate homeless households meets this standards framework.

It is understood that there will be challenges and difficulties for local authorities depending on the type of standard, nevertheless, they will be expected to meet **all** of the standards within this framework.

These standards relate to **all** types of temporary accommodation to ensure that the quality of temporary accommodation is of good standard and meets all of the needs of the household.

This standards framework covers four main areas of standard levels that should be achieved by all social landlords, including local authorities: physical, location, service, and management.

⁵ Association of Local Authority Chief Housing Officers (ALACHO), the Chartered Institute of Housing (CIH), the Scottish Federation of Housing Associations (SFHA), Shelter Scotland, Scottish Women's Aid and supported by COSLA.

The following standards, built on the 2019 Homelessness Code of Guidance⁶ advisory standards, promotes that a person-centred, trauma-informed, rights-based approach should always be taken when assessing a household's needs.

Physical standards

The following details the physical standards that should apply across all tenures to ensure that the temporary accommodation provided is an adequate, safe, and secure space for the household.

This should include:

- accessible accommodation that is able to meet the needs of any disabled person⁷ within the household⁸
- accommodation that should comply with relevant housing quality standards, <u>Scottish</u>
 <u>Housing Quality Standards</u>, health and safety, hygiene, smoke, fire, furniture and
 electrical equipment legislation and regulations
- access to units that are secure with individual locks⁹ so people feel that they and their belongings are safe
- · access to facilities to secure personal mail, where appropriate
- access to sufficient bedroom space to meet the needs of the household in line with the overcrowding¹⁰ and HMO standards¹¹
- accommodation with adequate communal living space which includes, for example, space for children to play or do homework
- adequate toilet and personal washing facilities for the exclusive use¹² of the household
- access to on site laundry facilities¹³
- adequate cooking facilities¹⁴ for the needs of the household

⁷ The Equality Act 2010 <u>guidance</u> provides information to be taken into account in determining questions relating to the definition of protected characteristics, including disability. Local authorities should address the needs a household has as a result of any impairment when carrying out their functions under the <u>Public Sector Equality Duty</u>. The duty applies to the 'relevant protected characteristics' – age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex, and sexual orientation – and, to a more limited extent, to the protected characteristic of marriage and civil partnership, to ensure the accommodation is suitable.

⁶ See Annex A, page 112.

⁸ In rural areas, it may be difficult to meet accessible requirements in either the social or private sector, resulting in an offer of accommodation out with the local area, which conflicts with other standards relating to locality.

⁹ The Healthy, Safe and Secure section of Annex E in the SHQS <u>Technical Guidance</u> provides more information.

¹⁰ Under the <u>Housing (Scotland) Act 1987</u>, which is still in force, a room is available as sleeping accommodation if it is of a type normally used in the locality either as a bedroom or as a living room. SG published a <u>Practice Guide</u> on Social Housing Allocation in 2019 which provides information on the room standard

¹¹ In rural areas, <u>availability of larger properties can be a challenge</u>. Most temporary units tend to be one or two-bedroomed properties. Nevertheless, HMO standards apply.

¹² Except where the household is in Shared Tenancy Accommodation, Community Hosting and Rapid Access Accommodation. In most cases, toilet facilities in these types of accommodation will be shared with the other residents.

¹³ Laundry facilities should be safe, secure, and available for use by parents and/or their children.

¹⁴ <u>Scottish Housing Quality Standards</u> and <u>Tolerable Standards</u> provide more information on cooking facilities.

- includes a suitable standard and level of furniture to meet the household's needs, where relevant¹⁵
- is in a good standard of cleanliness and adhering to enhanced cleaning measures as set out by <u>Public Health Scotland</u> when necessary, in response to public health concerns
- provides a sufficient and affordable heating system¹⁶ at an acceptable efficiency rating
 in line with those published in the <u>Energy Efficiency Standard for Social Housing</u> and
 those for Private Rented Property
- is accessible 24 hours a day with no curfews
- includes a household assessment to consider whether the temporary accommodation offered is affordable¹⁷ by the household
- allows access to digital technologies¹⁸, where possible, to increase households' digital inclusion, enabling access to online facilities, e.g., welfare benefits, choice based letting systems, etc
- provides the means to support people to maintain relationships with their pets¹⁹; and
- facility to allow visitors²⁰, including provision for visits from children, where possible

Location standards

When considering offering a household temporary accommodation, it is important to discuss with the household the location of the property and its proximity to services and local amenities.

The following points should inform decisions on the location of temporary accommodation:

 the accommodation provided should be located so that the main essential services used by a household can be reached by foot, by public transport or by transport provided²¹ by a local authority, where possible²² - services include education,

¹⁵ Some rented accommodation is unfurnished. Suitable and Minimum furniture to be provided only where the accommodation is furnished.

