



LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

6th Meeting, 2021 (Session 5)

Wednesday 10 February 2021

The Committee will meet at 9.00 am in a virtual meeting which will be broadcast on www.scottishparliament.tv.

1. **Decision on taking business in private:** The Committee will decide whether to take item 9 in private.
2. **Subordinate legislation:** The Committee will take evidence on the Property Factors (Code of Conduct) (Scotland) Order 2021 [draft] from—

Kevin Stewart, Minister for Local Government, Housing and Planning, Mandy Callaghan, Head of Private Housing Services Unit, and Stephen Leetion, Senior Policy Officer, Property Factoring, Scottish Government.

3. **Subordinate legislation:** Minister for Local Government, Housing and Planning to move—S5M-23919- That the Local Government and Communities Committee recommends that the Property Factors (Code of Conduct) (Scotland) Order 2021 [draft] be approved.
4. **Subordinate legislation:** The Committee will take evidence on the Homeless Persons (Unsuitable Accommodation)(Scotland) (Modification and Revocation) (Coronavirus) Order 2021 (SSI 2021/10) from—

Kevin Stewart, Minister for Local Government, Housing and Planning, Marion Gibbs, Team Leader, Homelessness and Housing-Related Social Security Unit, and Myra Quinn, Policy Officer, Homelessness and Housing-Related Social Security Unit, Scottish Government.

5. **Subordinate legislation:** Andy Wightman to move—S5M-23878—That the Local Government and Communities Committee recommends that the Homeless Persons (Unsuitable Accommodation)(Scotland) (Modification and Revocation) (Coronavirus) Order 2021 (SSI 2021/10) be annulled.
6. **Budget and local government settlement 2021-22:** The Committee will take evidence from—

Martin Booth, Executive Director of Finance, City of Glasgow Council, representing the Society of Local Authority Chief Executives and Senior Managers (SOLACE);

Councillor Gail Macgregor, Resources Spokesperson, COSLA;

Eileen Rowand, Executive Director, Fife Council, representing Directors of Finance;

Sarah Watters, Chief Officer, Finance, COSLA.

7. **Statutory guidance laid for consultation:** The Committee will consider the following— Proposed Statutory Guidance- Sports Club Relief (SG 2021/9).
8. **Subordinate legislation:** The Committee will consider the following negative instrument- The Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2021 (SSI 2021/29)
9. **Budget and local government settlement 2021-22:** The Committee will consider the evidence heard earlier in the meeting.

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The papers for this meeting are as follows—

Agenda item 2

Note by the Clerk

LGC/S5/21/6/1

Agenda item 4

Note by the Clerk

LGC/S5/21/6/2

Agenda item 6

Note by the Clerk

LGC/S5/21/6/3

PRIVATE PAPER

LGC/S5/21/6/4 (P)

Agenda item 7

Note by the Clerk

LGC/S5/21/6/5

Agenda item 8

Note by the Clerk

LGC/S5/21/6/6

Local Government and Communities Committee

6th Meeting, 2020 (Session 5), Wednesday 10 February 2021

Subordinate Legislation

Overview of instrument

1. The following instrument, subject to affirmative procedure, is being considered at today's meeting:
 - [The Property Factors \(Code of Conduct\) \(Scotland\) Order 2021](#)

The Property Factors (Code of Conduct) (Scotland) Order 2021 (SSI/draft)

Purpose

2. This instrument requires that Scottish Ministers must from time to time prepare a draft code of conduct setting minimum standards of practice for registered property factors. This draft code should be published and then consulted upon with such bodies (as considered appropriate) and with the general public. Scottish Ministers must consider any representations about the draft made to them as a result of this consultation.
3. The existing Code of Conduct for Property Factors was published in October 2012 and, the purpose of this Order is to bring a revised Code of Conduct for Property Factors in to force. The Policy Note provides further detail on the instrument and is attached at **Annexe A**.
4. The instrument, if approved, will come into force on 16 August 2021.
5. The Committee needs to report on this instrument by 27 February 2021.

Delegated Powers and Law Reform Committee consideration

6. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on [26 January 2021](#) and [determined](#) that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Procedure

7. Under Rule 10.6.1 (a), this instrument are subject to affirmative resolution before they can be made. It is for this Committee to recommend to the Parliament whether the draft instruments should be approved.
8. The Minister for Local Government, Housing and Planning has lodged motion **S5M-23919** as (set out in the agenda) that the Committee should recommend the approval of these regulations. The Minister will attend to speak to and move the motion. Ahead of the formal debate on the motion (as part of an earlier agenda item), there will be an opportunity for members to ask the Minister and

officials questions about the background to and purpose of the Order and the Regulations.

9. At the end of the debate, the Committee must decide whether or not to agree the motion, and then report to Parliament accordingly. Such a report need only be a short statement of the Committee's recommendations.

POLICY NOTE**THE PROPERTY FACTORS (CODE OF CONDUCT) (SCOTLAND) ORDER 2021****SSI 2021/draft**

The above instrument was made in exercise of the powers conferred by section 14 of the Property Factors (Scotland) Act 2011. The instrument is subject to affirmative procedure.

Summary Box

Section 14 of the Property Factors (Scotland) Act 2011 (the Act) requires that Scottish Ministers must from time to time prepare a draft code of conduct setting minimum standards of practice for registered property factors. This draft code should be published and then consulted upon with such bodies (as considered appropriate) and with the general public. Scottish Ministers must consider any representations about the draft made to them as a result of this consultation.

The existing Code of Conduct for Property Factors was published in October 2012 and, the purpose of this Order is to bring a revised Code of Conduct for Property Factors in to force.

Legislative Background

1. The Code provides a statutory framework which encourages transparency and sets standards for how a property factor should deliver services. If a homeowner believes that their property factor has not complied with the Code, once they have given the factor a reasonable opportunity to resolve the issue, they can apply to the First Tier Tribunal for Scotland (FtT) for a determination of whether the property factor has failed to comply with the Act. The FtT may make a Property Factor Enforcement Order if they find that the property factor is in breach of the Code. In addition, the Scottish Ministers will consider compliance with the Code in deciding whether or not to accept an application for entry in the register of property factors and in any case for removal of a property factor from the register.

Policy Objectives

3. Following a period of operation, an informal review of the operation of the Code introduced in 2012 has been undertaken and a draft revised Code prepared. The revised Code seeks to improve clarity on what the code does and does not cover and highlights the importance of the maintenance of common property. It introduces overarching Standards of Practice, provides clarification on requirements in relation to written statement of services and gives additional detail on information requirements related to ending of factoring arrangements and the transition process

where a factor is due to or has taken over the management of property. To assist users and improve the consistency with which the Code is applied, a glossary of terms used in the Code has been added.

4. The proposed changes in the revised Code do not fundamentally change the aim of the Code, which is to provide a minimum set of standards that registered property factors must comply with. The revisions are expected to have positive impact for homeowners by improving transparency and making sure that they are aware of their rights and responsibilities but it is not considered that they place an undue burden on property factors.

Commencement

5. The requirements of the revised Code will come into force on 16 August 2021.

Consultation

6. The Act requires that Scottish Ministers must from ‘time to time’ prepare a draft code which should be published and then consulted upon.

7. As part of the development of the draft code, a full public consultation on the draft document was conducted from October 2017 to January 2018. This was supported by a series of consultation events attended by a range of public and private sector stakeholders affected by the operation of the Code. An analysis of the consultation responses was published on the Scottish Government’s website in June 2018. Ongoing discussions with stakeholders has taken place and in October 2020 a further, four week informal consultation was undertaken on the proposed final version of the revised Code. This included seeking views on the implementation timescales, including an option for phased implementation.

8. The information from this consultation and engagement with stakeholders has, alongside other available evidence, informed the proposed changes in the revised Code.

Impact Assessments

9. An Equality Impact Assessment and a Business and Regulatory Impact Assessment have been completed and are attached.

Financial Effects

10. The Business and Regulatory Impact Assessment (BRIA) showed that overall the introduction of the revised Code should not result in significant, ongoing additional costs to property factors.

Scottish Government
Housing and Social Justice Directorate
January 2021

Local Government and Communities Committee

6th Meeting, 2020 (Session 5), Wednesday 10 February 2021

Subordinate Legislation

Overview of instrument

1. The following instrument, subject to negative procedure, is being considered at agenda items 4 and 5 at today's meeting:
 - [Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) \(Modification and Revocation\) \(Coronavirus\) Order 2021 \(2021/10\)](#)

Procedure

2. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament. If that is also agreed to, Scottish Ministers must revoke the instrument.
3. On 15 January 2021, Andy Wightman lodged this motion—

S5M-23878: Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) Order 2021 (SSI 2021/10). That the Local Government and Communities Committee recommends that the Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) Order 2021 (SSI 2021/10) be annulled.

