

# **Guidance for the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 (as amended)**

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### **Foreword**

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 and end homelessness. Ministers subsequently established the Homelessness and Rough Sleeping Action Group (HARSAG) to make recommendations on how these transformational changes could be achieved.

In June 2018, HARSAG completed their work, producing a comprehensive set of recommendations aiming to secure strategic changes at both national and local level which would help support delivery on the front-line. In November 2018, the Scottish Government and the Convention of Scottish Local Authorities (COSLA) published the Ending Homelessness Together High Level Action Plan which sets out the actions we will take in partnership with others to act on the HARSAG recommendations and realise our shared ambitions to end rough sleeping and homelessness.

The Scottish Government ran a consultation on improving Temporary Accommodation Standards from 22 May until 14 August 2019 which sought views on extending the seven-day restriction on time spent in unsuitable temporary accommodation to all people experiencing homelessness, new advisory standards for temporary accommodation and what a legally enforceable temporary accommodation standards framework should look like. A full [report](#) on the consultation analysis was published on 10 January 2020.

The Programme for Government (PfG) announced on 3 September 2019 that the Scottish Government would legislate to extend the Unsuitable Accommodation Order (UAO) to all homeless households this parliamentary year and that it would come into force in this parliamentary term. The extension means that the maximum number of days that local authorities can use unsuitable accommodation for any homeless person is 7 days and has the effect of ending stays in unsuitable accommodation, such as B&Bs, apart from in emergency situations

On 5 May 2020 legislation [SSI 2020/139](#) was laid in parliament that amended the 2014 Homeless Persons (Unsuitable Accommodation) (Scotland) Order. These changes were made in response to the Coronavirus outbreak and to give effect to the PfG commitment. While the legislation was introduced in advance of when originally planned, the temporary exceptions have provided time for Scottish Government and local authorities to work together to prepare for the change.

A Local Authority (LA) UAO Working Group was set up in May 2020 to:

- take forward preparatory work in advance of the commencement of the permanent changes to the UAO.
- establish what support can be provided to local authorities over the coming months in order to facilitate alternative accommodation options.

- support the preparation of non-statutory guidance to provide clarity around the application of the Order in practice and help to set the parameters that will ensure that in extending the Order to all homeless households that no group is disadvantaged as a result.

Wider stakeholder views were also sought and their feedback has also helped to support the development of this guidance.

On 1 September 2020, [SSI 2020/268](#) was laid which extended the temporary exceptions of the 2020/139 SSI in response to the ongoing coronavirus pandemic. More information is provided in **section 1.14** of this guidance and at **Annex A**.

As the Working Group were developing this supporting guidance to sit alongside the Order, members and wider stakeholders identified issues around the drafting of the 2020/139 Order and as a result a further SSI (Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020) was laid on 11 December 2020. Details of the [SSI 2020/419](#) are provided at **Annex B**.

Due to the continuing impact and repercussions to the housing and homelessness system of the ongoing pandemic and that the virus remains a significant threat to public health, along with the unknowns around winter pressures and Brexit, it has been necessary to extend the temporary exceptions for a further 5 months.

This means that on 13 January the Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) [2021/10](#) was laid and extends the temporary exceptions in response to the coronavirus pandemic until 30 June 2021. More information is provided at **Annex E** of this guidance.

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## 1. Introduction

1.1 The purpose of this guidance is to help guide local authorities in their duties to assist people who are threatened with or who are experiencing homelessness and aims to explain the changes that have been created by the new legislation as well as providing clarity on the definitions and exemptions to help local authorities with the implementation of the UAO extension. Local authorities should have regard to the guidance in setting their Local Housing Strategy and in their ongoing development of their Rapid Rehousing Transition Plan.

1.2 This guidance should be read and used in conjunction with all other published guidance and legislation on homelessness. This section of the UAO guidance refers to some of the various published guidance that should be considered by all local authorities where temporary accommodation has to be used, to ensure that there is a consistent approach when assessing whether temporary accommodation is suitable, is the most appropriate to meet the needs of the homeless household and offers as much choice and control to the household as to where they are placed

1.3 The Housing (Scotland) [Act 1987](#) (“the 1987 Act”), as amended, sets out the powers and duties of local authorities in dealing with applications from people seeking help on the grounds that they are homeless or threatened with homelessness including the power to make the Unsuitable Accommodation Order. [Section 37\(1\)](#) requires local authorities to have regard to Guidance issued by Scottish Ministers in the exercise of their homelessness functions and includes this guidance.

1.4 Local authorities have a statutory responsibility to prevent and alleviate homelessness and the [Code of Guidance](#) on Homelessness is a supporting document for local authority staff in carrying out relevant activities and discharging this responsibility and sets out a summary of legislative duties with supporting explanation and guidance. It is intended to support local authorities and Integrated Joint Boards dealing with homelessness policy and support staff who are responsible for making decisions on homelessness applications.

1.5 This Code also states that local authorities and other agencies should carefully record all advice and assistance offered and monitor their service in relation to their duties under the Equalities Act 2010, which protects all protected characteristics from discrimination. The Code of Guidance states that: Particular attention should be paid to ensuring that the different experiences of homelessness and service requirements of people of differing age, family background, race, disability, gender, sexual orientation and religion and belief are recognised.

1.6 It is the intention that this guidance will be incorporated into the revised Code of Guidance when produced and in the meantime it is important that this guidance is utilised by local authorities to help implement the UAO.

1.7 The Housing (Scotland) [Act 2010](#) introduced a duty, under Section 32B of the 1987 Act, on local authorities to conduct a housing support assessment for applicants who are unintentionally homeless or threatened with homelessness and

who they 'have reason to believe' need housing support services prescribed in the regulations. Local authorities need to undertake a robust risk assessment process as part of their housing support service that takes into consideration all the needs, including assessing any support needs and vulnerabilities, of the homeless household to ensure that the accommodation being offered meets the specific circumstances of the household.

1.8 Building on the 2010 Act, 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. These are for advising or assisting a person:

- with personal budgeting, debt counselling or in dealing with welfare benefit claims
- to engage with individuals, professionals or other bodies with an interest in that person's welfare
- in understanding and managing their tenancy rights and responsibilities, including assisting a person in disputes about those rights and responsibilities
- in settling into a new tenancy

1.9 The [Housing Support non statutory guidance](#) was published in June 2013 and was introduced to augment the 2010 duty and 2012 Regulations and this guidance was designed with the intention to help and support local authorities on the implementation of the duty, assist in compliance of the duty, include a review process to allow the incorporation of improvements and good practice examples over time and to help achieve the best possible outcomes for homeless households in their area.

1.10 The Guidance has been developed, and should be read, against the backdrop of the development of [Housing Options](#) approaches to prevention of homelessness with local partners in local areas and the practice that has emerged as a result of that approach. It is intended that this approach to prevention and the housing support duty should complement each other and that housing support resources should be allocated flexibly across these key objectives whilst adhering to the relevant legislation.

1.11 To assist with homelessness allocations, the Scottish Government published a [Practice Guide](#) on Social Housing Allocations in Scotland. The purpose of the guide was to offer practical assistance to LA staff responsible for reviewing, monitoring and updating allocation policies and procedures to ensure they comply with the current legislation. This guide refers to the Scottish Social Housing Charter which sets out the outcomes and standards that all social landlords should be delivering for their tenants and other customers with emphasis on ensuring that every tenant and customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services. Allocation policies should also reflect the Scottish Social Housing Charter. Landlords should ensure that their allocation policy complies with the relevant equality and human rights duties.

1.12 Some local authorities, as best practice, find that using personal housing planning as part of their housing assessment is important. To assist the LA meeting temporary and permanent accommodation that meets the household's needs, the Personal Housing Plan (PHP) may cover the family composition, previous housing history including the location and whether this was successful or not, reasons for current/previous homelessness, medical requirements and support needs, and what support is required to ensure that the applicant can sustain the settled accommodation. Having a PHP in place provides homeless households with a plan during their time in temporary accommodation and information about the options and expectations for moving to permanent accommodation.

1.13 The legislation laid in May 2020 [SSI 2020/139](#) came into immediate effect and amended the 2014 Homeless Persons (Unsuitable Accommodation) (Scotland) Order and was made in response to the Coronavirus outbreak and to give effect to the PfG commitment. Its introduction sought to ensure a move away from the use of unsuitable accommodation, such as hotels and B&Bs, but recognised the need for placements in this type of accommodation were necessary as a result of the coronavirus outbreak.

#### The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020

1.14 As the coronavirus pandemic continued, [SSI 2020/268](#) was laid that extended the temporary exceptions of the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 due to expire on 30 September 2020 for a further 4 months until 31 January 2021.

1.15 Extending the temporary exceptions until 31 January 2021 allowed LA's to continue to use certain types of temporary accommodation to ensure that homeless households have access to accommodation that enables them to physical distance and self-isolate where this is required as a direct response to the continuing pandemic.

1.16 A further exception has also been created for situations where the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area. This exception does not apply to households containing children or pregnant women, where placements in unsuitable accommodation of over 7 days are not permissible. **Annex A** of this guidance provides more detail of the extended exceptions and additional modification.

#### The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020 ([2020/419](#))

1.17 As the Working Group were developing this supporting guidance for the Unsuitable Accommodation Order, members and wider stakeholders identified issues around the drafting of Articles 4, 5 and 6 of the Order and the connection between definitions of suitability of accommodation and when exemptions should apply.

1.18 Although the guidance will help to outline the policy intention, the guidance will also explain how the Order should be interpreted and applied and after

consideration, the Working Group felt that the legislation itself needed to be amended.

1.19 As a direct response to this, and other feedback received from stakeholders, a further SSI (Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020) (2020/419) was laid on 11 December 2020 and is produced in full at **Annex B** of this guidance.

1.20 In response to the ongoing pandemic a further extension to the temporary exceptions was agreed and a further SSI was laid on 13 January 2021. The Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) [2021/10](#) came into force on 31 January 2021 and extends the temporary exceptions until 30 June 2021. This Order is reproduced at **Annex E** of this guidance.

### Rapid Rehousing Transition Plan

1.21 Rapid rehousing is the key to moving anyone experiencing homelessness into settled accommodation. It is about ensuring that people spend the shortest amount of time in temporary accommodation and are rehoused as soon as appropriate and into accommodation that is sustainable for the household.

1.22 Each LA has a live Rapid Rehousing Transition Plan (RRTP) which is reviewed on an annual basis, setting out how to address the local balance of temporary and settled housing options. Every LA is working to implement its RRTP which means that all councils must move through temporary accommodation as quickly as is appropriate. At the same time, any temporary accommodation that is used should be of a high quality through the new standards and changes to legislation, including the UAO extension to all homeless households.