¹⁶ Where possible, accounts should be held in the householder's name for reasons of consumer protection and accessing discounts and benefits. Where households are not able or allowed to put the account in their name, the local authority should ensure they can access equivalent support as provided by the Warm Homes Discount.

¹⁷ No one should be excluded from temporary accommodation on the grounds of affordability; however, affordability means different things to different households. Single parent households, of which the majority are women, are the most likely household type to live in the social rented sector, and relative poverty after housing costs is highest for single mothers. Temporary accommodation also needs to be just as affordable for working households as it is for households claiming housing benefit.

¹⁸ For example, WiFi and digital devices (either the provision of these or signposting to where they are publicly accessible, such as libraries and locality offices). The provision of mobile top-ups could also be considered. In rural areas, provision of access to digital technologies may not be available or challenging to deliver.

¹⁹ The Standards Framework cannot prescribe how people are supported to maintain relationships with their pets. Instead, each LA will need to consider how to achieve this on a case-by-case basis. An example of a pet-inclusive scheme is Paws for Thought, which is a joint initiative between Simon Community Scotland and the Dogs Trust. Additionally, each LA will need to determine what constitutes as acceptable pets, such as the type or number of pets.

²⁰ The individual LA should determine whether it would be appropriate for visitation taking into account all guidance including MAPPA.

²¹ The <u>Code of Guidance</u> on Homelessness, section 8.14 provides examples of what some local authorities offer to help households.

²² In rural, less densely populated areas, there are additional challenges that households should be aware of as most permanent accommodation is not necessarily in close proximity to supermarkets, schools, health

- school/nursery, supermarket or convenience store, doctors, dentists, support or other health providers and advice agencies (where applicable)
- the location of the property should also take into account the needs of all household members in terms of reasonable access to place of employment and formal or informal support networks²³
- cultural²⁴ or religious need should also be identified and met through the location of accommodation, where possible
- the location of the accommodation also needs to take into account the social and economic needs of the household
- an assessment of personal safety²⁵ of the household, specifically households experiencing domestic abuse²⁶ predominately women and whether the temporary accommodation being offered is in an area that is close to the perpetrator's family and/or is too far from children's school, social networks, etc where the perpetrator has left the family home, the personal safety assessment should ensure that the perpetrator is not offered temporary accommodation close to the victim or the victim's family

Service standards

For some families, a stay in temporary accommodation can be long term as they wait for a suitable permanent property to become available. It is crucial that households receive a consistent standard of service delivery and housing support in order to sustain their temporary accommodation and facilitate a move into settled accommodation. The National Care Standards provides more detail on housing support.

All tenants should have their individual needs recognised, be treated fairly and with dignity and respect, and receive fair access to housing and housing services²⁷.

Service delivery standards include:

 assess the needs of all members of the household and provide services informed by that assessment - this should be followed-up with referrals and support to enable households to engage with the relevant housing, health, education, social care service and independent²⁸ advice services

services, etc, nor is it well served by public transport. Local authorities will make best effort to accommodate households and consideration needs to be given to any location access requirements based on disability. ²³ It can be challenging for rural social landlords/local authorities to place people close to family and social networks due to the location of available properties. The risk assessment conducted as part of the housing support service and allocation process will inform the offers of accommodation made.

²⁴ Recent research published by <u>CIH</u> sets out information on the definition of cultural adequacy in relation to Human Rights.

²⁵ Assessments can also take account of risks of prejudice-based abuse, such as homophobia, biphobia, transphobia, racism, etc.

²⁶ Equally Safe: A Delivery Plan for Scotland's Strategy to prevent and eradicate violence against women and girls states domestic abuse competence should be incorporated in commissioned training resources for staff working in housing services to ensure an appropriate, safe, and consistent response to people who have experienced gender-based violence.

²⁷ The <u>Scottish Social Housing Charter's</u> outcome for what social landlords, by complying with equalities legislation, should achieve for all tenants, regardless of their protected characteristics.

²⁸ This can include referrals and support to engage with relevant support services for women and children as well as independent advice services - such as women's aid and rape crisis. Women may also be involved in criminal and civil legal action and require sign posting to legal advice and representation. In rural areas, households may have a greater distance to travel to access these support services.