4. On the same day, Andy Wightman also lodged this motion—

S5M-23862: Andy Wightman, Independent: Unsuitable Accommodation Order.

That the Parliament notes that the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2017 prevents homeless applicants who are pregnant, whose household includes a pregnant woman or whose households includes dependent children from being housed in unsuitable temporary accommodation for more than seven days; understands that the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 was introduced to extend this duty to all homeless households and that the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020 provided exemptions that allowed homeless

households to be temporarily housed in hotels and bed and breakfasts for longer than seven days, if the household does not include children or pregnant applicants or children; recognises that this exemption is due to expire on 31 January 2021; calls on the Scottish Government to honour its original commitment and fully implement the Unsuitable Accommodation Order on 1 February by removing the exemptions so that everyone is entitled to suitable temporary accommodation; believes that local authorities should have access to the support and resources required to house every homeless household in decent suitable temporary accommodation, and asks the Scottish Government to prioritise urgently social housing allocations to people who are homeless and most in need and for it consider Shelter Scotland's call for the establishment of a temporary accommodation taskforce to address what it sees as the long-term issues with the supply of suitable temporary accommodation.

Local Government and Communities Committee Consideration

5. Committees do not routinely take evidence on negative instruments. However, as a motion to annul has been laid, the Committee has invited the Minister for Local Government, Housing and Planning to give evidence on the instrument at agenda item 4. This is an opportunity for the Minister to explain to the aims of the instrument and for Members to put questions to the Minister and supporting officials.
6. The Committee will then debate the motion to annul (the first of the two motions set out above) at agenda item 5. Andy Wightman will be invited to speak to and move his motion. Members, including the Minister will then have an opportunity to contribute to the debate. (Officials supporting the Minister may not take part in the debate.)
7. After Committee members and the Minister have spoken, Andy Wightman will be invited to sum up and confirm whether he wishes to press or withdraw, his motion.
8. Under Standing Orders, the debate may take no longer than 90 minutes.
9. If Andy Wightman wishes to press his motion, the Committee will be asked whether to recommend the Order be annulled. If Andy Wightman wishes to withdraw his motion, the Committee will be asked whether it objects to this.
10. The Committee will then report on the Order. The report will set out whether it recommends to the Parliament the statutory instrument should be annulled. The deadline for reporting is 15 February 2021.

Background

11. The following is taken from the instrument's policy note, which contains further detail and is attached at **Annexe A**.

12. The purpose of this Order is to extend coronavirus related exceptions created via The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 and the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020, for a further 5 months to 30 June 2021, given the ongoing impact and repercussions to the housing and homelessness system of the pandemic.
13. The Policy Note states that the extension will allow LA's to continue to use certain types of temporary accommodation to ensure that homeless households are allowed access to physical distance and self-isolate where this is required to the continuing coronavirus pandemic. As well as to permit local authorities to place households in accommodation that would otherwise be deemed as unsuitable where there was a lack of availability of suitable temporary accommodation or settled accommodation, as a result of the indirect impacts of Covid-19 on accommodation supply in the area.
14. The instrument was laid before the parliament on 13 January 2021 and came into force on 31 January 2021.
15. An electronic copy of the instrument is available at:

<https://www.legislation.gov.uk/ssi/2021/10/contents/made>
16. The Minister wrote to the Committee on 21 December to provide further information on the instrument and to explain why it would not meet the requirements of Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. The Committee also wrote to the Minister in advance of its consideration of the instrument on 18 January and the Minister replied on 22 January. This correspondence is attached at **Annexe B**. Submissions on the legislation received from COSLA (**Annexe C**) and Shelter (**Annexe D**) are also attached.

Delegated Powers and Law Reform Committee consideration

17. The Delegated Powers and Law Reform Committee (DPLRC) considered the instrument at its meeting on [26 January 2021](#), and reported it to Parliament under reporting ground (j) on the basis that it had breached the 28-day rule. In doing so, however, it noted that it was satisfied with the Scottish Government's explanation for the failure to comply with the rule.

POLICY NOTE**THE HOMELESS PERSONS (UNSUITABLE ACCOMMODATION) (SCOTLAND) (MODIFICATION AND REVOCATION) (CORONAVIRUS) ORDER 2021****SSI 2021/10**

The above instrument was made in exercise of the powers conferred by section 29 (3) and (4) of the Housing (Scotland) Act 1978(1) and all other powers enabling them to do so. The instrument is subject to negative procedure.

The purpose of this Order is to extend coronavirus related exceptions created via The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 and the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020, for a further 5 months, given the ongoing impact and repercussions to the housing and homelessness system of the pandemic.

Policy Objectives

1. The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020/139 was laid on 5 May 2020 and came into immediate effect. This legislation included temporary exceptions to allow local authorities to use certain type of temporary accommodation in response to the coronavirus epidemic. The temporary exceptions expired on 30 September 2020.
2. On 1 September 2020, SSI 2020/268 was laid which extended the temporary exceptions of the SSI 2020/139 in response to the continuing coronavirus pandemic. This means that temporary exceptions of the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 due to expire on 30 September 2020 have been extended for a further 4 months until 31 January 2021.
3. As the coronavirus pandemic continues, and now that Ministers have proposed extension of the two Scottish Coronavirus Acts in response to the ongoing impact and effects to the housing and homelessness system, it has been decided to extend the temporary exceptions of the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020/268 for at least a further 5 months.
4. Extending the temporary exceptions of the 2020/268 Order until 30 June 2021 will allow LA's to continue to use certain types of temporary accommodation to ensure that homeless households are allowed access to physical distance and self-isolate where this is required to the continuing coronavirus pandemic. As well as to permit local authorities to place households in accommodation that would otherwise be deemed as unsuitable where there was a lack of availability

of suitable temporary accommodation or settled accommodation, as a result of the indirect impacts of Covid-19 on accommodation supply in the area.

5. The changes in legislation will affect local authorities and people experiencing homelessness and the amendment contributes to the following outcomes within the National Performance Framework which are fundamental to the ambition to end homelessness in Scotland:
 - We respect, protect and fulfil human rights and live free from discrimination.
 - We tackle poverty by sharing opportunities, wealth and power more equality.
 - We live in communities that are inclusive, empowered, resilient and safe.
 - We grow up loved, safe and respected so we can realise our full potential.
 - We are well educated, skilled and able to contribute to society
6. This Order comes into force on 31 January 2021.

Background

7. Responding to the Coronavirus emergency has meant that services have had to adjust and adapt and hundreds of people previously sleeping rough or in unsuitable Bed and Breakfast accommodation (B&Bs) are now being supported in hotels, short term lets and other forms of temporary accommodation.
8. However, it is necessary to extend the temporary exceptions of the 2020/268 Order to ensure that local authorities can continue to use certain types of accommodation to ensure that homeless households are allowed access to self-isolate or access to physical distancing where this is required because of the continuing coronavirus pandemic.
9. In addition SSI 2020/268 also introduced a modification to the Order as it has been identified that the coronavirus pandemic has had an impact on the move on process for settled accommodation so local authorities are having to place households in accommodation that would normally be classed as unsuitable due to the lack of supply that has occurred because of covid-19.
10. Extension of the coronavirus exceptions of the 2020/268 Order will also allow local authorities more time to accomplish move on for households into settled accommodation, and hopefully as the pandemic decreases and becomes more manageable then local authorities will be in a position to fully deliver their exit plan.

Informal consultation on Unsuitable Accommodation Order

11. A local authority working group has been overseeing the development of guidance to support the implementation of the original 2020/139 Order and the subsequent 2020/268 and has been consulted on these changes. The Group have also liaised with a wider group of homelessness stakeholders.
12. Non-statutory guidance has been produced to support this legislation.

Impact Assessments

13. As this is an extension to the original legislation (2020/139) and subsequent legislation (2020/268) the impact assessments previously submitted apply.

Financial Effects

14. A full Business and Regulatory Impact Assessment (BRIA) was completed for the original legislation (2020/139) and still applies to this further extension.

Scottish Government,
Directorate for Housing and Social Justice
January 2021

ANNEXE B**Letter from the Minister for Local Government, Housing and Planning to the Convener of the Local Government and Communities Committee, dated 21 December 2020**

I am writing to you concerning the legislation being laid on 13 January 2021.

The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order (UAO), SSI 2021/** is made by the Scottish Ministers under sections 29(3) and (4) of the Housing (Scotland) Act 1987(a) and all other powers enabling them to do so on 13 January 2021. This instrument is subject to negative procedure. The Regulation is being laid before the Scottish Parliament on 13 January 2021 and comes into force on 31 January 2021.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.