1.23 Following the response to the coronavirus crisis and the immediate work undertaken by the Scottish Government, local authorities and charities moved quickly to provide self-contained emergency accommodation for hundreds of people who were rough sleeping or staying in shelters or hostels with shared facilities, it was subsequently decided to reconvene HARSAG to review the Scottish Government's planning for moving to the next phase of ensuring that people facing homelessness during the coronavirus crisis would be supported to move on from emergency accommodation to settled housing rather than going back to the street or congregate facilities.

## 2. Extending the Order to all homeless households

2.1 From 5 May 2020, [SSI 2020/139](#) extends the Unsuitable Accommodation Order to all homeless households. This extension means that the maximum number of days that local authorities can use unsuitable accommodation for any homeless person is 7 days.

2.2 Section 2 of SSI 2020/139 reflects the amendments that have been made to the [2014 Order](#), which include changing the terminology to reflect that the UAO is now extended to all homeless applicants (*Amendments to Articles 3 and 4 refer, see below*), adding in other circumstances where accommodation is classed as unsuitable and adding in other types of suitable temporary accommodation that will not be deemed unsuitable now that the UAO no longer applies solely to families with dependent children and pregnant women. The definitions set out in the Order have been further refined as a result of stakeholder feedback via the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020 (2020/419) at **Annex B**.

2.3 For ease of reference **Annex C** of this guidance provides a consolidated version of Articles 2 to 7 of the Unsuitable Accommodation Order 2014, as amended, taking account of Amendment Orders made since then.

### Article 3 of the 2014 Order (as amended)

2.4 SSI 220/139 includes an amendment to reflect that the Order has now been extended to all homeless households and therefore removes the 2014 definition where it was only applicable where an applicant was:

- (a) pregnant
- (b) a person whose household includes a pregnant woman; or
- (c) a person whose household includes dependent children

2.5 Therefore Article 3 now reads:

This Order applies to accommodation provided to an applicant under Section 29 of the 1987 Act (interim duty to accommodate an applicant who may be homeless).

### Article 4 of the 2014 Order (as amended)

2.6 SSI 2020/139 amends 4(b) of the 2014 Order to reflect that in all circumstances, accommodation is unsuitable if it is not suitable for occupation by a homeless household. The 2014 definition of 4(b) referred to being:

- (b) not suitable for occupation by children.

2.7 However, as mentioned at section 2.2 above, the SSI at Annex B has been enhanced to ensure that the needs of vulnerable people are met.

Therefore after amendment it now reads:

(b) not suitable for occupation by a homeless household, taking into account the needs of the household.

**2.8** To support local authorities in meeting the needs of vulnerable households, they could explore options for taking forward personal housing plans, as referenced in the Ending Homelessness Together action plan. This will help to assess the needs of differing homeless household groups and ensure that a person centred approach is applied.

### **3. What is unsuitable?**

3.1 The 2014 Order provided a definition of what is unsuitable accommodation for pregnant women and households with dependent children but there is no definition of unsuitable accommodation for any other type of homeless household.

3.2 The 2020/139 Order, laid in May 2020, extends the restriction of use of unsuitable accommodation for no more than 7 days to all homeless households, Articles 4 and 5 of the 2014 Order have been amended to reflect this change.

#### **Article 4 of the 2014 Order (as amended)**

3.3 The 2014 Order only provided a limited description of circumstances where accommodation is unsuitable if it is:

- (a) 'not wind and watertight' or
- (b) 'not suitable for occupation by children'

As mentioned above at section 2.6 and 2.7, Article 4(b) has been amended to apply to all homeless households and expanded to ensure the suitability needs of vulnerable people are met. However, the 2020/139 Order also extended Article 4 to include an additional circumstance where accommodation would be deemed unsuitable, where it does:

- (c) 'not meeting minimum accommodation safety standards.'

This additional category of minimum accommodation safety standards was added based on feedback given in the consultation and extends the description of 'unsuitable' to include standards specified in the enactment for accommodation in relation to health and safety, hygiene, fire, furniture and electrical equipment standards. This was added to bring the legislation up to date, highlight that other standards must be considered to ensure accommodation is suitable and is in line with the standards published at [Annex A](#) of the Code of Guidance on Homelessness.

3.4 In assessing whether accommodation is unsuitable for a homeless household, a local authority must take account of the needs of each member of the household, including any protected characteristics, equality considerations or vulnerabilities around psychological informed service delivery and childhood trauma.

3.5 In the case of children, a local authority must be satisfied that overall, the accommodation does not pose significant risk to the safety of children and ensure that the best interests of the child is met. In May 2011, [guidance](#) was published to help local authorities co-ordinate and carry out their duties in relation to children facing homelessness or threatened with homelessness to ensure that the best interests of such children are met fully and equitably across the country.

3.6 Local authorities will need to use their judgment in deciding the possible risk posed by any sort of accommodation, after carrying out a risk assessment that includes involving the applicant and covers equality considerations, the welfare and

safety of children to ensure that they are not exposed to trauma triggers, and corporate parenting duties for young adults (including homeless 16 and 17 year olds) which is applicable to the accommodation they are to be offered as well as people associated with the accommodation such as residents and workers.

### **Article 5 of the 2014 Order**

3.7 Article 5 of the 2014 Order provides a list of further circumstances, where accommodation would be deemed to be unsuitable if it is:-

- (a) 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.

3.8 The 2020/139 Order laid in May 2020 adds a further two circumstances to Article 5, where accommodation would be deemed to be unsuitable if it:-

- (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.

3.9 We will look at each of the Article 5 circumstances in turn to help provide more clarity on what each means and cross refer this to Chapter 8 of the [Code of Guidance](#) (CoG) on Homelessness which sets out a local authority's accommodation duties towards applicants who are homeless or threatened with homelessness, and guidance on how the duties are fulfilled. The chapter also includes guidance on the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014.

3.10 *It should be noted that an interim update of the CoG was published in November 2019 before the 2020 Order was laid and refers to the 2014 Order where the UAO was only applicable to families with dependent children or pregnant women, therefore the relevant Chapter 8 CoG sections provided below have been amended to bring into line with the UAO extension which applies to all homeless households.*

3.11 The definitions set out in Article 5 have been further refined as a result of stakeholder feedback and included as amendments via the SSI 2020/419, which is available at Annex B.

## Locality

3.12 Article 5 (a) stated accommodation would be deemed to be unsuitable if it is:

- (a) outwith the area of the local authority which is subject to the duty to accommodate under section 29 of the 1987 Act;

Section 8.14 of the CoG states:

*'is outwith the local authority's area. This is to prevent households being placed out of area and into accommodation where other clients may pose a risk to the household, which the local authority may not be aware of. It also helps to preserve access to support services offered by the local authority.'*

3.13 However, this can be complicated with some local authorities currently providing some accommodation outwith their local authority area. This includes applicants whose initial preference is for an out of area placement or their preference is to remain within an out of area placement and refuse an alternative offer of temporary accommodation within the local authority area, for example to minimise moves between temporary accommodation or because they are experiencing domestic abuse or external violence and require to move to another area for safety reasons.

3.14 In addition, it may be appropriate to secure an out of area placement for clients who have been excluded from accommodation options due to challenging, aggressive or violent behaviour towards other residents or staff. Although this is a short term arrangement, placements may need to extend beyond 7 days in these circumstances to allow for planning time.

3.15 Therefore, in some limited circumstances, with agreement between local authorities and **the explicit consent of the homeless household** in particular situations, it may be appropriate to provide accommodation in a different local authority area. As a result the SSI at Annex B amends Article 5(a) to state that accommodation would be deemed unsuitable where it is both—

- (i) outwith the area of the local authority which is subject to the duty to accommodate under section 29 of the 1987 Act; and
- (ii) accommodation in which the household has not agreed to be placed.

3.16 Articles 5 (b) and 5 (g) refer to the 'locality' of the accommodation and state accommodation would be deemed to be unsuitable if it:

- (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;
- (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;

Section 8.3 of the CoG states:

*'when making accommodation available, local authorities should always seek to secure long-term solutions to homelessness. This should include consideration of the wide range of factors which may impact on resettlement - in particular the household's requirements in terms of proximity to family and friends and the accessibility of healthcare, employment, education and training and support providers.'*

Section 8.14 of the CoG states:

*'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 (Some authorities provide travel expenses to families to help households access schools that may otherwise be out of reach because of the type of accommodation they are living in).'*

The CoG then goes to advise that:

*'The purpose of this is to allow households to access the same types of services that they have used in the past or can be expected to use in the near future. This is because many households who become homeless and are moved to temporary accommodation lose access to schools, and health provision. Whilst it is ideal for households to continue to be able to access the same facilities that they've accessed in the past - it is recognised that this is not always possible. So it is acceptable under this standard to ensure that similar facilities are accessible. LAs should also ensure that the facilities which are being counted as being accessible must be genuinely accessible to the household. It is no good ensuring that a household is near a GP if that particular GP will not allow the household onto their list.'*

3.17 It is clear from Chapter 8 of the CoG why the locality of facilities and services needs to be considered. It is also recognised that although it is beneficial for households to continue to be able to access their normal services, it is not always possible, specifically in rural areas. In that situation LA's should ensure that when a household is accommodated similar facilities are accessible by the homeless household, and put support in place for the household to enable them to access services.

3.18 Even with the guidance provided in the CoG, the definition of 'locality' is still open to interpretation and will vary between LA's. From discussion at the UAO LA Working Group (WG), it was suggested that in order to provide more clarity around what constitutes a 'reasonable locality' when placing homeless households in accommodation, that as best practice, a checklist of a range of factors should be considered by each LA which may be useful to help with the decision. The homeless household should be involved in this discussion giving them the opportunity to input on what is reasonable to them and allowing them to weigh up and prioritise the different factors included in the list.

The check list of factors to consider should include:

- Local geography (taking account of city / rurality context etc.)
- Family history (i.e. previous patterns of work / school travel)
- The locations which the homeless household has identified as areas in which they could be placed.
- Affordability
- Availability of transport including public transport
- Accessibility of transport (mobility issues, ability to get 4 kids on a bus etc.)
- Access to health and social care services, including relationships with service providers which are important to maintain for anyone experiencing homelessness

3.19 The WG also agreed that there should be a caveat set out for households who require to be accommodated in a different area i.e. due to Domestic Abuse ([Domestic Abuse \(Scotland\) Act 2018](#)) or harassment and again this would be up to the individual LA in discussion with the homeless household to determine what was deemed reasonable. Data shows that victims and the children of domestic abuse are at an increased risk of further abuse in the first months of separation. To help assist LA's in their response to domestic abuse a useful checklist is available within the Chartered Institute for Housing and Scottish Women Aid joint publication [Domestic Abuse: A Good Practice Guide for Social Landlords](#).