- provide information about service provision in a variety of formats to assist the tenant's understanding of their right to support²⁹
- assist the tenant to exercise their rights if the support they are entitled to is not realised
- support to access different types of accommodation³⁰ allocated on the basis of gender, especially where households are experiencing domestic abuse and the accommodation is mixed gender and/or is only staffed by a single gender
- ensure staff in homeless and support services receive domestic abuse³¹ training
- provide single-gender accommodation for households experiencing domestic abuse
- offer support for households to access flexible and ongoing needs-led support, specifically where households have multiple and complex needs, and offer a case coordination approach for households where various services are involved
- offer support to access the necessary information of the appropriate services, including counselling, addictions, mental health, domestic abuse, medical, dental, optical and money/welfare advice to signpost the household to relevant and available support
- create <u>Psychologically Informed Environments</u>, where appropriate and, if required, ensuring staff have been trained in trauma informed care to ensure person-centred needs are met
- conduct regular reviews of household's needs on a case-by-case basis, agreed by the household, and taking into account any change in circumstances;
- conduct regular home visits³², where appropriate and where agreed by the household, to allow allocated officers to identify any unmet needs of the household
- ensure there is ongoing communication with the household, including easy access to housing officers to discuss issues, and ensure that any information provided is available in different formats and an interpreter is provided where necessary

Management standards

The following standards will ensure that a resident is aware of their rights and responsibilities during their stay in temporary accommodation, including any organisational procedures that they need to follow. The household should be provided with relevant information at the time of moving in or relocating to alternative temporary accommodation and supported to understand the information. Ensuring that people's rights are realised in practice with easy routes to redress and dispute resolution can help to ensure the best possible outcome for the household.

This includes ensuring:

- a legally compliant, written occupancy agreement is in place and has been explained to the household which includes an agreed minimum amount of notice (at least 24 hours) that a landlord must give before accessing a person's property/unit and under what circumstances they would give such notice
- there should be clear communication³³ about tenants' rights and what tenants can expect, to ensure people have redress this includes advising or assisting a person in

²⁹ The Housing Support Services (Homelessness) (Scotland) Regulations 2012 came into force on 1 June 2013. Regulation 2 prescribes four types of housing support services, which apply for the purposes of the 2010 duty.

³⁰ In rural areas, the accommodation options may be limited.

³¹ Domestic abuse – <u>trauma informed practice information</u>

³² In practice, it <u>may</u> not be possible to deliver regular visits in rural areas.

³³ This includes meeting the needs of people with a sensory impairment See Hear - gov.scot (www.gov.scot)

- understanding and managing their tenancy rights and responsibilities³⁴, including assisting a person in disputes about those rights and responsibilities and signposting to independent advice and advocacy
- ensure that prescribed housing support services³⁵ are provided to homeless applicants when needed³⁶, irrespective of whether a homelessness assessment has taken place or the applicant is waiting on a decision on their homelessness application, to ensure a consistent approach is taken to the provision of rights advice
- information on any house rules has been provided, including an appropriate set of procedures to demonstrate that anti-social behaviour will not be tolerated and how to report anti-social behaviour from other residents or neighbours, especially in shared accommodation
- information on the social landlord/local authority repairs procedure has been provided, including on how to report a repair, and the timescales within which a repair should be carried out. Tenants should be included in any consultation on the repair timescales for their property
- the household is provided with, or can access, all relevant information applicable to any needs of the household identified as part of the homelessness assessment process, while in temporary accommodation, and this information is available in different formats
- information on the notice period³⁷ to end an occupancy agreement, including the right to appeal, is provided
- procedures are in place to ensure there is minimum disruption to the household when moving in and out of the accommodation and the household is made aware of any support³⁸ available to help with the move
- procedures are in place to protect personal possessions and provide support, advice, and information on storage where necessary
- that residents are involved in all discussions surrounding their needs, including relocation and changes to occupancy agreements
- that households are aware of their social landlord's/local authority's complaints
 procedure, which should be clear and in various formats the way in which households
 access this information should be included in the local authority's occupancy/tenancy
 agreement, which is provided to the tenant when they are offered accommodation
- that staffing levels need to match those required to meet the services and support for
 individuals or households support and training should be made available to staff to
 ensure that they are equipped to do their jobs and can meet the requirements of the
 standards and understand the needs of people experiencing homelessness this
 applies to those staff directly employed by the local authority and those who are
 contracted to carry out the duties of the local authority

³⁶ There may be delays in completing an assessment particularly where a household member has additional support needs, which require a specialist assessment which may not be immediately available to the local authority and when the resource is managed out with the local authority.

Further detail is available at the <u>Guidance</u> on standards for TA, published by CIH/Shelter. This guidance also provides information that covers the remaining bullet points under Management Services.

³⁴ Shelter Scotland information on getting temporary accommodation from the council.

³⁵ Housing Support Services guidance.

³⁷ A minimum agreed notice period to end an occupancy agreement is required. The notice period can be flexible and based on individual circumstances, but it is suggested that in most cases this will be between 7 and 28 days. Sufficient procedural safeguards should be in place, to ensure that no one is removed from their temporary homeless accommodation on to the streets. Any decision to terminate an occupancy agreement prematurely should be communicated in writing and give rise to right to review that decision.

³⁸ This can include advice and information on moving where necessary.

•	 that households are provided with a rent statement of charges, including any additional costs that are associated with temporary accommodation and how they are paid 	



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