In response to COVID-19, local authorities have had to respond in a different way to ensure that the safety of vulnerable homeless people and the wider public health need were prioritised. Rough sleepers and other homeless households have been provided with accommodation in hotels and B&B accommodation as this is the best option for them as a response to this outbreak. However, this accommodation would normally constitute a breach of the Order.

Additionally local authorities have been permitted to place households in accommodation that would otherwise be deemed as unsuitable where there was a lack of availability of suitable temporary accommodation or settled accommodation, as a result of the indirect impacts of Covid-19 on accommodation supply in the area.

As the pandemic continues, and the virus remains a significant threat to public health, there have been restrictions on local authorities and registered social landlords which have meant that void properties have not been able to be turned over in the same way, and thus allocations of both temporary and settled accommodation haven't been at the levels they needed to be.

Although voids are now being turned over and allocations to homeless households are being prioritised, the continuing impact of the additional pressures on the system since March are still being felt. Information gathered through the local authority Unsuitable Accommodation Order working group shows that whilst there have been some homeless applicants moving from temporary accommodation (including B&B) to settled tenancies, there remain challenges in progressing these during the phased exit from lockdown and the further lockdowns that have occurred have only added to the problem.

As we head into the winter months, which generally see a rise in the need for homelessness services, local authorities are also facing pressures from the impact that coronavirus has had on the production of materials and supply issues because

of lockdown and on the construction industry which has delayed plans. Local authorities also face the unknown challenges of the impact of Brexit which also needed to be factored into this decision.

It is now not only important to protect the progress that has been made, whereby people have been provided with accommodation appropriate to their need, but to ensure there is no backwards movement in local and national efforts to tackle homelessness in the aftermath of the pandemic. This means we need to develop the right framework containing appropriate measures and processes to facilitate delivery of homelessness services post COVID-19.

To do this, we need to further extend the legislation as a direct and continuing response to Covid-19. This is necessary to put in place the correct structure to aid recovery from coronavirus, providing local authorities with clarity on how they should plan their exit strategies and support a restructure of how we deal with homelessness, ensuring that all homeless households are able to be provided with high quality temporary accommodation prior to moving to a settled home.

We had hoped that a further extension would not have been required, however, given the ongoing impact and repercussions to the housing and homelessness system of the pandemic, along with the unknowns around winter pressures and Brexit, it is necessary to urgently extend the temporary exceptions for a further 5 months.

The local authority Working Group that was set up to take forward preparatory work for the implementation of the Order laid in May will continue to establish what support can be provided to local authorities over the coming months in order to facilitate alternative accommodation options. The Group has already produced non-statutory guidance to provide clarity around the application of the Order in practice and help to set the parameters that will ensure that no homeless household group is disadvantaged as a result.

Letter from the Convener of the Local Government and Communities Committee to the Minister for Local Government, Housing and Planning, dated 18 January 2021

The Committee considered [the Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment \(No 2\) Order 2020 \(SSI 2020/139\)](#) at its [meeting on 13 January 2021](#). The purpose of this Order is to make an amendment to the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014, to rectify issues identified in the drafting of the 2020/139 amendment and provide clarity to support local authorities in their duty to provide temporary accommodation.

Whilst the Committee agreed that it did not wish to make any recommendations to Parliament regarding the instrument or block its transition, we agreed to write to you for an update on measures to protect and house homeless people during the pandemic and beyond.

In [a recent letter](#), you informed the Committee of new legislation to delay requirements for local authorities to ensure that homeless people are not housed in unsuitable temporary accommodation for longer than 7 days. The new legislation will delay this requirement, which had already been delayed as a result of the pandemic, by a further 5 months. The Committee will consider this legislation at a future meeting.

In your letter, you state that there have been cases of homeless applicants moving from temporary accommodation (including B&Bs) to settled tenancies, but that challenges remain. You note that successive lockdowns have impacted on the supply of suitable temporary or settled accommodation. The Committee would welcome further detail on:

- how many people who have been in temporary accommodation have been able to move into settled housing since the first lockdown occurred in March 2020,
- your estimate of how many remain in temporary accommodation,
- of these, how many remain in unsuitable temporary accommodation;
- any other relevant data we might find helpful in putting the problem of unsuitable temporary accommodation in context. .

You also state that the delay is required “to put in place the correct structure to aid recovery from coronavirus, providing local authorities with clarity on how they should plan their exit strategies and support a restructure of how we deal with homelessness, ensuring that all homeless households are able to be provided with high quality temporary accommodation prior to moving to a settled home.”

It would be helpful if you could clarify your reference to “the correct structure to aid recovery from coronavirus”. What does this mean in the context of unsuitable temporary accommodation for homeless people and is it a reference to work to be done by local authorities or by the Scottish Government? We would also welcome clarification on what is meant by “exit strategies” by local authorities, again in the context of temporary unsuitable accommodation for homeless people. How will the Scottish Government and local authorities ensure the implementation of a model which encourages a more seamless transition to settled accommodation provision as we emerge from the pandemic?

Finally, the Committee has been made aware of reports that homeless people in temporary accommodation are being made to leave their accommodation during the day and concerns that spending considerable amounts of time outside during the winter months might have a negative health impact. In your update, it would be helpful if you could reply to these concerns. Do you understand them to be correct? If so, what can central and local government do to support people and ensure that they are safe and can practice social distancing during the colder weather.

It would be very helpful if you could provide this update in advance of the Committee’s consideration of the legislation and the Clerks to the Committee would be happy to liaise with your officials on potential dates.

Letter from the Minister for Local Government, Housing and Planning to the Convener of the Local Government and Communities Committee, dated 22 January 2021

Thank you for your letter of 18 January concerning the Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) 2021 Order ([2021/10](#)) which was laid on 13 January 2021.

You mention that the Committee considered the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 ([2020/139](#)). However, that Order was laid in May 2020 and came into force immediately. This Order extended the seven day restriction on time spent in unsuitable temporary accommodation to all people experiencing homelessness as well as adding temporary exceptions in response to the Coronavirus pandemic.

For the purposes of clarification I have outlined the legislation that was laid after 2020/139 in chronological order to clear up any misunderstanding given that between May 2020 and January 2021 four SSIs have been laid.

In September 2020, the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020 ([2020/268](#)) was laid which extended the temporary exceptions of the 2020/139 Unsuitable Accommodation Order (UAO) from 30 September 2020 until 31 January 2021.

On 11 December 2020, further legislation was laid to amend issues identified in the drafting of the 2020/139 SSI and the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No.2) Order 2020 ([2020/419](#)) achieved that. This legislation is due to come into force on 31 January 2021.

My letter of 21 December informed the Committee that it was necessary to further extend the temporary exceptions of the UAO due the continuing pandemic and threat to public health, and legislation (2021/10) was laid on 13 January extending the temporary exceptions from 31 January 2021 until 30 June 2021.

As requested in your letter of 18 January, the data from the latest Adult Protection Report shows that there were 13,815 households in temporary accommodation at the end of November 2020. This is a reduction of 306 (2%) from the 14,121 at the end of October; a decrease for a third month in a row following a period of increase.

Scottish Housing Regulator data shows that 10,590 homeless households were provided with settled accommodation for the period April to November 2020. However, this data does not specify whether those households were in temporary accommodation prior to being offered settled accommodation and the data doesn't include accommodation lets in the private rented sector. Although our statistics will be able to report on this, the information is not available yet.

Out of the 27 local authorities that provided data on the use of unsuitable accommodation over a two day period i.e. 19 to 20 January 2021, 12 have homeless households in unsuitable temporary accommodation. However, we do not have information to determine whether the unsuitable accommodation is being used in

response to Covid-19 to allow people to self-isolate. The other 15 local authorities currently do not need to use unsuitable accommodation.

When the legislation was introduced in May 2020 that extended the UAO to all homeless households, temporary exceptions were included which were in direct response to Covid-19. These exceptions were necessary to give us time to work with local authorities to prepare for the change, put in place the correct structure to aid recovery from coronavirus, provide local authorities with clarity on how they should plan their exit strategies and support a restructure of how we deal with homelessness, ensuring that all homeless households are able to be provided with high quality temporary accommodation prior to moving to a permanent settled home.

Since that legislation was laid, a local authority Working Group was set up and has taken forward preparatory work in advance of the commencement of the permanent changes to the UAO. As part of putting in place the correct structure, the Group has produced non-statutory guidance that will provide clarity around the application of the Order in practice and includes alternative accommodation options that are suitable for some homeless household groups. The guidance will be published shortly and will help local authorities set parameters to ensure that the correct structure to aid recovery is in place, it will build on their Rapid Rehousing Transition Plans (RRTP) and exit strategies that are part of the framework to deliver homelessness services and ensure that no homeless group is disadvantaged as a result.