### The accommodation

3.20 Articles 5 (c) to (f) refer to other circumstances where accommodation would be deemed to be unsuitable. These criteria are most likely to apply to B&B and large congregate type accommodation such as [hostels](#) and the main purpose of this criteria is reduce the use of, and time spent in, unsuitable temporary accommodation.

- (c) lacks within the accommodation adequate toilet and personal washing facilities for the exclusive use of the household, **which meet the accessibility needs of the household;**
- (d) lacks adequate **and accessible** bedrooms for the exclusive use of the household;
- (e) is accommodation within which the household does not have the use of adequate **and accessible** cooking facilities and the use of a living room; or
- (f) is not usable by the household for 24 hours a day

3.21 Although these circumstances should be applied to temporary accommodation as per the 2014 Order, now that the Order has been extended to all households the above circumstances should be considered alongside the specific needs of the household in question, whether that be as an individual, couple or family, as all will have different accommodation requirements. Minor amendments have also been made via the 2020/419 Order at Annex B to ensure that the accessibility and suitability needs of vulnerable people are met.

3.22 Within the 2020/139 Order provision was made for accommodating needs of the various homeless groups and included other models of temporary accommodation considered suitable for specific types of homeless households.

3.23 For example where a household consists of an individual applicant it may be the case that they can be offered Shared Tenancy accommodation as an **option** (more information on Shared Tenancy is provided at section 4 of this guidance). The applicant would then be able to **choose** to share a flat with another individual, rather than alternative options offered by the local authority. The applicant would have their own bedroom but would share the bathroom, kitchen and living room. This would be classed as suitable temporary accommodation.

3.24 In reference to the circumstances 5 (c) to (f) which refer to temporary accommodation that is deemed to be unsuitable, the CoG states that LAs should use their own HMO standards when determining whether their accommodation meets the relevant standards.

Section 8.14 of the CoG refers:

- lacks adequate bedrooms and adequate toilet and personal washing facilities within the accommodation for the exclusive use of the household. **LAs should use their own HMO standards when considering if accommodation meets this standard;**
- does not have use of adequate cooking facilities. **LAs should ensure that the facilities should meet HMO standards. Note that cooking facilities can be shared with other households in the accommodation - subject to what HMO standards define;**
- does not have use of a living room **(the purpose of this is to allow any children space to play and do homework) - again, as with the cooking facilities, this does not have to be for the exclusive use of the household;**
- is not usable by the household for 24 hours a day. **The purpose of this is to prevent households being locked out of the accommodation for part of the day, as can be common practice in some sorts of temporary accommodation.**

3.25 Article 5 (h) states accommodation would be deemed to be unsuitable if it is:

- (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.

3.26 Article 5 (h) was added to the 2020/139 Order following responses to the Improving Temporary Accommodation Standards consultation of 2019. Responders, in particular those with lived experience of homelessness, wanted recognition for homeless households who may have access to non-resident children and that accommodation needs to be suitable to allow the children to visit.

3.27 Parents have statutory responsibilities and rights to help them undertake those responsibilities. Parental responsibilities and rights are set out in sections 1 and 2 of the Children (Scotland) Act 1995. They are “given” to the parents of a child in order that they can be involved in the life of, and take steps to care for and look after the child. These rights and responsibilities are not absolute, and must always be considered alongside the welfare and best interests of the child. Entitlement to parental responsibilities and rights is not automatic and can be removed by the court.

It is therefore relevant to consider individual circumstances such as existing shared care, access arrangements and whether the child is allowed to stay overnight.

3.28 As mentioned at section 3.19 of this guidance where there is domestic abuse involved the local authority needs to take this into account as part of the considerations when placing the household in accommodation. Those who have experienced domestic abuse and as a result been separated from their dependent children should wherever possible, not be placed in unsuitable accommodation as this can prevent them regaining responsibility of their children, where it fails to meet the requirements of social work services to enable children to visit or to stay overnight. In all cases any type of separation should be avoided wherever possible as this only adds to the trauma of domestic abuse that both the non-abusive parent and children have experienced and delays the rebuilding of relationships at a critical time in children's lives.

3.29 The local authority will also need to determine whether there are adequate child protection measures in place so that the continuation of domestic abuse does not continue. For children experiencing domestic abuse, coercive control can continue after separation from an abusive partner, with child contact and accompanying legal proceedings sometimes used as a way for the abusive ex-partner to be involved in the abused person's life and to continue exerting control over them and their children.

3.30 Protection for people who have experienced domestic abuse, including children and young people, requires professionals to take a Safe and Together approach to ensure that adult and child victims are safe, supported and able to begin their recovery. This should also apply within the provision and delivery of homeless temporary accommodation.

3.31 The Scottish Government and COSLA [Equally Safe Strategy](#) sets out the approach in Scotland to tackling violence against women and girls. The gendered analysis adopted does not exclude men, but rather recognises that women and girls are disproportionately affected by particular forms of violence, including domestic abuse, because they are women and girls. It is recognised that men and boys can be victims of violence and abuse too.

3.32 As part of the interim CoG published in November 2019, a set of advisory standards to be applied by local authorities to their temporary accommodation and also to any temporary accommodation provided from other providers was included. A copy of those new advisory standards is provided at **Annex D** of this guidance.

3.33 These standards relate to all types of temporary accommodation including congregate accommodation such as B&Bs, to ensure that the quality of temporary accommodation provided is of good standard and meets the needs of the household. The standards include physical standards that should apply where appropriate across all tenures to ensure that temporary accommodation is an accessible, adequate, safe and secure space for the household and should:

*'Have provision to allow visitors, including provision for visits from children, where possible'.*

3.34 As mentioned earlier it is important for local authorities to establish if there is a shared custody arrangement in place during the risk assessment process of the housing assessment ensuring that there are adequate child protection measures in place.

## 4. Exemptions

4.1 The 2014 Order provides exemptions in which accommodation that does not meet the physical and location standards may be used. **Note that the basic standard must always be met.** Local authorities may use unsuitable accommodation which does not meet the physical and location standard if one or more exceptions apply.

4.2 Those exceptions are listed in Article 6:

Article 5 does not apply 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.
- (d) the accommodation is owned by a local authority and services relating to health, child care or family welfare are provided to persons accommodated there.

4.3 The [2020/139](#) Order added a further three circumstances to Article 6 (*two are in response to coronavirus only, 6(f) and (g) refer*), as well as correcting an anomaly in the 2014 Order, whereby there was an exemption for supported accommodation (6(d)), but only where it was owned by the local authority. Since there is a wide range of supported accommodation which is owned and operated by third sector organisations the 2020 Order will allow local authorities to use supported accommodation that is not owned by them but is providing valuable services to support those who live there.

4.4 However, since 2020/139 was laid in May, three further SSI's have been needed. [SSI 2020/268](#) was laid in September 2020 and [SSI 2021/10](#) laid in January 2021, to address the extension to the temporary coronavirus exceptions as well as add another modification which means that accommodation that is not suitable can be used in certain circumstances in response to the coronavirus pandemic. **Section 4.6** and **Annex A** of this guidance provides more detail.

4.5 SSI 2020/419 at **Annex B** removes references to shared tenancies, community hosting and rapid access accommodation from Article 6(e), and instead places them within a new Article 7A.

4.6 Article 6 of the 2020/139 Order now reads:

Article 5 does not apply 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.
- (d) the local authority has secured that the accommodation has been made available and services relating to health, child care or family welfare are provided to persons accommodated there.
- (e) **removed via the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020 (2020/419)**
- (f) a person in the household has symptoms of coronavirus and the household requires to isolate (***expires on 30 June 2021***<sup>1</sup>); or
- (g) the accommodation is required to provide temporary accommodation to ensure that a distance of 2 metres can be maintained between a member of the household and a person who is not a member of the household in order to prevent the spread of coronavirus (***expires on 30 June 2021***<sup>2</sup>); or
- (h) the following conditions are both satisfied—
  - (i) the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area; and
  - (ii) the household does not include a dependent child or a pregnant woman (***expires on 30 June 2021***<sup>3</sup>); or
- (i) the following conditions are all satisfied—
  - (i) the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area;
  - (ii) the household includes either, or both, a dependent child or pregnant woman; and

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<sup>1</sup> As amended by SSI – Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) 2021/10 laid 13 January 2021.

<sup>2</sup> Refer to footnote 1.

<sup>3</sup> Refer to footnote 1.

(iii) the local authority provides the household with accommodation which does not meet the requirements of article 5 for no longer than 7 days in total in respect of that household's application.”. (**expires on 30 June 2021<sup>4</sup>**)

4.7 We will look at each of the Article 6 circumstances in turn to help provide more clarity on what each means and, where possible, cross refer this to the [Code of Guidance](#) (CoG) on Homelessness.

4.8 Article 5 of the 2020 Order does not apply where—

6 (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.

Section 8.17 of the CoG states:

*‘Exception 6(a). Where a local authority has reason to believe that an applicant may be homeless or threatened with homelessness as a result of an emergency such as a flood, fire or other disaster. **The use of unsuitable accommodation is not subject to a time limit in this case**’.*

4.9 Article 5 of the 2020 order does not apply where-

6 (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.

Section 8.18 of the CoG states:

*‘Exception 6(b). Where the local authority makes available accommodation which meets all the standards and the applicant expresses a wish to be placed in unsuitable accommodation. **This is not subject to a time limit. The purpose of this is to allow for the fact that some applicants may choose to stay in unsuitable accommodation if it offers other advantages, for example proximity to family or employment. In this circumstance the applicant must have been offered suitable accommodation by the local authority - there must have been a genuine choice made available to the applicant. In addition, this must be an informed and uncoerced decision by the applicant, it must be subject to regular review, and the applicant must have had access to independent housing advice before making the decision. Note that the standards set out in Annex A must still be met**’.*

Section 8.19 of the CoG goes on to advise:

*‘Councils should ensure that the household has sufficient time to consider whether or not they wish to stay in the unsuitable accommodation. For example, contacting the family within two days of the 7 day deadline for them to leave, and asking whether or not they want to stay or not, may not give enough time for the family to consider the offer of suitable accommodation, and obtain independent advice to inform their*

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<sup>4</sup> Refer to footnote 1.

*decision. Best practice would suggest that on the point of entry to the unsuitable accommodation, the household's options are explained to them, and they can spend the 7 days accessing housing advice and considering those options'.*

4.10 Article 5 of the 2020 order does not apply where-

- 6 (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.

Section 8.20 of the CoG states:

*'Exception 6(c). Where 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 is not a public authority or a local authority; and does not trade for profit. **The purpose of this is to allow accommodation such as women's refuges which may not meet all the standards but which nevertheless offer other advantages to the household.***

4.11 Article 5 of the 2020 order does not apply where-

- 6 (d) the local authority has secured that the accommodation has been made available and services relating to health, child care or family welfare are provided to persons accommodated there.

Section 8.21 of the CoG refers to the 2010 version of the Order and explains:

*'Exception 6(d). Where the accommodation is owned by a local authority and services relating to health, child care or family welfare are provided to persons accommodated there. **The purpose of this is to allow local authorities to continue to use accommodation which may not meet all the standards but which nevertheless offers other advantages to the household. Some LA-owned accommodation has associated services and many LAs consider it preferable for households to stay in such accommodation if they have issues which can be addressed through these support services'.***

4.12 As mentioned earlier in this section, the 2020 Order corrects an anomaly on Article 6 (d) of the Order. Whereby the original exemption covered supported accommodation, but only where it was owned by the local authority. As there is a wide range of supported accommodation which is owned and operated by third sector organisations, the 2020 amendment will allow local authorities to use supported accommodation that is not owned by them but is providing valuable services to support those who live there.

4.13 Supported accommodation can be delivered in line with the prescribed circumstances contained within the Homeless Persons Interim Accommodation (Scotland) Regulations 2002 and provides a safe, transitional housing option when people can't or don't want a mainstream tenancy of their own and benefit from the reassurance of having access to onsite support that is both planned and responsive.

4.14 Supported accommodation is often congregate style accommodation with a high level of on-site support, with residents often having their own bedroom and bathroom within a larger building, with cooking, eating, and living areas often shared with other residents. The accommodation will often deliver high standards of psychologically informed environments that actively promote the emotional and psychological wellbeing of residents which can include the creation of agreed house rules such as visitors' policies and curfews.

4.15 Additionally, as with all homeless households, those in supported accommodation will benefit from a detailed support needs assessment, tailored support plan which will be periodically reviewed, common elements of which include consideration of general health and wellbeing, budgeting, substance use, training and employment, community connections and overall preparation for tenancy sustainment.

#### **Additional exemptions**

4.16 Article 7A of the SSI (Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020) (2020/419) at Annex B, sets out the circumstances in which shared tenancies, community hosting and rapid access accommodation can be deemed to be suitable and only where the express consent of the homeless household has been given to be placed in accommodation of this type.

4.17 The decision to include these accommodation models as exemptions to the Unsuitable Accommodation Order was in direct response to the feedback received to the consultation on improving Temporary Accommodation Standards. Responders recommended other types of temporary accommodation should be included in the Order as suitable now that it extends to all homeless households. The additional types of accommodation are suitable **under certain circumstances** and for **specific homeless households only**.

4.18 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 women and households where a person who exercises parental rights in respect of a dependent child who is not part of the household**.

4.19 Article 7A of the Order now allows other accommodation model options that should be considered by local authorities as part of their homelessness portfolio and can broaden the options available to some homeless households. As the specific need of one household will vary considerably from another, these options should be carefully considered and applied and only when there is agreement with the homeless household that this is the most suitable option available for them.

4.20 This approach closely aligns with the Housing Options process that starts with housing advice when someone approaches a local authority with a housing problem. This approach means looking at an individual's options and choices in the widest sense. It features early intervention and explores all possible tenure options, including council housing, RSL's and the private rented sector.

4.21 The detailed delivery of Housing Options is dependent on local circumstances. How Housing Options is delivered will legitimately differ from one local authority area to another. However, Housing Options should be founded on a number of principles that are common to its delivery throughout Scotland's local authorities and [Housing Option](#) guidance provides the common principles and the overarching framework of Housing Options delivery.

4.22 Chapter 9 of the CoG provides guidance on the scope of the LA's advice and assistance duties and links into the Housing Option guidance already mentioned above. The principles for good quality provision of appropriate accommodation include:

- Equal opportunities - by meeting the needs of the whole community, all of the protected characteristics under the [Equalities Act 2010](#) regardless of tenure, location, and particular needs.
- Accessibility - by being available to all and provided in locations and using methods and forms of dissemination that are appropriate to particular needs.
- User-centred services - by ensuring that advice puts the needs of the service user first and is free of the views, prejudices or vested interest of the adviser or agency.
- Choice - by offering as far as possible a range of providers, including at least one that is independent of the providers of housing services, which can advocate on behalf of service users.

4.23 We will now discuss what is meant by each of three types of accommodation mentioned and case studies have been provided to aid understanding. Research shows that women often experience increased vulnerability and exploitation when faced with mixed sex temporary accommodation. This is particularly prevalent when women were in vulnerable situations such as recovering from abuse or addiction or recently released from prison. Therefore local authorities should ensure that service generated risks of gender based violence are recognised and prevented when considering placement in any model of temporary accommodation.

### **Shared Tenancy Accommodation**

4.24 Shared tenancy is a model of temporary accommodation that should be considered by local authorities now that the UAO is extended to all homeless household groups. Applicants need to agree that they are prepared to share small scale temporary accommodation, such as a temporary furnished flat, before they are placed there. In addition applicants should be involved in the decision process of who they will share the accommodation with, and there needs to be discussion about the placement being appropriate for that individual, based not only on support needs but also with regards to gender, age, and other protected characteristics.

4.25 The legislation specifically sets out that there should be a maximum number of 5 people sharing a property under this model. To date most of the local authorities that have tested this model have done so based on two people sharing. One local

authority has a property with a maximum of 5 people sharing. Where more than 2 people share then HMO (Houses in Multiple Occupancy) licensing applies. It is best practice to ensure that any accommodation that is being shared even by 2 tenants meets all of the relevant safety standards.

4.26 The LA's already using the shared tenancy model advised that identifying and matching prospective tenants is key to the success of the model and that shared tenancy is one of a range of options that are discussed with applicants as part of Housing Options interviews, with suitability for sharing being assessed by Housing Options Officers. They then have a full discussion with the client on the benefits and potential issues involved in sharing. **The final decision on whether to accept sharing rests with clients and clients are entitled to refuse this accommodation option without this being classed as the LA having discharged its duty.** More information is available at the Case Studies provided later in this section.

4.27 The accommodation used for Shared Tenancy should be of a good standard and the CoG provides a set of advisory standards to be applied by local authorities to their temporary accommodation. For ease of reference **Annex D** of this guidance provides a copy of the published advisory standards.

4.28 In Shared Tenancy accommodation, each resident should have their own bedroom (with a lockable door for privacy) with access to a kitchen, bathroom and general living space. The Shared Tenancy model specifically **excludes** any accommodation that is large scale and congregate in nature such as a hostel, due to the 5 person limit.

4.29 **Shared Tenancy should not be confused with 'shared accommodation' or 'shared house'** which are terms that are sometimes used to describe larger scale congregate accommodation with shared facilities.

4.30 The key elements of the Shared Tenancy Accommodation model include:

- Has no more than 5 people sharing accommodation
- Each person has own private bedroom (with a lockable door)
- Has access to shared kitchen, bathroom and living space
- Meets relevant accommodation standards (See Annex D of this guidance)
- Is furnished
- Is accessible 24 hours a day
- Has an appropriate Occupancy or Tenancy agreement in place
- The client has explicitly given their consent to share this type of accommodation
- The client is involved in the decision process of who they will share the accommodation with

4.31 Shared Tenancy offers potential benefits for both local authorities and residents. Where local authorities include the Shared Tenancy model in their housing strategy this will increase the choice of options available for homeless households, which may help towards addressing temporary accommodation supply issues. The Shared Tenancy model may provide residents with access to more affordable rent levels, support and companionship whilst in temporary accommodation.

4.32 Whilst Shared Tenancy accommodation must provide adequate toilet and personal washing facilities in most cases these will be shared with the other residents who have agreed to share the accommodation.

4.33 To help understand how Shared Tenancy works in practice the following case studies have been provided by local authorities who are currently using this model.

## **Case Studies**

### **Shared Tenancy Case Studies A to C**

#### **A. Highland Council**

Highland Council has a programme to reduce the use of HMO-type accommodation as a response for homeless persons and households.

One part of the response to meeting current and future demand for suitable temporary homeless accommodation is the development of temporary shared tenancies for no more than two single homeless persons, while they wait for a permanent offer of housing.

Highland Council currently has 22 council houses or flats being used as shared tenancies, with a maximum capacity of 44 single homeless applicants. Sixteen properties are in Inverness and six in Ross-shire.

The properties are a mix of 2 bedroomed flats and 3 bedroomed houses and flats.

Each property is fully furnished, including white goods, microwave, beds and bedding and vacuum cleaner.

The main benefits of the scheme for clients are:

- They will only ever be sharing with one other person
- Most properties have access to outdoor garden space
- A homelier setting than larger scale HMO accommodation
- Support and companionship while in temporary accommodation
- Reduced rent liability and improved affordability, particularly for clients in employment.

Identifying prospective tenants is key to the success of the model. This is discussed with applicants as part of Housing Options interviews. Suitability for sharing is assessed by Housing Options Officers (HOOs). They then have a full discussion with client on the benefits and potential issues involved in sharing.

Once sharers are identified and agreeable a HOO will meet them in a local cafe or other informal setting to get to know each other and discuss sharing. The final decision on whether to accept sharing rests with clients.

Each client pays a 50% share of the standard rent and service charges for the property.

If one client moves on to a permanent tenancy, then the remaining tenant is only charged their 50% share of rent and service charges. The matching exercise would then start again to find another suitable client to share the property.

### **Examples of Highland Council Accommodation**

The shared tenancy in Windsor Place, Conon Bridge is a three-bedroom end terraced house taken out of the Council's mainstream stock for use as temporary accommodation by two single people. The property has a large lounge and separate dining area, a bathroom and separate WC, and an additional third bedroom which was set up as a second lounge so both residents had access to a separate, private space for visiting family or friends. The property was fully furnished by the Council, including white goods, microwave, beds and bedding, vacuum and a television. Each of the tenant's bedrooms has a combination key pad on the door for privacy.

#### Rent, Council Tax and Service Charges

The rent liability for each of the two tenants comprises of:

- One half of the rent for a mainstream three-bedroom house
- One half of the Council's standard Homeless Service Charges for self-contained temporary accommodation
- One half of the Council Tax liability for a three-bedroom house in Highland
- One half of the estimated energy usage for a three-bedroom house
- One half of a TV licence.

At the time of writing, this worked out at £101.01 per week for each tenant in Windsor Place. This compares with £168 - £245 for a single room with shared facilities within an HMO.

#### Sign-up

A sign-up was arranged at the property with both parties and their respective HOOs. The Council's Shared Tenancy Agreement was used and the terms and conditions of the tenancy explained fully, including each tenant's rent liability.

An example of an Occupancy Agreement is available at **Annex F** of this guidance.