I highlighted in my letter of 21 December that during the winter months we generally see a rise in the need for homelessness services and this is on top of the pressures that local authorities are dealing with in relation to the continuing pandemic. Although we have developed the right measures and processes, as reflected in RRTPs, more time is required to ensure there is no backward movement in local and national efforts to tackle homelessness.

With regard to the Committee's concerns that homeless people in temporary accommodation are being made to leave their accommodation during the day, we have made some initial inquiries with local authorities and frontline organisations but have not found any evidence of this practice. It would be helpful if you could share this information so that my officials can investigate this matter.

The Scottish Government continues to support homeless people throughout the pandemic and works closely with local authorities and frontline partners to put in place a co-ordinated response to protect those most in need from both the virus and cold weather. We provided over £1.5m from 24 March to 31 August 2020 to third sector organisations in Edinburgh and Glasgow to enable them to acquire emergency hotel accommodation for 1,400 people experiencing, or at risk of experiencing, homelessness.

We also provided local authorities with £95m through the communities funding package to protect and support our local communities during this crisis and £5m through the Winter Plan for Social Protection. Thanks to the strong partnership work between local authorities and their third sector partners, the small numbers of people rough sleeping or at risk of rough sleeping under the current restrictions have

immediate access to accommodation in hotels, rapid rehousing welcome centres and other self-contained accommodation.

I trust the Committee finds this response helpful.

ANNEXE C**Written Submission from COSLA**

I understand the Committee will be considering the Scottish Statutory Instrument which extends the temporary exceptions in response to the coronavirus pandemic from 31 January 2021 until 30 June 2021. I wished to provide an update on behalf of Local Government to inform the considerations of the Committee. The Committee will want to be aware of the ongoing work by Local Government as we continue to meet the challenges presented by the pandemic, while supporting and protecting our communities.

Everyone has the right to have somewhere safe and warm to call home and Local Government is committed to ensuring that everyone has a home that meets their needs. The pandemic has highlighted to us all the importance of this, and Local Government will continue to work with Scottish Government and partners through this challenging time to support the recovery of our communities. I understand that an extension to the temporary exceptions will be disappointing to some, and I would hope the committee understand that this is a decision informed through close engagement with those working on the frontline within services. We will continue to work to support people requiring or living in temporary accommodation and there are plans in place across Scotland to work towards meeting the Order as quickly as is possible.

As stated in a previous letter to the committee, Members are likely to be aware that the supply of suitable temporary and permanent accommodation has been a challenge for local authorities throughout the pandemic. The priority for Local Government, as it has been for Scottish Government, is responding to the immediate public health challenges presented by COVID-19. During the first lockdown period, void processing, non-essential repairs and works, building and related activities were paused. Due to significant efforts within the sector in terms of COVID protection measures, more of these activities have been able to continue in this period of lockdown, however it is by no means “business as usual”, for example some RSL staff are furloughed as are those working for contractors with a role in repairs and maintenance. There has therefore been a further impact on supply of local authority accommodation. Despite this, local authorities have worked closely with partners to provide support to those who are in need of accommodation and support, for example through enhanced use of technology. Continued efforts have been made to secure suitable forms of temporary accommodation to enable longer stays, working closely with individuals and families to try to provide that support. The housing system is made up of many parts, with a number of services and external organisations contributing, dependent on each other, and the Committee will want to be mindful of this and not creating additional pressures on the system.

A joint Scottish Government and COSLA working group was established to understand the action required to meet the Unsuitable Accommodation Order and the support needed to meet the order in the revised timeframe. They developed guidance and provided advice to Scottish Government and Local Government politicians on progress towards meeting the order, as well as sharing learning and good practice between authorities. I have attached below a note from the group’s most recent meeting which sets out the position of local authorities, the progress

made, ongoing challenges, plans, support required and associated risks. The purpose of this paper was to update COSLA and Ministers however it may be useful in informing the Committee's discussions.

COSLA worked closely with Scottish Government and ALACHO to enhance the protections available to tenants in temporary accommodation, and the non-statutory guidance to support the Unsuitable Accommodation Order guidance developed by the group is due to be published shortly.

It has been a really challenging period for all but those most affected are some of the most vulnerable in our communities and their needs are at the forefront of our considerations. I would like to reassure the Committee that Local Government remains committed to providing suitable accommodation those who need it. This has been an incredibly challenging period and it is important that Local Government can continue to work with partners to focus on recovering and re-building our communities.

I hope this letter is useful in informing the Committee.

Attachment: UAO Working Group– 8 December

Unsuitable Accommodation Order Working Group – Extension to Exceptions

The Unsuitable Accommodation Order Working group met on Friday 4th December to consider the progress made by local authorities towards meeting the Unsuitable Accommodation Order, the challenges they face, plans for the coming months, and support that may be required. **The group were of the clear view that an extension to the exceptions (due to end on 31 January 2021) would be required given the current situation.** With the news of a vaccine, and vaccination programme starting this month, it is hoped that as we move into the new year life and service delivery can begin to return to something that more closely resembles normality. It would seem logical to extend the exceptions to allow local authorities and partners to continue to focus their efforts on supporting the most vulnerable in our communities, and progress towards meeting the UAO in line with their plans based on their local needs and circumstances. Local Government would like to continue to work in partnership with Scottish Government to ensure the successful implementation of the Unsuitable Accommodation Order. The progress to date, the challenges, the plans and the possible support required is set out below to update politicians on the efforts taken across Scotland to support homeless households.

Introduction

The Unsuitable Accommodation Order Working group is a joint Scottish Government and COSLA group with membership including officers from local authorities across Scotland responsible for local homelessness policy and leading local service delivery. Scottish Government officials attend and provide guidance and secretariat support. The group has met a number of times since May 2020 following the decision of the Minister to bring forward the duty on councils to extend the Unsuitable Accommodation Order to all homeless households. Previous meetings of the group were jointly led by the Minister and COSLA Spokesperson and included Elected Members from across Scotland. The group was established to embed a partnership approach between local and central government in the delivery of the extension of the Unsuitable Accommodation Order to all homeless households and outline the support needed by local authorities, from Scottish Government, to meet the order in the revised timeframe. An officer-based group was established to take forward the detailed aspects of this work. Members of this officer group, and officers from local authorities not represented on the group, have provided regular updates on progress towards meeting the Order, inputted into an early warning system to demonstrate evidence of challenges facing local authorities, developed guidance and shared learning and good practice. They have also considered what Scottish Government can do to help local authorities in their efforts to ensure compliance with the Order.

The public health measures and legislation put in place in the early stages of the pandemic to minimise the spread of COVID-19 meant that the processing of social housing and many house moves were delayed. This significantly impacted on the supply of local authority accommodation, as tenants who had been scheduled or planning to move have not done so. Further, given the lockdown restrictions, the need for additional PPE and health and safety measures, void and empty properties have not been processed at the same rate as they would normally be. At the time of the Minister's

decision, and when the group was established, the length of time the public health measures and restrictions would be in place was unknown, but it was not expected that they would still be in place in December 2020. The introduction of COVID-19 restriction levels and following that the announcement that 11 local authorities would be placed in the highest level of restrictions for three weeks, has had a significant impact on service delivery. The COVID-19 public health measures and cases of staff being asked to self-isolate, along with the expected and usual winter pressures that face services, all contribute to what is expected to be an increasingly challenging and difficult period for the sector. RSLs had furloughed staff which impacts on stock transfer councils, as well as councils who are working with RSLs to provide accommodation to homeless households. The health and wellbeing of both tenants and members of our workforce have been a priority, and therefore repairs and maintenance operations have been delayed. Local authorities have continued efforts to secure suitable forms of temporary accommodation to enable longer stays, taking innovative approaches and working closely with individuals and families to try to provide the support they need. Local Government remains committed to providing suitable accommodation to individuals who need it, and the needs of our most vulnerable citizens are at the forefront of our considerations. This has been an incredibly challenging period and it is important that Local Government can continue to work with partners to focus on recovering and re-building our communities.

Progress

The [Scottish Housing Regulator](#) October data shows that from April to October the number of lets made to homeless households has increased significantly. In April, this was 308, by October this has reached 960. It also shows that the number of homeless households offered and accepting temporary accommodation has increased, from 2,853 in April to 3195 in October. The UAO working group have been collating data via an early warning system since June 2020, which shows a largely stable picture in terms of numbers in accommodation deemed unsuitable, this is despite an increase in the numbers presenting as homeless and in need of accommodation, the ongoing public health restrictions and measures, the impact on workforce and significant service delivery changes and adjustments (such as remote working).

It has been a really challenging period for all but those most affected are some of the most vulnerable in our communities. Local Government have continued efforts to secure suitable forms of temporary accommodation to enable longer stays, taking innovative approaches and working closely with individuals and families to try to provide the support they need.