#### Housing Support

Housing Support referrals were made when required. The tenancy would also be supported by both tenant's Housing Options Officer as well as one of the Council's Homeless Caretakers, who visit the property on a monthly basis to catch up with the tenants.

#### Conclusion

Highland Council created its first Shared Tenancy in May 2018 and has developed and expanded such homeless provision over the last two years. In the Council's

experience to date, shared tenancies provide high quality temporary accommodation at a lower cost to the tenant and / or the Council (via reduced Housing Benefit subsidy).

In this case study example, both sharing tenants benefited from the peer support that they received from one another in the tenancy which added to the normal housing support which they each received during their homeless journey. The benefits of this was something that both tenants remarked upon during service user consultation.

We consider shared tenancies as a better response for single homeless persons than more expensive HMO room type accommodation. Young homeless clients with no previous tenancy experience become more confident and experiences in normal activities in a shared property than they would in HMO-type accommodation, and due to successful tenant matching, shared tenancies are a more supportive and enabling environment for client's

## **B. Aberdeenshire Council**

Aberdeenshire Council started to consider shared accommodation in response to a review of temporary accommodation and its affordability. There was also a drive to move away from using Bed and Breakfast (B&B) accommodation. With the introduction of the shared accommodation rate for housing benefit and universal credit, it was clear that sharing could be seen as a reasonable solution for people.

- Following discussions with the LA Housing team, a decision was taken to pilot the shared accommodation model for use as temporary accommodation rather than using it for a permanent solution.
- The accommodation identified were two-bedroom council owned properties.

This decision was taken to avoid HMO licensing requirements and hoped that there would be less management issues with only two people sharing. This would also allow for two people to be accommodated with use of only one property relieving some of the pressure on temporary accommodation across the area and ultimately eliminate B&B use.

As at 30<sup>th</sup> June 2020, Aberdeenshire Council had 16 shared properties which could accommodate a maximum of 32 people. The properties are spread all over the Aberdeenshire area.

Properties are selected using the following criteria

- 2-bedroom properties – each with lockable doors and similar size bedrooms
- Communal areas of kitchen, bathroom and living room. It was agreed not to add locks to kitchen cupboards
- Garden areas are maintained by the Council
- Properties are fully furnished with everything required to live there including kitchen crockery.

The main benefits of the scheme for clients are:

- They would not be living in B&B accommodation with a large number of other people so they will only ever share with one other person
- Most properties have access to outdoor garden space
- Support and companionship while in temporary accommodation. This has proven beneficial for those learning tenancy skills
- More affordable rent levels, particularly those under 35 and for those in employment by setting rents at local LHA rates.

### **Matching tenants**

During the initial set up of the model, a lot of time was spent discussing and coming up with how tenants for shared accommodation would be matched.

It was agreed that each potential tenant would be risk assessed. Once two applicants requiring temporary accommodation were identified as having no major concerns or behaviours, the pair would be placed together as would happen if the Council were still using B&B.

An offer of a shared temporary tenancy is seen as a reasonable offer of accommodation.

Each tenant is given their own occupancy agreement, so they are not expected to take a joint and liable approach to rent and other tenancy conditions. It also allows for flexibility as each tenant moves on to their permanent tenancies.

Rent is charged at the Local Housing Allowance shared accommodation rate per tenant, per week and includes council tax and utilities costs. This removes any complications on tenants arranging for bills to be paid. If a tenant is claiming benefit, they will have to pay towards the utilities, water and sewerage elements of the rental charge. This is broken down in their occupancy agreement.

The Accommodation Officer works with tenants at the start of the tenancy. They will provide regular support until they are comfortable the arrangement is working. Further support can be put in place where necessary. This allows for any issues to be dealt with quickly and efficiently and to help tenants settle in.

To date, there have been no major management issues relating to people sharing. Any issues reported, would have been present whether the person was sharing or not. In some cases, management issues didn't occur until a tenant was living in the property on their own.

The scheme has been successful so far and has led to a reduction in use of B&B in the area.

## **C. City Edinburgh Council**

Edinburgh run Shared Tenancy accommodation which they call Home Share, which is a pilot that has been trialled by CEC since June 2019. It offers an alternative to Shared House and Bed & Breakfast, with four to five residents sharing a house in the community. It is cheaper than Shared House and allows residents more independence and an easier work life balance particularly when working shifts and dealing with their care responsibilities with children.

The criteria to access Home Share in Edinburgh is:

- over the age of 30;
- in employment; and
- no low/support needs.

As an additional measure to reduce any potential risk, candidates also need to be in temporary accommodation to ensure that up to date information on the suitability of candidates for the scheme can be established.

At present, there are six properties being used for Home Share with a total of 26 bedrooms, with properties across the city. There are currently two females in Home Share properties with both females living in the same Home Share in a five-bedroom property.

In a Home Share property:

- Each resident shares the kitchen, bathroom, living room and dining area as well as the garden if available.
- Each resident has their own bedroom.
- Each resident has an occupancy agreement.
- The accommodation provider will assist with repairs, maintenance, keys and related issues to the property.
- All residents are responsible for cleaning their own rooms, bed linen etc.
- All residents are responsible for cleaning communal areas.

The case study below provides more details on one of the properties used as Home Share in Edinburgh.

### **Home Share Case Study in South West Edinburgh**

#### **Accommodation**

This property is a four-bedroom, mid terrace property with a large back garden. Each resident is given a front door key and a key for their own bedroom. The property has a large lounge and separate dining area, and a bathroom. The property was fully furnished by the accommodation provider, including white goods (fridge freezer, washing machine), microwave, beds and bedding, vacuum and a television. Each resident was given a front door key and a key for their own bedroom for privacy. The accommodation provider assists with repairs, maintenance, keys and related issues

to the property. All this information is provided in a welcome pack which each resident was given before moving into the property.

### **Home visits & Property Inspections**

To ensure the accommodation remains in the required condition, Temporary Accommodation Service staff routinely visit the property to carry out required health and safety checks. Housing Officers from Temporary Accommodation Service also carry out occasional checks on the property.

Each property has an allocated Housing Officer from the Home Share team who undertake most visits. The accommodation provider has legal requirements to undertake property inspections e.g. fire alarm, gas and electric testing. Residents were advised when they moved in that the accommodation provider would liaise directly with them to arrange and confirm inspections.

### **Key and Door Security**

There are no staff on site, so residents are responsible for their own keys, if a resident loses their key they have been advised to contact the accommodation provider. There may be a charge to cover costs of any replacements. The residents are advised to make sure that front and back doors are locked if no one is in the accommodation.

### **Visitors, Children and Overnight guests.**

Visitors are allowed in the accommodation, but residents are advised to be considerate to other residents. Other residents in the house may be working shifts and will appreciate it if noise is kept to a minimum during the times they have to sleep. Any visiting children are completely the residents' own responsibility and should not be left unattended. Children are not allowed to stay overnight. Residents have been instructed that overnight guests should only sleep in their own bedroom and not in any communal areas. Overnight guests should only stay a maximum of two nights a week.

### **Conclusion**

Home Share has been positively received by residents. Feedback was sought from Home Share residents in October 2019 via a questionnaire. Residents reported that this model allows them more independence and a better work life balance, particularly when working shifts and dealing with their care responsibilities for children.

### **Community Hosting**

4.34 There are a variety of different models of Community Hosting, including Nightstop, Home Share, Shared Lives and supported lodgings. Some of these are "franchised" schemes operated by a particular provider<sup>5</sup>. This type of temporary

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<sup>5</sup> <https://uk.depaulcharity.org/nightstop/>

accommodation is an option that may be considered by local authorities now that the UAO will cover all homeless groups, as single people and adult households have different needs to those with children and it follows the accommodation to meet the needs of each household group will vary.

4.35 Community Hosting **will not be suitable for every homeless household group** but is an option for some depending on their circumstances. It is often used to support individuals at a point of crisis, who do not necessarily have wider support needs. This type of accommodation could be suited to individuals with high support needs, but that would depend upon what the facilities available in the local authority area. As with any type of accommodation offered by a local authority this model as an option could be discussed with applicants as part of Housing Options interview.

4.36 The key elements of the Community Hosting model are:

- Assessment takes place to ensure that Community Hosting type of accommodation is the correct model for the person.
- Host and person are matched.
- The person agrees to be placed with a host.
- Access to own bedroom that is safe, insured and good standard (*Annex A of the CoG refers*) accommodation on a flexible basis.
- Accommodation hosts are vetted, registered and have had appropriate training (including equality training) and have a full PVG check.
- General support is provided to the person and host throughout the stay in the accommodation.
- The Community Host organisation supports the person during the day whether that be to attend school, college or work or undertake other daytime activities to address relationships, health, education and employment.

4.37 Whilst Community Hosting accommodation must provide adequate toilet and personal washing facilities, in most cases these will be shared with the host. In addition, some community hosting models such as Nightstop provide overnight accommodation only and are therefore not accessible 24 hours a day.

4.38 To help understand how Community Hosting works in practice, a case study has been provided by Rock Trust who use various models of Community Hosting. While there can be complex issues that need to be dealt with concerning the homeless person, nevertheless it is not a high risk situation and often results in a better outcome for the homeless individual as they are placed in ordinary family like environment, are semi-independent and can access support throughout their stay.

### **Community Hosting Case Study**

Rock Trust deliver an immediate access, short term community hosting service for young people in Edinburgh and West Lothian using the Nightstop model. There are now more than 30 Nightstop projects being delivered in the UK and the Nightstop Network is led by DePaul UK. The Nightstop model of community hosting offers young people, aged 16-21, who are homeless or at risk of homelessness a safe space in a family-like environment. It forms part of the Rock Trusts preventative

services, offering some time out in a safe supportive space to think, reconcile relationships or to plan the next steps.

Nightstop involves a team of trained and vetted community volunteer hosts who are willing to open up their homes to provide each guest with a private bedroom, three meals per day and a listening ear (should the young person wish to talk). Guests are hosted for a period of 1 night to 2 weeks, during which time Rock Trust will support them to either return home or secure appropriate move-on accommodation. Many of the Nightstop Hosts work full time, they provide a dinner to breakfast service for the young people with young people leaving when they do in the morning and returning at an agreed dinner time or curfew. During the day young people will continue to attend school, college or work as normal or will be supported by the Rock Trust and their partners to undertake other daytime activities to address relationships, health, education and employment.

Community hosting offers an safe, supportive alternative to other forms of emergency accommodation, both to prevent young people from becoming homeless in the first place, and to help those who have found themselves having to sleep rough.

How it works –

1. Young people can access Nightstop by coming to the Rock Trust directly. In many cases they will be referred by the housing office, school, social work and other service providers.
2. A Rock Trust project worker meets the young person and works out with them if Nightstop is the best way to help them, or whether they need another type of support.
3. If Nightstop is the most appropriate solution, the project worker and the young person discuss the potential hosts to find a match and the worker will contact them to see if they can stay with them.
4. The project worker goes with the young person to the host's home to help them settle in.
5. The young person stays with their host for as long as is needed, whilst simultaneously accessing appropriate support from the Rock Trust, usually the stay is around two weeks.
6. Rock Trust help the young person with their next steps, depending on their circumstances, this could be helping them re-unite with their family, accessing appropriate temporary accommodation, or preferably long-term accommodation.

Where hosts are trained and supported, they may be able to offer longer term stays, in a supported lodgings style service. This can enable young people the stability they require to finish the school year and their exams or to maintain their employment whilst they resolve their homelessness.

## Rapid Access Accommodation

4.39 The joint Scottish Government and COSLA Ending Homelessness Together Action Plan aims to eradicate rough sleeping and transform temporary accommodation. One of the key actions was to embed a 'no wrong door' approach and build links between frontline service providers across public services to ensure they understand the need to be part of the solution to solving homelessness for people, what actions they can take, and how this can contribute to key outcomes in their service areas. This will ensure people know where to get help, and can access support that meets their needs and puts them back on track.

4.40 The top priority when supporting people who are rough sleeping, or at risk of rough sleeping is to get them into accommodation and ensure that they are able to access the specific support that they need and Rapid Access Accommodation (RAA) aims to do that. Many of those that sleep rough experience mental health and addiction issues and these are often combined with other complex needs as a result of previous trauma, including adverse childhood experiences, and this can mean it is difficult to maintain engagement including carrying out a homelessness assessment. Engagement can be aided through the use of psychologically informed environments.

4.41 In local authority areas where they do not have rough sleepers, another model similar to RAA is in place as part of their temporary accommodation options. Immediate and short term emergency accommodation and support is provided in response to people who are homeless, not necessarily rough sleeping. Like the rapid access model there is minimal assessment carried out pre-referral and a homeless presentation/assessment is not required prior to accessing the service.

4.42 This temporary accommodation is predominantly used for single individuals, although other household types on a very small scale can be accommodated occasionally with priority for move on, is open and accessible 24 hours/7 days, with individuals receiving a housing assessment the next working day after placement.

4.43 The key requirements of the RAA model are:-

- Direct access to emergency temporary accommodation for rough sleepers and those at risk of rough sleeping without the need to complete a full homelessness application and assessment in advance
- A safe, furnished, private lockable bedroom, of a good standard
- Access to, or referral to, homelessness assessments that may take place on-site
- Access to a range of specialist support services
- Staffed by specialists with experience of dealing with complex needs
- That people are allowed to stay for as long as they need to stabilise their situation and receive the support they need to help them to move on to alternative temporary or settled accommodation

4.44 Whilst RAA is not a hostel, night shelter accommodation or a dormitory, it must provide a private lockable bedroom, in which someone can sleep and store belongings. Adequate toilet and personal washing facilities may be shared with other residents. RAA is intended to be as short-term as possible based on the best interests of the individual, and long stays because nothing else is available is not

acceptable. Lengthy stays in this type of accommodation can be extremely detrimental to people's mental health and progression.

## **Rapid Access Accommodation Case Studies**

### **City of Edinburgh Council**

In Edinburgh, the Council in partnership with the Scottish Government developed the first RAA for rough sleepers in December 2017. RAA is a service that can only be accessed by street-based outreach workers and is accessible 24 hours per day, 365 days a year, with support provided on site by partner agencies. For the purposes of the Edinburgh RAA this is to help those that are rough sleeping, where rough sleeping is understood to mean "The most extreme form of homelessness. It means people sleeping outside or anywhere not designed for human habitation for example parks, cemeteries, doorways or carparks".

Due to the success of their RAA in supporting vulnerable people in the city service Edinburgh now has 68 rooms (76 bed spaces) available in the city across 3 sites. All of the RAA accommodation has a partner agency that provides support to the residents. The services are Hopetoun House – Streetwork, the Pleasance – Salvation Army and Spring Gardens – Your Home.

A range of supports are provided within RAA. These include but are not limited to:

- Income maximisation
- Support to obtain ID
- Assistance to open a bank account
- Support to register and bid for housing
- Referrals to rehabilitation services
- Support to access specialist services

Each service operates with a high tolerance no barring policies to maintain engagement with vulnerable service users. Support providers will assist re-housing officers around contact with service users to ensure their housing application is kept live, to avoid lost contact and the need for future representation.

All services ensure that rough sleepers can leave the street and stay in RAA for however long it takes to stabilise and engage with support and alternative accommodation services. A total of 301 people have been supported across the three RAA services since they opened. This includes 212 single males, 75 single females and seven couples.

All properties have high occupancy rates ranging from 92 – 99%, with average lengths of stay ranging between 28 and 50 days. The Hopetoun RAA service is now specifically for women. This change came as a direct result from feedback from vulnerable women who highlighted female only accommodation would be a safer option; resulting in slightly lower occupancy due to holding vacancies specifically for women.

All the services have produced excellent numbers of positive outcomes for residents ranging between 60 – 70%. A positive outcome would include:

- Move to supported or alternative temporary accommodation

- Accessing long term supported accommodation
- Move to a private rented tenancy
- Housing First tenancy
- Accessing or returning to social tenancy.

The service is currently undertaking research which includes case studies to highlight the positive impact of these services on vulnerable people's lives who previously did not access services. An early example of the type of information contained in the case studies relates to a service user with additional mental health issues, with a history of offending who prior to accessing RAA had 33 temporary accommodation placements over a 3-year period and had a history of rough sleeping and challenging behaviour entered RAA in January 2019. Since then they have stabilised, have had continuous supported accommodation and is now being referred for a Housing First tenancy.

Similarly, another service user with a history of mental health and addiction issues, who had also been the victim of domestic abuse accessed RAA in December 2018. It was established that they were sleeping rough following gatekeeping issues in their tenancy. This service user remained in RAA for 6 months and is now in a supported flat and actively seeking a sheltered housing property now they are stable.

Most service users have an active substance abuse and/or mental health issue. To further develop support services for residents who are leading a chaotic lifestyle, Edinburgh Council has developed a link worker model in partnership with the Scottish Government.

The link worker will provide housing options advice and a homeless assessment for residents if required on site, rather than requiring service users to make and keep an appointment at a locality homelessness service. This service is vital in ensuring that the Council can statutorily assess and support people with recent experience of rough sleeping who are likely to have a range of complex needs and a history of non-engagement with services.

### **South Lanarkshire**

The First Stop model in South Lanarkshire is used specifically to provide emergency accommodation and support and forms a small but significant part of South Lanarkshire Council's temporary accommodation portfolio.

At First Stop minimal assessment is carried out pre-referral and a homeless presentation/assessment is not required prior to accessing the service. It is an immediate and short term response for people who are homeless and is the first solution for some. First Stop is not just aimed at those rough sleeping as there is little instances of this in South Lanarkshire, but rather a preventative resource for people who are roofless or may be at the risk of sleeping on the streets.

First Stop is predominantly for single individuals, although other household types on a very small scale can be accommodated occasionally with priority for move on, is open and accessible 24 hours/7 days, with individuals receiving a housing assessment the next working day after placement.

The properties used reach across 4 geographical areas and are provided and managed by either the local authority and/or 3rd sector organisations/charities.

South Lanarkshire has now leased university student accommodation, increasing the supply of First Stop, which will be managed by the Salvation Army as a short term response to increased demand for temporary accommodation linked to the outbreak of covid-19.

The majority of projects are staffed 24 hours and deliver general advice and support and housing access, people have their own living space with some shared facilities like kitchen.

### **Rapid Rehousing Welcome Centres**

4.45 We know that some form of emergency accommodation is always likely to be needed, but we want to ensure that this type of accommodation is short term, appropriate and of a good standard.

4.46 Part of the updated Ending Homelessness Together Action plan published in October 2020 included actions to modify night shelter provision and end the use of night shelter and dormitory style provision in future. To support this transition, rapid rehousing welcome centres are being established to replace night shelters and provide an under-one-roof and multi-agency triage service to people experiencing the most acute forms of homelessness. This could also provide rapid access to Housing First where required.

4.47 Where there is no alternative option, welcome centres will provide emergency accommodation and a bed for the night, as well as support to enable guests to move on to preferred accommodation as quickly as possible – and ideally within 24 hours.

4.48 Rapid Rehousing Welcome Centres can be included in the definition of rapid access accommodation as both models of accommodation provide similar services in that people using the centres will be offered targeted support, including for wellbeing, health and social care issues, legal rights, employment and welfare.

### **Monitoring and Compliance**

4.49 Local Authorities currently complete statistical information which include how often they use, and how long a household is placed, in unsuitable accommodation. The capture of this information will continue so that it can evidence which local authorities are in compliance of the extended UAO and also the local authorities that are in breach and the reasons behind the breaches.

## **Annex A – The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020 [SSI 2020/268](#)**

Two temporary exceptions were created via SSI 2020/139, laid in May 2020, which were due to expire on 30 September 2020. The laying of [SSI 2020/268](#) has the effect of extending these exceptions for a further four months until 31 January 2021.

At the same time a further exception has been created for cases where the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area. This exemption does not apply to households containing children or pregnant women, where placements in unsuitable accommodation of over 7 days are not permissible.

This means that until 31 January 2021 a placement will not be considered as unsuitable if:-

- a person in the household has symptoms of coronavirus and the household requires to isolate; or
- the accommodation is required to provide temporary accommodation to ensure that a distance of 2 metres can be maintained between a member of the household and a person who is not a member of the household in order to prevent the spread of coronavirus; or
- the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area, provided that where a household includes a child or a pregnant woman the household is not placed in unsuitable accommodation for more than 7 days.

Local authorities should ensure that, wherever possible, homeless households are not placed in unsuitable accommodation, such as B&Bs, for any longer than 7 days.

The first two exceptions were created specifically to address the public health needs created as a result of the outbreak of the pandemic. The third exception has been created in recognition of the indirect impacts of the outbreak which has resulted in the availability of suitable accommodation being stifled as a result of local authorities and registered social landlords being unable to turn over void properties, resulting in greater numbers of temporary placements, including the use of bed and breakfast and hotel accommodation in some parts of the country.

Placements for longer than 7 days, where the household contains a child or a pregnant woman, will be considered a breach, even where there are temporary accommodation supply issues in the local area. This has been included to ensure that families and pregnant women continue to receive preferential treatment, even during the time that the exceptions apply for.