Local authorities report being in a better place in terms of meeting the UAO than they were in Spring 2020 when the focus was on responding and reacting to the pandemic and increasing suitable temporary supply, however as COVID-19 restriction levels change, and with the uncertainties set out below ability to progress void work or simply to facilitate moves will continue to be challenging.

Challenges

The COVID-19 public health emergency has placed unprecedented challenges on the Social Housing System in Scotland. Local authorities have been at the forefront of ensuring that vulnerable households have had access to the emergency accommodation and support during the pandemic period. The crisis response activity during the

pandemic has undermined local authorities capacity to drive forward with the transformational agenda set out within their Rapid Rehousing Transition Plans. An increase in homeless presentations has been common across local authorities in Scotland since March 2020. The number of households in temporary accommodation remains a concern, with the figure now at 14,121 from 12,261 in April. The impact of initial public health restrictions meant access to settled accommodation was limited, resulting in a build up of the number of homeless households in temporary accommodation. Repairs and void processing have been delayed and there is a backlog of works to be completed which local authorities are working through as quickly as restrictions and workforce capacity allows. Many repairs which were deemed non-essential when restrictions were put in place in March now require much more significant and time-consuming work to complete, and in 11 local authority areas “non-essential” works are paused due to level four restrictions. Staffing issues relating to self-isolation, sickness or redeployment are also contributing to challenges faced in meeting the UAO. The private rented sector has also slowed down, further limiting options. The construction industry was obviously impacted by the public health restrictions which has meant a delay in a number of new build projects, and delay to upgrade works which were planned in order to meet the UAO. There are a number of projects where contractors have informed local authorities that completion date has slipped as a result of COVID-19 supply issues which continue to affect their workforce and supply of materials.

All of these COVID-19 related factors mean local authorities are working with reduced turnover across local authority, RSL and PRS housing so there are limited opportunities to resolve homelessness, alongside an increase, or stable levels of demand.

In addition to these challenges, local authorities are facing the usual and expected winter pressures which include often increased staff sickness, public holidays, demand increase, and possible disruptions to works as a result of poor weather conditions. The uncertainties relating to EU exit, in terms of supply of materials, workforce, impact on contractors, and wider impact on our communities must also be considered.

Despite these challenges local authorities remain committed to progressing at pace towards meeting the UAO, and most importantly ensuring individuals and families have safe, secure, warm homes to live in.

Plans

Despite the increased pressures, and the restrictions in place, local authorities are continuing to develop and implement Rapid Rehousing Transition Plans (RRTPs). There have been adjustments in response to the pandemic and the UAO. The use of RRTPs enables partnership working across the public sector as well as with the private and third sector, which has been vital in ensuring individuals and families receive the support they need to sustain tenancies. Housing First is being scaled up and implemented at pace through close partnership working. The use of phone and video contact with tenants has increased, as maintaining contact and providing support and information is an important part of prevention. In a number of local authorities, flexible emergency funds have been made available for providers and financial support and advice for tenants increased, in addition to core funding.

Local authorities have developed specific teams within services, or individuals who have the specific role of engaging with homeless households in temporary accommodation to understand and overcome any obstacles in relation to moving to permanent accommodation. There are also furniture package schemes in place as a result of these engagements. Deposit guarantee schemes in an attempt to widen access to the PRS, as well as welcome packs in properties. The increased use of Personal Housing Plans

and Support Needs Assessments have also been noted as important in enabling individuals and families to be successfully housed.

Local authorities are taking a range of measures to enable settled accommodation options for households, including “flipping” or converting tenancies which were temporary to permanent and increasing the numbers of available homes. The use of the Affordable Housing Supply Programme, purchase of second hand stock, and working with the Scottish Empty Homes Partnership have all been progressed and remain vital components of their plans alongside increasing the number temporary tenancies from the PRS, however it will take time to achieve an increase in supply. The use of shared temporary accommodation, in line with the current guidance and public health advice, has also been important, and innovative approaches to the development of this are being shared as good practice examples for local authorities to learn from each other. Other plans being put in place include contracts with the third sector to extend the Private Rented Sector leasing scheme, capital investment in existing bed and breakfast provisions to improve facilities and exempt the accommodation from the UAO, and considerations, planning and developing rapid access services.

Further support

The UAO Working Group was set up in part to establish what support could be provided to local authorities in order to facilitate alternative accommodation options.

Until the COVID-19 public health protection restrictions are lifted, business cannot return to anything that resembles normal. Even at that point, there will be a significant amount of work to do to recover services and refocus their delivery of local Rapid Rehousing Transition Plans. There is, and will continue to be, a backlog of “non urgent” repairs to get through in order to process voids and facilitate moves from temporary to settled accommodation. **In order to ensure the best outcomes for service users, and for our communities, there should be an extension to the exceptions for at least as long as the public health restrictions and levels are in place.** This will be important to allow local authorities and partners to remain focused on supporting those most in need within their communities.

Despite the challenges faced, local authorities continue to progress towards meeting the UAO, and all have plans in place to do so. The uncertainties over the past months, and the months to come, have had a significant impact on plans. This is not due to lack of commitment or willingness, but because of the need to prioritise responding to the public health emergency. Local Government seeks the support of Scottish Government to continue working in partnership to ensure the successful implementation of the extension of the Unsuitable Accommodation Order to all homeless households, which requires a further extension to the exceptions.

In terms of potential support required to meet the UAO, members of the group were asked to provide suggestions of what may be required. Suggestions included purchasing the 10,000 required to help move people from temporary to settled accommodation, however the cost was estimated to be around £750,000,000. An issue raised by the group is that rapid access accommodation is likely to comprise of self-contained bedsits type accommodation which cannot be funded via the AHSP. The provision of capital funding for temporary accommodation should be considered as capital projects could make a valuable contribution to transforming the system.

If the Minister is minded not to allow for a further extension, it would be useful to have discussions with the Scottish Housing Regulator in terms of reporting breaches in order to limit the negative impact on local authorities – and the effect that would have on tenants and service users in terms of diverting officers from service delivery.

Risks

The shared ambition that everyone in Scotland has a home that is warm, affordable and accessible and that fits their needs must be kept in mind when considering the impact of not extending the exceptions further. If there is not an extension, there will be a renewed focus on temporary accommodation, alongside widespread breaches of the UAO. Lengths of stay in temporary accommodation may lengthen as stock may need to be withdrawn from mainstream settled provision to fill the gaps in availability of temporary accommodation. There will be no benefit to service users as accommodation will become available as a result of remodeling planned which is ongoing, delayed due to the factors set out above. Whether or not the exceptions are extended, the barriers remain. There is a risk, however, of a negative impact on service users if the exceptions are not extended, as resources will be diverted away from service provision and redesign to defending any Judicial Reviews that authorities may face. That outcome is not in line with our shared ambition of ending homelessness and ensuring warm, affordable, accessible homes for everyone, and is not in the best interests of tenants and our communities.

Conclusion

The significant work undertaken by Local Government to meet the challenges presented by the pandemic, and in recovering and re-building our communities cannot be underplayed. Councils have taken decisive action to protect and support communities, people, and businesses and the Local Government workforce has adapted to reduce the disruption caused by the pandemic to everyday life. Councils have led innovative and creative responses in responding to the pandemic and will continue to take this approach to recovering services and communities, incorporating the learning and new ways of working as they refocus on their transformational Rapid Rehousing Transition Plans. Meeting statutory duties in respect of the Order, and transformation of the system towards a rapid rehousing approach are key priorities for councils, with significant improvements evidenced to date and ongoing programmes to reduce use of temporary accommodation. The commitment to meeting the UAO and the commitment to ending homelessness remain, however in order to deliver on these effectively and best support communities, an extension to the exceptions will be required.

Local Government is committed to providing suitable accommodation to individuals who need it, and the needs of our most vulnerable citizens will remain at the forefront of local considerations. This has been an incredibly challenging period and it is important that Local Government can continue to work with partners to focus on recovering and re-building our communities, therefore an extension is important to enable continued compliance with statutory duties, particularly within the wider context of uncertainty and fragility due to the public health crisis.

ANNEXE D

Written Submission from Shelter Scotland

We have significant concerns about the Scottish Government's latest SSI, which seeks to further delay the full implementation of the Unsuitable Accommodation Order (UAO) until end June 2021, allowing Local Authorities to put people in poor and inadequate living conditions, at a time when it is more important than ever to protect people's rights and to ensure they are kept safe. We are therefore calling for the SSI to be annulled.

We detailed our key concerns about extending the exemptions to the [Housing Minister](#)¹ and to the [Local Government and Communities Committee](#)². These letters shone a light on the fact that delaying the full implementation of the UAO yet again, would put many people who are the most in need of support and a suitable home at significant risk of harm.

Nearly one year on from when the pandemic started, we believe that not enough priority has been given to providing the suitable temporary accommodation required. Emergency measures at the start of the pandemic were welcomed, but we would argue there has been enough time to ensure that people are not stuck in a hotel room or a B&B. There are serious questions over what the Scottish Government and local authorities have done with the time they bought, with the previous delay to implementing the full UAO in September 2020, to ensure the provision of suitable temporary accommodation.

What we are calling for:

We are calling for this SSI to be annulled, and instead we are asking the Scottish Government to fulfil the commitment made in spring last year to extend the Unsuitable Accommodation Order to all households. Local Authorities should be provided with the appropriate support in order to comply with this new legislation. This was the promise made to homeless individuals in May last year, and it is only right that it is fulfilled – particularly given the previous delay.

In addition to this we are calling for:

- **more social rented housing lets to be offered to homeless people**
- **the Housing Minister to set up a National Temporary Accommodation Taskforce to take a national view of the demand and supply of temporary accommodation and consider ways to secure more tenancies from Registered Social Landlords as a top priority.**

Key issues:

- 1) The Scottish Government should not be placing the burden of Scotland's housing emergency and the public health emergency onto the backs of some of the most at-risk individuals in our society. The Scottish Government pledged to bring in the full UAO by the end of this parliament. In the wake of Covid-19, they then pledged to bring it forward to October last year. They then moved this back to the end of January 2021. They are now pushing this back even beyond the end of this parliamentary term. Continually moving the goalposts on people's rights is unacceptable.

¹ [Letter from Shelter Scotland to the Housing Minister](#), 12 January 2021.

² [Letter from Shelter Scotland to the Local Government and Communities Committee](#), 15 January 2021.

- 2) The choice facing the Scottish Government and local authorities, and the choice now coming before the Local Government and Communities Committee, is not a straight choice between hotels and B&Bs or being on the streets. That has never been the case, and it is wrong to portray it as such. There are homes available for people to move into – hotels, B&Bs and unsuitable temporary accommodation are not the only options. A hotel room is not a home and we cannot, in good conscience, support keeping hundreds of people long term in a harmful situation solely due to a lack of political will to secure the suitable temporary accommodation required and utilise the affordable homes that do exist in the system and make them available to those who need them most.

The Housing Minister has rightly emphasised how important it is for social sector allocations to go to homeless households. But according to recent Scottish Housing Regulator stats, on average only 39% of allocations are going to homeless households. This is despite the Housing Minister telling the Committee in September that he has:

“asked local authorities and RSLs to ensure that 80 to 90 per cent of allocations go to homeless people, folks who have fled domestic violence and other vulnerable people.”³

There is clearly a blockage in the system – and homeless households are being forced to pay the price for this with long stays in unsuitable temporary accommodation. People need homes, not B&Bs and hotel rooms.

The fact that the recent budget did not see a commitment to further funding for temporary accommodation suggests that this long-term issue is not being given the priority it needs.

- 3) It is our belief that there is a fundamental lack of understanding of the conditions people in unsuitable temporary accommodation face – and that these extensions do not just mean somebody has to live in a hotel room for a short while before getting a permanent home.

Through our helpline and community hubs, we hear from people day in, day out about the horrendous conditions they are facing in some temporary accommodation such as B&Bs and hotels – from the poor quality of the accommodation, lack of space, lack of access to facilities, to the imposition of arbitrary curfews that can impact on people’s ability to earn a wage. Often it is a chaotic environment with anti-social behaviour that none of us would feel comfortable being around.

Our services have also seen cases of individuals being stuck in this temporary accommodation for significant lengths of time – and suffering as a result. **“Brutal”**. **“Horrendous”**. **“Soul-destroying”**. That is what some of our service users have told us about their experiences of temporary accommodation.

When people report that **they feel safer sleeping rough, even in winter, rather than being in this temporary accommodation** – it is very clear that some temporary accommodation is not fit for purpose and leaves people at high risk of harm. This is the reality of unsuitable temporary accommodation and by extending the UAO exemptions

³ [Official Report](#), Local Government and Communities Committee meeting, 23 September 2020.

yet again, this gives a green light to local authorities to put more homeless people into these precarious situations.

- 4) The problems with unsuitable temporary accommodation did not emerge during the Coronavirus pandemic and it is disingenuous to portray these delays as measures to mitigate against the further spread of Coronavirus. The Scottish Government has been planning to extend the UAO to all households for some time, and Local Authorities have been aware of these plans throughout the process. The reality is that we face a choice between strengthening the rights of thousands of severely at-risk individuals across the country, who need the support of local and national government now more than ever, or continuing to force these individuals to pay the price for decades of failings in Scotland's housing and homelessness systems.
- 5) Providing suitable temporary accommodation is not a new problem for some local authorities, who have consistently failed in their legal duty to prioritise housing need and therefore ensure the provision of safe suitable temporary accommodation. Supply of temporary accommodation has therefore been limited in some areas since before the coronavirus pandemic, however, homeless households' rights have never before been contingent on this.

Being placed in unsuitable temporary accommodation can have a significant impact on people's mental and physical health and wellbeing, and we would argue that in the current situation we should be ensuring that people's rights are strengthened.

Shelter Scotland regularly relies on the Unsuitable Accommodation Order to enforce households' rights to suitable accommodation, and the inclusion of an additional exemption, which allows LAs to use unsuitable temporary accommodation if they do not have enough suitable temporary accommodation, directly undermines our ability to do this. **It is our belief that the inclusion of temporary accommodation supply issues, with no time limit, in secondary legislation, places the resources of local authorities as of greater importance than the rights of homeless individuals.**

Questions for the Minister:

- 1) What concrete steps have been taken to date by the Scottish Government to ensure local authorities are able to comply with the new Order, as extended in May 2020? What has been done by Local Authorities and the Scottish Government to bring temporary accommodation stocks up to the required standard or acquire more?
- 2) Can the Minister confirm the level of allocations going to homeless households, how can this be improved and LAs be supported to ensure people are getting out of temporary accommodation as soon as possible?
 - a. Have LAs taken sufficient steps to increase their supply of suitable temporary accommodation? Have they provided evidence of this and what the level of need is?
 - b. Is the Minister satisfied that the said evidence justifies the extension of the coronavirus exemptions to 30 June 2021?
- 3) Can the Minister confirm that the rights of families and pregnant women to suitable temporary homeless accommodation will not be diluted?
- 4) Will all reasonable steps be taken to start assessing the impact of unsuitable accommodation on disabled homeless persons?

- 5) Can the Scottish Government confirm that in order to address the issues with temporary accommodation that allocations to homeless households will be prioritised and increased?
- 6) The guidance for the UAO was published on 31st January 2021, but there has also been a suggestion that there will also be publication of 'user-friendly' guidance for local authority practitioners. Would the Minister outline when he expects this to be published, and whether key stakeholders such as Shelter Scotland will be consulted on this?

Local Government and Communities Committee
6th Meeting (Session 5), Wednesday 10 February 2021
Budget scrutiny 2021-22: Note by the Clerk

Introduction

1. The Committee will be taking evidence from a panel of senior local government representatives on the Scottish Government's just published budget proposals for the coming financial year and its associated "local government settlement", providing additional detail on proposed local government funding for next year. Local authorities deliver a range of services, largely paid for through direct Scottish Government funding.
2. The local government grant is one of the biggest components of Scottish Government budget spending. It stood at £10.7 billion in 2020/21. There has also been additional funding in the past year in response to the COVID-19 pandemic.
3. COVID-19 has brought unprecedented challenges to councils. These include rises in demand for some services, changes to how services are delivered and reductions in council revenues. COVID-19 has highlighted the crucial role local government plays in delivering services to the people of Scotland.

Local Government and Communities Committee Pre-Budget scrutiny

4. Committees are expected to carry out pre-budget scrutiny during the preceding financial year, so as to contribute to the debate on Scottish Government budgetary priorities, and help shape the outcome.
5. In 2020, the Committee agreed to make the impact of COVID-19 on the financial sustainability of Scotland's councils the main theme of its pre-budgetary scrutiny. It sought to do so within the wider context of the long-term financial sustainability of Scottish local government, which was the main theme of the Committee's scrutiny [last year](#). In that work, the Committee noted the increasing financial pressures already at work on councils, explained by factors including demographic changes and an increase in the number of statutory responsibilities being placed on councils. The local government sector has had concerns over recent year that funding has not kept pace with demand.
6. This work would also build on [evidence-gathering on COVID-19 and local government](#) that the Committee carried on during the early lockdown period.
7. Alongside considering urgent funding matters arising from the crisis, the Committee has also been interested in exploring views on the "new normal" in local government once the current public health crisis is over; for example, have new ways of delivering some council services or practicing local democracy emerged during the past year and might any of these become permanent?
8. A [call for evidence](#) was issued on 23 July and written submissions can be found [here](#).