5. *This Order has now been replaced by the Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) 2021/10 which was laid 13 January 2021 and which extends the temporary exceptions until 30 June 2021.*

**Annex B – The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020**

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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 419**

**HOUSING**

**The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020**

<i>Made</i> - - - -	9 December 2020
<i>Laid before the Scottish Parliament</i>	11 December 2020
<i>Coming into force</i> - -	31 January 2021

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 29(3) and (4) of the Housing (Scotland) Act 1987<sup>(6)</sup> and all other powers enabling them to do so.

**Citation and commencement**

This Order may be cited as the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) (No.2) Order 2020 and comes into force on 31 January 2021.

**Amendment of the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014**

—(1) The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014<sup>(7)</sup> is amended in accordance with paragraphs (2) to (5).

In article 2 (interpretation)—

(a) for the definition of “rapid access accommodation”, substitute—

““rapid access accommodation” means emergency temporary accommodation for rough sleepers, or those at risk of rough sleeping, which-

(a) contains a bedroom which is-

(i) safe, private and lockable;

(ii) furnished; and

(iii) of a good standard; and

(b) provides support to a person using that accommodation to—

(i) access benefits or other services through provision of on-site homelessness and support assessments; and

(ii) access ongoing support services, including specialist support services; and”, and

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<sup>(6)</sup> 1987 c.26. Subsections (3) and (4) of section 29 were inserted by section 9(1)(b) of the Homelessness etc. (Scotland) Act 2003 (asp 10). There are amendments to section 29 that are not relevant to this Order.

<sup>(7)</sup> S.S.I. 2014/243.

(b) for the definition of “shared tenancy accommodation”, substitute—

““shared tenancy accommodation” means accommodation which—

- (a) is shared by no more than 5 people;
- (b) is of a good standard;
- (c) is provided to residents who agree to share accommodation on a temporary basis pending placement in settled accommodation; and
- (d) in which each resident has a private and lockable bedroom.”.

In article 4(b), after “by a household” insert “, taking into account the needs of the household”.

In article 5—

for paragraph (a) substitute—

“(a) is both—

- (i) outwith the area of the local authority which is subject to the duty to accommodate under section 29 of the 1987 Act; and
- (ii) accommodation in which the household has not agreed to be placed;”.

in paragraph (c), after “household” insert “which meet the accessibility needs of the household”,

in paragraph (d), after “adequate” insert “and accessible”, and

in paragraph (e), after “adequate” insert “and accessible”.

In article 6—

in paragraph (c), after “profit;” insert “or”,

in paragraph (d), for “; or” substitute “.”,

omit paragraph (e).

After article 7, insert—

#### **“Additional exemptions from Article 5**

**7A.**—(1) Where paragraph (4) applies, accommodation in the form of community hosting is not unsuitable by virtue of article 5 despite that accommodation—

- (a) lacking adequate toilet and personal washing facilities for the exclusive use of the household;
- (b) not being usable by the household for 24 hours a day.

(2) Where paragraph (4) applies, rapid access accommodation is not unsuitable by virtue of article 5 despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

(3) Where paragraph (4) applies, accommodation which is shared tenancy accommodation is not unsuitable by virtue of article 5 despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

(4) This paragraph applies where—

(a) a household does not include either—

- (i) a pregnant woman;
- (ii) a dependent child;
- (iii) a person who exercises parental rights in respect of a dependent child who is not part of the household; and

(b) the household has agreed to be placed in the accommodation referred to in paragraph (1), (2) or (3).”.

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
9 December 2020

## Annex C – Combined Order

### The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 (as amended)

*The following is a consolidated version of Articles 2 to 7 of the Unsuitable Accommodation Order which includes amendments made through the following statutory instruments:-*

- *The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2017*
- *The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (2020/139)*
- *The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020 (2020/268)*
- *The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020 (2020/419)*
- *The Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) Order 2021(2021/10)*

#### Article 2 reads:

##### **Interpretation**

In this Order—

“the 1987 Act” means the Housing (Scotland) Act 1987;

“**household**” means the applicant and any person who resides, or might reasonably be expected to reside, with the applicant.

“**community hosting**” means the provision of a spare room and other support by a member of the community to a homeless household in crisis for a short period of time;

“**coronavirus**” means severe acute respiratory syndrome coronavirus 2 (SARS-Cov-2);

“**isolate**” in relation to a person means separation of that person from any other person in such manner as to prevent infection or contamination with coronavirus;

“**minimum accommodation safety standards**” includes standards specified in an enactment for accommodation in relation to health and safety, hygiene, fire, furniture and electrical equipment;

“**rapid access accommodation**” means emergency temporary accommodation for rough sleepers, or those at risk of rough sleeping, which—

- (a) contains a bedroom which is—
  - (i) safe, private and lockable;
  - (ii) furnished; and
  - (iii) of a good standard; and
- (b) provides support to a person using that accommodation to—

- (i) access benefits or other services through provision of on-site homelessness and support assessments; and
- (ii) access ongoing support services, including specialist support services;

**“shared tenancy accommodation”** means accommodation which—

- (a) is shared by no more than 5 people;
- (b) is of a good standard;
- (c) is provided to residents who agree to share accommodation on a temporary basis pending placement in settled accommodation; and
- (d) in which each resident has a private and lockable bedroom.”.

### **Article 3 reads**

#### **Application of this Order**

This Order applies to accommodation provided to an applicant under section 29 of the 1987 Act (interim duty to accommodate an applicant who may be homeless).

### **Article 4 reads**

#### **Unsuitable accommodation**

In all circumstances, accommodation is unsuitable if it is—

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

### **Article 5 reads**

Unless any of the circumstances in article 6 apply, accommodation is also unsuitable if it—

- (a) is both—
  - (i) outwith the area of the local authority which is subject to the duty to accommodate under section 29 of the 1987 Act; and
  - (ii) accommodation in which the household has not agreed to be placed
- (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, which meet the accessibility needs of the household;
- (d) lacks adequate and accessible bedrooms for the exclusive use of the household;
- (e) is accommodation within which the household does not have the use of adequate and accessible 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.

### **Article 6 reads**

Article 5 does not apply 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.
- (d) the local authority has secured that the accommodation has been made available and services relating to health, child care or family welfare are provided to persons accommodated there;
- (e) removed via the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020 (2020/419)**
- (f) a person in the household has symptoms of coronavirus and the household requires to isolate (***expires on 30 June 2021<sup>8</sup>***); or
- (g) the accommodation is required to provide temporary accommodation to ensure that a distance of 2 metres can be maintained between a member of the household and a person who is not a member of the household in order to prevent the spread of coronavirus (***expires on 30 June 2021<sup>9</sup>***); or
- (h) the following conditions are both satisfied—
  - (i) the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area; and
  - (ii) the household does not include a dependent child or a pregnant woman; or (***expires on 30 June 2021<sup>10</sup>***)
- (i) the following conditions are all satisfied—

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<sup>8</sup> As amended by SSI – Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) [2021/10](#) laid 13 January 2021.

<sup>9</sup> Refer to footnote 8.

<sup>10</sup> Refer to footnote 9.

- (i) the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area;
- (ii) the household includes either, or both, a dependent child or pregnant woman; and
- (iii) the local authority provides the household with accommodation which does not meet the requirements of article 5 for no longer than 7 days in total in respect of that household's application." (***expires on 30 June 2021<sup>11</sup>***)

### **Article 7 reads**

#### **Temporary accommodation**

7.—(1) Paragraph (2) applies where—

- (a) an applicant who is a person referred to in article 3 seeks accommodation from the local authority, or assistance in obtaining accommodation, out with normal business hours; or
- (b) the local authority has no accommodation suitable for such an applicant.

(2) The local authority may provide that applicant with accommodation which does not meet the requirements of article 5, but (unless article 6 disapplies article 5) for no longer than 7 days in total in respect of that person's application.

#### **Additional exemptions from Article 5**

7A.—(1) Where paragraph (4) applies, accommodation in the form of community hosting is not unsuitable by virtue of article 5, despite that accommodation—

- (a) lacking adequate toilet and personal washing facilities for the exclusive use of the household; or
- (b) not being usable by the household for 24 hours a day.

(2) Where paragraph (4) applies, rapid access accommodation is not unsuitable by virtue of article 5, despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

(3) Where paragraph (4) applies, accommodation which is shared tenancy accommodation is not unsuitable by virtue of article 5, despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

(4) This paragraph applies where

- (a) a household does not include either—
  - (i) a pregnant woman;
  - (ii) a dependent child; or
  - (iii) or a person who exercises parental rights in respect of a dependent child who is not part of the household; and

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<sup>11</sup> As amended by SSI – Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) 2021/10 laid 13 January 2021.

(b) the household has agreed to be placed in the accommodation referred to in paragraph (1), (2) or (3).”.

## **Annex D - Interim Code of Guidance on Homelessness published November 2019**

### **Extract – Advisory Temporary Accommodation Standards (Annex A)**

This guidance provides a set of advisory standards to be applied by local authorities to their temporary accommodation and also to any temporary accommodation provided from other providers. These standards relate to all types of temporary accommodation including Bed and Breakfast, to ensure that the quality of temporary accommodation is of good standard and to meet the needs of the household.

Local Authorities across Scotland utilise a diverse portfolio of temporary accommodation beyond bed and breakfast accommodation including local authority, housing association and private rented stock as well as hostels. The majority of people who are homeless are housed 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.

### **Physical standards**

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

- Be accessible and able to meet the needs of any disabled person within the household;
- Comply with relevant housing quality standards including health and safety, hygiene, fire, furniture and electrical equipment legislation and regulations;
- Provides units that are secure with individual locks so people feel that their belongings are safe;
- Provides a facility to secure personal mail, where appropriate;
- Have sufficient bedroom space to meet the needs of the household in line with the [overcrowding](#) and [HMO](#) standards;
- Have adequate communal living space which includes, for example, space for children to play or do homework;
- Have adequate toilet and personal washing facilities for the exclusive use of the household;
- Have access to on site laundry facilities;
- Have access to adequate cooking facilities for the needs of the household;
- Have a suitable standard and minimum level of furniture to meet the household's needs, where relevant;
- Have a good standard of cleanliness;
- Have a sufficient and affordable heating system at an acceptable efficiency rating in line with those published in the Energy Efficiency Standard for

[Social Housing](#) and those for [Private Rented Property](#);

- Be accessible 24 hours a day with no curfews;
- Include a household assessment to consider whether the temporary accommodation being offered is affordable by the household;
- Allow access to digital technologies (e.g. via WiFi), where possible, so households can access online facilities e.g. welfare benefits, choice based letting systems;
- Have the means to support people to maintain relationships with their pets; and
- Have provision to allow visitors, 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.

- 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 provided by a local authority. Services to include education/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 networks.
- Cultural 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; and
- An assessment of personal safety of the household, specifically households fleeing domestic abuse, predominately women, and whether the temporary accommodation being offered is in an area that is close to the perpetrators family and/or is too far from children's school, social network etc.