9. On [28 August 2020](#) the Committee held its annual evidence session with The Accounts Commission on the Commission's [Local Government in Scotland Overview 2020](#) report which was published on 23 June 2020.
10. On [30 September 2020](#) the Committee heard from witnesses giving a service users' perspective, and representatives of council employees and the housing and voluntary sectors. On [7 October 2020](#) it heard from a range of local authorities offering an island, rural and city perspective, as well as from COSLA and other bodies giving evidence at this meeting.
11. The Committee [wrote to the Cabinet Secretary for Communities and Local Government on 17 November 2020](#), with its views in advance of the 2021-22 Scottish Government budget. This sums up the evidence the Committee heard in preceding weeks and sets out the Committee's main conclusions. The Cabinet Secretary [responded to the Committee's letter on 29 January 2021](#).
12. The [Scottish Budget 2021-22](#) was published on 28 January 2021 and presents the Scottish Government's proposed spending and tax plans for 2021-22. The Scottish Parliament's Information Centre (SPICe) produced [a briefing on the 2021-22 Budget](#) on 1 February 2021. A further [SPICe briefing providing specific analysis of the local government budget](#) was also published on Friday 5 February 2021.

Evidence session and next steps

13. On 10 February 2021 the Committee will hear evidence from;
 - Cllr Gail Macgregor – COSLA Resources Spokesperson
 - Eileen Rowand – Directors of Finance, CIPFA
 - Sarah Watters – Chief Officer Finance, COSLA
 - Martin Booth – SOLACE
14. The Committee has already made its main written contribution to this year's scrutiny process (see above). The 10 February evidence session enables a public forum for local government representatives to express views on the Scottish Government's now published budgetary plans. A week later, the Scottish Government will have an opportunity to respond when senior Ministers give evidence to the Committee.
15. These two sessions will help inform future decisions on the budget to be taken in the coming weeks. The Scottish Budget is brought into force by way of legislation (the annual Budget Bill) and all committees have the option of lodging amendments in the light of the evidence they have taken and the priorities they have identified. The Stage 1 debate on the Budget Bill has been scheduled for 25 February 2021. Stages 2 and 3 will take place on the 8 and 9 March.
16. The Committee may also choose to undertake further work in the light of the evidence taken and will be invited to take an initial view on all these matters in private session at the end of the meeting.

Local Government and Communities Committee

6th Meeting, 2020 (Session 5), Wednesday 10 February 2021

Subordinate Legislation – Statutory Guidance subject to Negative Procedure

Overview of document

1. The following document laid for consultation is being considered at today's meeting:
 - **Statutory Guidance: Sports Club Relief (SG/2021/9)**

Purpose

2. This Statutory guidance (attached at **Annexe A**) is to be issued under section 4(7A) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962. The guidance is meant to help rating authorities (i.e. local authorities) exercise their powers in relation to the granting (or not) of sports club relief for certain types of land or property: namely “any lands and heritages occupied for the purposes of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for purposes of recreation.”
3. It was laid before the parliament on 15 January 2021 and comes into force on 23 February 2021.
4. This guidance arises from the Non-Domestic Rates (Scotland) Act 2020, which, when it was a Bill, was scrutinised by the Local Government and Communities Committee. In its Stage 1 report on the Bill, the Committee made comments and recommendations on the proposed statutory guidance on sports relief which can be [found via this link](#).

Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee (DPLRC) considered the guidance at its meeting on [26 January 2021](#) and [determined](#) that it did not need to draw the attention of the Parliament to the document/instrument on any grounds within its remit.

Committee Consideration

6. The Committee is not required to report on this guidance, but should it wish to do so, the deadline for reporting is 23 February 2021.

Procedure

7. This Statutory guidance is not subordinate legislation but is subject to the negative procedure and largely falls to be treated as if it were a negative instrument. Negative instruments are instruments that are “subject to annulment”

by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments, or other documents subject to the negative procedure, are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

8. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment.
9. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul, to be considered by the Parliament as a whole.
10. Each negative instrument or other document subject to the negative procedure appears on the Local Government and Communities Committee's agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence. Members should however note that, for scheduling reasons, it is not always possible to continue the item to the following week. For this reason, if any Member has significant concerns about a document subject to the negative procedure, they are encouraged to make this known to the clerks in advance of the meeting.
11. In many cases, the Committee may be content simply to note the instrument or other document and agree to make no recommendations on it.

Statutory Guidance: Sports Club Relief

Introduction

Non-domestic rates (NDR), often referred to as business rates, are levied on non-domestic properties, subject to statutory exemptions and reliefs.

A number of reliefs are available for certain types of property under Scottish law. Some reliefs are mandatory (i.e. they must be applied) and some are discretionary (i.e. local authorities have discretion as to their application).

The independent Barclay Review of Non-Domestic Rates concluded with a report published on 22 August 2017 and made 30 recommendations intended to support growth, improve administration of the rates system and to increase fairness.

The Scottish Government accepted the majority of these recommendations including number 27 – *Sports club relief should be reviewed to ensure it supports affordable community-based facilities, rather than members clubs with significant assets which do not require relief.*

This guidance has been produced by the Scottish Government with assistance from the Non-Domestic Rates (Scotland) Act 2020 – Section 18 Working Group comprised of stakeholders from the public and private sectors. The membership of this group can be found in the Annex.

Purpose of the Statutory Guidance

Section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 (“the 1962 Act”) provides for the power to reduce or remit non-domestic rates payable for lands and heritages occupied by organisations not established or conducted for profit.

This guidance, issued under section 4(7A) of the 1962 Act¹, is intended to support rating authorities (i.e. local authorities) with regards to the exercise of powers conferred by subsections (5) to (7) of that section, in relation to lands and heritages of the type mentioned in subsection (5)(c), namely “any lands and heritages occupied for the purposes of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for purposes of recreation.” This is one of two discretionary elements of what is commonly referred to as ‘sports club relief’ – the other element being a discretionary top-up of up to 20% under section 4(5)(a) for registered charities or Community Amateur Sports Clubs (CASCs) only, these being also eligible for 80% mandatory sports relief under section 4(2). In this guidance, ‘sports club relief’ refers only to the first element of discretionary sports relief.

¹ Section 4 was amended by section 18 of the Non-Domestic Rates (Scotland) Act 2020, to introduce the power for Ministers to issue statutory guidance.

Local authorities must have regard to this guidance when choosing to award this relief.

This document is provided as guidance only and does not amount to legal advice. A local authority may wish to seek their own advice to ensure compliance with all legal requirements when administering non-domestic rates reliefs.

Sports Club Relief

Sports Club Relief is statutorily only available on premises occupied for the purposes of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for purposes of recreation.

Local authorities should consider targeting sports relief to support organisations that provide facilities for recreation and that:

- Are set up with a formal constitution or governing document;
- Are open to the whole community (taking into account reasonable exclusions);
- Have affordable membership and/or participation fees;
- Are organised on an amateur basis; and
- Are managed by 'fit and proper persons'

This is a discretionary relief and local authorities can adopt additional specifications or local policies with regards to this relief if they wish to do so.

What is meant by 'formal constitution or governing document'?

This document should set out the purpose and structure of the organisation, the rules by which and by whom it is managed, and may be helpful in determining if an organisation meets the criteria set out in this guidance.

The council should aim to satisfy themselves that this document has been formally adopted by the organisation, for example it may be signed and dated by officers or lodged with the relevant registrar (if applicable).

What is meant by 'open to the whole community (taking into account any reasonable exclusions)'?

Membership or use of the facilities of the organisations being considered for this relief should be open to people of all ethnicities, nationalities, sexual orientations, religions or beliefs, sexes, ages and ability – except where there is a reasonable cause for exclusions or segregations to apply such as to ensure the health and safety or dignity of participants. Membership or use of the facilities by persons with disabilities should not be discouraged, and organisations should display a willingness to make reasonable adjustments for such persons.

An organisation should not discriminate between classes or categories of members (except where this is reasonable e.g. different facility use for adults and children),

and it must make its facilities available within reason and without discrimination, to all members.

The organisation's membership admission procedures should also be clear and open. They should be free from any restrictions that might foster discrimination, for example, proposing and seconding applications for membership.

What is meant by 'affordable membership fees'?

Fees should be set at a level that does not pose a significant obstacle to membership or use of the facilities. There should be no "hidden" exclusions based on ability or wealth.

An organisation may offer different classes of membership depending on factors such as the age of the member, whether the member is waged or unwaged, or whether the member is a playing or non-playing member. They may offer other concessions to facilitate affordability such as payments by instalments, pay-as-you-go options or hardship support.