### **Service standards**

For some families a stay in temporary accommodation can be long term as they wait for suitable permanent property to become available. It is crucial that households receive a consistent standard of service delivery in order to sustain their temporary accommodation and facilitate a move into settled accommodation.

Service delivery standards include providing:

- Services identified by an assessment of the needs of all household members, followed up with referrals and support to engage with the relevant housing, health, education, social care services and independent advice services;
- Support to access different types of accommodation especially where households are fleeing domestic abuse and the accommodation is used by mixed sex and/or only has male or female staff;

- Support to access flexible and ongoing needs led support, specifically where households have multiple and complex needs;
- Support to access the necessary information of the appropriate services including counselling, addictions, mental health, medical, dental, optical and money/welfare advice to signpost the household to relevant and available support;
- Psychologically Informed Environments, where appropriate, and if required, ensuring staff have been trained in trauma informed care to ensure person-centred needs are met;
- Regular reviews of household's needs on a case by case basis, agreed by the household, and taking into account any change in circumstances;
- Regular and sustained home visits by allocated officers to identify any unmet needs of the household; and
- Ongoing communication with the household with easy access to Housing Officers to discuss issues, ensuring 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 procedures that they need to follow. Providing a household with relevant information at the time of moving in or relocating to alternative temporary accommodation, as well as supporting the household to understand the information can help to ensure the best possible outcome for the household.

This includes ensuring:

- A 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;
- Information on any House rules has been provided, including an appropriate set of procedures to demonstrate that anti-social behaviour will not be tolerated especially in shared accommodation such as B&B's;
- Information on the Repairs procedure has been provided;
- The household is provided with or can access all relevant information applicable to the household's requirements whilst in temporary accommodation and this information is available in different formats;
- Information on the Notice period 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 made aware of any support 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 staffing levels match those required to meet the services of the household and all staff have been appropriately trained to understand the needs of the household;
- That households are made aware of the Local Authority's Complaints procedure and how to access it; and
- That households are provided with a rent statement of charges and how they are paid, in light of the introduction of Universal Credit.

It is recommended that the advisory standards in this annex should be available in leaflet format in every individual local authority housing and homelessness office as well as publishing the standards on the local authority website.

The leaflet should be included in any information pack that the household receive when they move into temporary accommodation and it should be explained by staff that check the household into the accommodation.

It should also be distributed amongst organisations that provide independent housing advice for display in their waiting rooms in the local authority area and should be made available for publishing on public advice websites such as Citizen's Advice Scotland and Shelter Scotland.

**Annex E - The Homeless Persons (Unsuitable Accommodation) (Scotland)  
(Modification and Revocation) (Coronavirus) Order 2021**

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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 10**

**HOUSING**

**The Homeless Persons (Unsuitable Accommodation) (Scotland)  
(Modification and Revocation) (Coronavirus) Order 2021**

*Made* - - - - - *13th January 2021*  
*Laid before the Scottish Parliament* *13th January 2021*  
*Coming into force* - - - *31st January 2021*

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 29(3) and (4) of the Housing (Scotland) Act 1987<sup>(12)</sup> and all other powers enabling them to do so.

**Citation and commencement**

**1.**—(1) This Order may be cited as the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2021 and comes into force on 31 January 2021.

(2) Article 2 expires on 30 June 2021.

**Modification of the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014**

**2.**—(1) The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014<sup>(13)</sup> applies, in relation to accommodation provided to an applicant under section 29 of the Housing (Scotland) Act 1987 while this article is in force, in accordance with the modifications in paragraphs (2) and (3).

(2) Article 2 (interpretation) has effect as if—

(a) after the definition of “community hosting”, there were inserted—  
““coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-Cov-2);”, and

(b) after the definition of “household”, there were inserted—  
““isolate” in relation to a person means separation of that person from any other person in such manner as to prevent infection or contamination with coronavirus;”.

(3) Article 6 has effect as if—

(a) in paragraph (d), “or” were omitted,  
(b) in paragraph (e), for “.” there were substituted “,”, and

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<sup>(12)</sup> 1987 c.26. Subsections (3) and (4) of section 29 were inserted by section 9(1)(b) of the Homelessness etc. (Scotland) Act 2003 (asp 10). There are amendments to section 29 that are not relevant to this Order.

<sup>(13)</sup> S.S.I. 2014/243.

- (c) after paragraph (e) there were inserted—
- “(f) a person in the household has symptoms of coronavirus and the household requires to isolate;
  - (g) the accommodation is required to provide temporary accommodation to ensure that a distance of 2 metres can be maintained between a member of the household and a person who is not a member of the household in order to prevent the spread of coronavirus;
  - (h) the following conditions are both satisfied—
    - (i) the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area; and
    - (ii) the household does not include a dependent child or a pregnant woman; or
  - (i) the following conditions are all satisfied—
    - (i) the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area;
    - (ii) the household includes either, or both, a dependent child or pregnant woman; and
    - (iii) the local authority provides the household with accommodation which does not meet the requirements of article 5 for no longer than 7 days in total in respect of that household’s application.”.

### **Revocation**

—(4) The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020(14) is revoked.

The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020(15) is revoked.

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
2021

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(14) S.S.I. 2020/139.

(15) S.S.I. 2020/268.

## **Annex F - Example of a Local Authority Occupancy Agreement**

Occupancy Agreement

### **Room Occupancy Agreement**

Name of Tenant: xxxxxxxxxx

Address of Accommodation: **Room B, 38 Windsor Place Conon IV7 8BX**

Name of Landlord: The Highland Council

Landlords Address: **Portakabin, High Street, Dingwall, IV15 9TF**

The Highland Council confirms that temporary accommodation has been provided for you at **Room B, 38 Windsor Place Conon IV7 8BX** from Monday 23<sup>rd</sup> December 2019 on a week by week basis.

The cost of your accommodation per week is **£43.60**

Weekly Service Charge is **£57.20**

This is inclusive of gas and / or electric, Council Tax and TV licence.

**Total charge per week will be £101.01**

The accommodation is offered to you on the following basis:

- **You are responsible for paying the rent for this accommodation to the Council.**
- You may be able to claim Housing Benefit to help pay the rent – ask your housing officer or support worker on how to claim. We will be happy to help with this.
- **Rent or sundry debt can be paid in the following ways:**
  - 24/7 by telephone – Tenants can pay rent at a time which suits them (evenings early mornings, weekends and holidays) using the **01349 886605** number (the former 0845 602 4232 number now links to this) by using a debit or credit card.
  - 24/7 using their smart phone or other device linked to the internet – by making a payment over the internet at [www.highland.gov.uk](http://www.highland.gov.uk) by debit or credit card – tenants can do this using a smart phone, I-pad or laptop/PC. Setting up an account the first time makes this a quick and easy method of payment.
  - Tenants can also set up regular payments using their own On-line Banking facility using their payment reference number and Sort Code 82 70 13 and Bank Account number 10000652.

- At a Highland Council Service Point (using printed bar code) using a debit or credit card only (cash not accepted)
- At most post offices or any outlet displaying the Paypoint or Payzone signs; (using the plastic swipe card or printed bar code) by cash, cheque debit or credit card – some individual retailers may not accept cheques.
- By bank standing order
- By direct debit
- By deduction from salaries or wages if the tenant is a Highland Council employee.
- **If you get into difficulty paying your rent or the amenity charges, please contact your Housing Options Officer or Support Worker right away – they are there to help. Their name and contact number is at the end of this form.**
- If you want to know if you are claiming all the benefits you are due, or you are worried about debt, you can contact our Money Advice Service or Income Maximisation Service on **0800 090 1004**. You could also contact your local Citizens Advice Bureaux (CAB) - **please contact your Housing Options Officer or Support Worker for the CAB contact details.**
- You will be required to pay your rent by Friday each week.
- Once every three months we will send you a statement of your rent account. This will show the date that all rent charges were made to your account, and the dates of any payments made either by yourself or through Universal Credit.
- There is no Council Tax liability to you as the occupant.
- ***If you do not pay for this accommodation you risk being asked to leave it – no alternative accommodation will be offered and we will bill you for the amount owed.***

**What to expect from your landlord:**

- The Highland Council will be responsible for collecting rent and the day to day management within the accommodation;
- You will not be required to share a bedroom with anyone who is not part of your household;
- Before you move in, the landlord will provide you with a list of all the items and furnishings in the room and will agree this with you prior to you signing the list;

- The landlord will be responsible for maintaining the property, inside and outside, in a good state of repair. The landlord will ensure that all the furniture and furnishings in your accommodation will be in good order and fit for purpose and will take care of any repairs to furniture and furnishings which are due to normal wear and tear;
- The landlord must make sure all the correct gas and electric supply, appliance checks and any other legally required safety checks are carried out and that any remedial action identified by current safety legislation is carried out;
- The landlord will have a process in place to allow you to report repairs. This will be explained to you before you move into the property. This will include a process for reporting emergency repairs;
- The landlord will be bound by the rules of confidentiality regarding your circumstances (**Data Protection Act**).
- The landlord will have a complaints procedure which they will explain to you;

**What we expect from you:**

- You must respect the right of other tenants to have peaceful enjoyment of their accommodation. You also have the right to live safely and peacefully without being bothered or troubled by other people. If you experience problems caused by others please contact your landlord;
- You must not cause any nuisance or annoyance to other people;
- You must let the Council know if you will be staying away from the room on any night. We may end your room if we do not know where you are;
- The use and/or possession of any illegal substances will result in loss of the accommodation;
- Disruptive and/or anti-social behaviour, caused by alcohol, or otherwise, may result in the loss of the accommodation;
- You are not permitted to take your pet to the accommodation. Your Housing Options Officer or Support Worker will advise you on what to do if you have a pet;
- You are also responsible for keeping your room tidy and putting out any household rubbish for collection and using the proper containers e.g. individual wheelie bins, recycling boxes or communal bins at the property;
- You should not use any electrical appliances that are in an unsafe condition or for any other purpose other than that for which they were designed;

- You are required to take good care of the property, furniture and furnishings, failure to do so will result in recharges against you being raised and you may be asked to leave the property;
- You must not use possessions or foodstuffs belonging to other residents in the property without their permission;
- You are advised to have your personal belongings insured;
- Any anti-social behaviour will not be tolerated. You will lose your accommodation and will not be able to access any further temporary accommodation.

If you fail to observe the above conditions, your accommodation may be terminated by The Highland Council.

The Highland Council will pursue any arrears of rent and service charges and failure to pay these may lead to you being asked to leave the accommodation.

.....

I understand the above terms:

Signed .....

Date .....

Signed on behalf of the Council

..... Date .....

Your Housing Options Officer is...

Contact No:

Your Support Worker is .....

Contact No: .....



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