In determining what is affordable, the council should have regard to the fact that the costs of providing facilities or activities and the fees and membership packages may differ from organisation to organisation, sport to sport, and have different inclusive benefits such as insurance, coaching sessions, use of kit or equipment, etc.

The local authority may also wish to give consideration to the level of assets (including facilities) of the organisation in considering whether they meet this guidance, in recognition that different sports may require different levels of assets, may require reserve funds for maintenance, repair or replacement of facilities and some organisations may have inherited assets which they hold or maintain. They may wish to request sight of the organisation's financial accounts as part of this consideration.

What is meant by 'organised on an amateur basis'?

The organisation must meet the requirement set by section 4(5)(c) of the 1962 Act, of not being established or conducted for profit and:

- Where income exceeds expenditure (or receipts exceeds payments if the accounts are on a cash basis), that excess income must only be used to further the objectives of the organisation. This applies to any excess of income in any year and any excess of income which is held in reserve;
- It must only pay expenses for matches and tours where players take part in and promote the organisation's sport or objectives;
- It must not pay more than necessary and reasonable expenses to all players in a year. This does not refer to staff costs for coaching/management or activities that advance public participation in the sport; and
- It must provide the benefits reasonably associated with an amateur sports club, e.g. use of equipment, coaching, post-match refreshments.

The governing document should also state that any assets left after settlement of all proper debts and liabilities upon dissolution of the organisation are to be used only

by a Community Amateur Sports Club, charity or other community sport organisation.

Staff costs for coaching/management should be consistent with the local commercial rate of pay.

What is meant by 'fit and proper persons'?

For the purposes of this guidance, an organisation's managers are individuals who have the general control and/or management of the administration of the organisation. This includes committee members and therefore can be unpaid.

The definition of 'a fit and proper person' should include that the organisation's managers will ensure, or are likely to ensure, that the savings on non-domestic rates made from claiming sports club relief are invested in the organisation.

Local authorities can take into account any appropriate information that they deem relevant to the question of whether an individual is a fit and proper person. They should take into account whether, for instance the individual has been:

- Convicted in relation to tax fraud or other fraudulent behaviour;
- Engaged in non-domestic rates avoidance arrangements that are artificial as defined under sections 39 and 40 of the Non-Domestic Rates (Scotland) Act 2020;
- Removed or disqualified as a charity trustee or company director.

Awarding or Removal of Relief

Local authorities must have regard to subsections (6) to (7) of section 4 of the 1962 Act with regards to how award of a relief may be granted or modified/terminated.

Related Information

Report of the Barclay Review of Non-domestic Rates

<https://www.gov.scot/publications/report-barclay-review-non-domestic-rates/>

Non-domestic rates: Implementation plan in response to the Barclay review

<https://www.gov.scot/publications/barclay-review-of-non-domestic-tax-rates-implementation-plan/>

Section 18 – Non-Domestic Rates (Scotland) Act 2020

<https://www.legislation.gov.uk/asp/2020/4/section/18>

Section 4 – Local Government (Financial Provisions etc.) (Scotland) Act 1962

<https://www.legislation.gov.uk/ukpga/Eliz2/10-11/9/section/4>

Par 4 – Non-Domestic Rates (Scotland) Act 2020

<https://www.legislation.gov.uk/asp/2020/4/part/4/enacted>

Annex – Working Group membership

The working group comprised officials from the Scottish Government, representatives from Local Authorities, the Institute of Revenues, Rating & Valuation, the Scottish Charity Regulator (OSCR), and key stakeholders from sporting bodies in Scotland.

Name	Organisation
Kevin Fraser	Institute of Revenues, Rating & Valuation
Rozlyn Wheeler	Highland Council
James Taylor	Moray Council
Steve Kent	Scottish Charity Regulator
Kim Atkinson	Scottish Sports Association
Kirsty Cumming	Community Leisure Scotland
James Steel	sportscotland

Local Government and Communities Committee

6th Meeting, 2020 (Session 5), Wednesday 10 February 2021

Subordinate Legislation

Overview of instrument

1. The following instrument, subject to negative procedure, is being considered at today's meeting:

Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2021 (SSI 2021/29)

Purpose

2. The Policy Note for the Instrument (which is attached at **Annexe A** and includes further information) states that, in light of the current public health advice relating to the virus, the purpose of this amendment is to grant planning permission for certain development. In so doing there will be no requirement for an application for planning permission to be made to, and considered by, the planning authority, thus avoiding the delay and uncertainty that this entails. This supports timeous reaction to the current public health emergency caused by the spread of the virus.
3. The instrument was laid before the parliament on 21 January 2021 and comes into force on 28 February 2021. It is subject to the negative procedure.
4. An electronic copy of the instrument is available at:

<https://www.legislation.gov.uk/ssi/2021/29/introduction/made>
5. No motion to annul this instrument has been lodged.

Delegated Powers and Law Reform Committee consideration

6. The Delegated Powers and Law Reform Committee (DPLRC) considered the instrument at its meeting on [2 February 2021](#) and [determined](#) that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Committee Consideration

7. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting is 22 February 2021.

Procedure

8. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative

instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

9. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
10. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
11. Each negative instrument appears on the Local Government and Communities Committee's agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
12. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

ANNEXE A**POLICY NOTE****The Town and Country Planning (General Permitted Development)
(Coronavirus) (Scotland) Amendment Order 2020****SSI 2020/129**

The Scottish Ministers make the above Order in exercise of the powers conferred by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997, and all other powers enabling them to do so. Town and Country Planning is a devolved matter. The Order amends the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 ("the GPDO"). The GPDO is a general development order granting planning permission for certain classes of development. The Order amends the GPDO to grant planning permission for certain development carried out by, or on behalf of local authorities or health service bodies for the purposes of preventing, reducing, mitigating or controlling the effects of the current emergency caused by the spread of the COVID 19 virus (the virus) and its impacts on public health.

Purpose of the amendment.

In light of the current public health advice relating to the virus, the purpose of this amendment is to grant planning permission for certain development. In so doing there will be no requirement for an application for planning permission to be made to, and considered by, the planning authority, thus avoiding the delay and uncertainty that this entails. This supports timeous reaction to the current public health emergency caused by the spread of the virus.

Policy Objectives

Planning permission is ordinarily required for new development in order to ensure that the development is appropriate, in terms of Development Plan policy and the protection of amenity, and sustainable. Permitted development rights, as set out by the GPDO, are intended to allow developments which have minimal impact on amenity and Development Plan policy to proceed without the delay which is involved in submitting a planning application. Planning authorities have a target of two months to determine a planning application; once an application is submitted the applicant has to wait until the application is determined before starting work. The removal of this period from the development process will enable the health authorities and local authorities to react to the virus more quickly.

As the developments which are required specifically to deal with the effects of the virus on public health will be in place for a temporary period only extending permitted development rights to cover such developments will not have a lasting impact on amenity. Residential amenity is protected by the amendment by requiring developments allowed under the amendment to be at least five meters away from the curtilage of the nearest dwelling, and by restricting the height of the development within 10 metres of the boundary of the development site. Protection is also given to

heritage assets; development is not authorised by the amendment on a site of special scientific interest, a site of archaeological interest, a historic battlefield or a historic garden or designed landscape. Listed buildings are protected under separate legislation which is not affected by this amendment.

Planning permission granted by the Order is temporary. Any development or change of use permitted by the Order must cease by 31 December 2020, and the site or building must be returned to its previous condition within six months. This date is later than the end date of the emergency period specified in the Coronavirus (Scotland) Act 2020 (30 September 2020) to take account of the measures which will continue to be required to deal with the impact of the virus on public health following the end of the emergency period.

Consultation

As this is an emergency measure, and intended to be temporary, no formal public consultation has been undertaken. The amendment has been discussed with practitioners in local authority development management services and representatives of the NHS.

Financial Effects

There will be no financial costs imposed on health authorities or local authorities as a result of the amendment. Indeed, there will be a cost saving as they will be spared the costs of preparing and submitting a planning application. The planning authority will not receive a fee for a planning application as they otherwise would, but will not incur the staff time and other costs of determining an application.

Assessments

We have carried out a Business and Regulatory Impact Assessment and Equalities Impact Assessment (EQIA), though we have been unable to carry out the normal consultation on these. We have screened out at stage one of Children's Rights and Welfare Impact Assessment (CRWIA), as the changes are technical and temporary changes driven by the public health policy. Similarly, we have screened out of the Fairer Scotland Duty Assessment, as the changes are temporary and technical rather than strategic.

These Regulations fall out with the scope of Strategic Environmental Assessment as per Section 4(3)(a) as their sole purpose is to serve a civil emergency. A Data Protection Impact Assessment is not considered relevant to the changes. In the circumstances, we have not done an Islands Impact Assessment, though we acknowledge that more remote areas with more limited online capabilities may be at something of a disadvantage for this temporary period.