

Final Business and Regulatory Impact Assessment

The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2017

Purpose and intended effect

Background

1.1. The SNP 2016 manifesto included a commitment to 'introduce a cap of one week for families with children and pregnant women living in B&B accommodation unless there are exceptional circumstances'.

1.2. To do this, an amendment to the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 is required. Therefore, the purpose of the change to the legislation is to amend the unsuitable accommodation order from 14 days to 7 days for families with children or pregnant women living in bed and breakfast accommodation, unless there are exceptional circumstances.

1.3. Local authorities currently demonstrate good practice in providing suitable accommodation for homeless applicants. The use of bed and breakfast accommodation should be used only in exceptional circumstances when temporarily housing families with children or pregnant women. The desired outcome of the change to the legislation is to minimise the amount of time pregnant women and families with children should spend in this type of accommodation.

Objective

1.4 This policy contributes to the Scottish Government's work on alleviating and tackling homelessness. The policy contributes to the following National Outcomes:

- Our children have the best start in life and are ready to succeed
- We have improved the life chances for children, young people and families at risk.

1.5 The objective fits with the Scottish Government's strategic 'Safer and Stronger Scotland' objective. This helps local communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life.

1.6 The Scottish Government's Housing Vision is that 'all people in Scotland live in high quality, sustainable homes that they can afford and that meet their needs'. The amendment of the Order contributes to the intermediate Housing Vision outcomes of 'A Well Functioning Housing System' and 'Homes that Meet People's Needs'.

Rationale for Government Intervention

1.7 Local authorities have a number of duties under homelessness legislation, and section 29(1) of the Housing (Scotland) Act 1987 places a duty on local authorities to provide interim accommodation to certain applicants who present as homeless.

1.8 The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004 describes accommodation that may not be used to fulfil this duty for households where the applicant is (a) pregnant, (b) a person whose household includes a pregnant woman; or (c) a person whose household includes dependent children. The Order effectively bans the use of bed and breakfast accommodation for families with children, except in specific circumstances. The power to make an Order specifying unsuitable accommodation was introduced through the Homelessness etc. (Scotland) Act 2003.

1.9 The Scottish Government Code of Guidance on Homelessness 2005 states 'The Homelessness etc. (Scotland) Act 2003 contained a provision which allowed Scottish Ministers to create regulations which would limit the use of bed and breakfast accommodation across Scotland, establishing consistency in this area'.

1.10 However it goes on to state that it is an 'Order on standards which temporary accommodation for households with children and pregnant women must meet. The purpose of this Order is to put an end to the routine use of bed and breakfast accommodation and other unsuitable accommodation for these households'

1.11 Section 9.12 of the Code of Guidance states 'Note that these regulations do not just cover bed and breakfasts, but go wider to cover any temporary accommodation used by local authorities in fulfilling this duty'.

1.12 The amendment to the Order therefore seeks to further extend the rights of pregnant women and families with children so that if they are housed in this type of accommodation, they can only reside there for a maximum of 7 days (14 days currently).

Consultation

- **Within Government**

2.1 We have worked closely with colleagues in the Scottish Government Legal Directorate to redraft the existing Order including the amendment. In developing this BRIA we have consulted with colleagues in the Better Regulations team, the Scottish Statutory Instrument Admin team, the Access to Justice team, and the Cabinet Parliament and Governance Team.

- **Consultation**

2.2 A consultation with key stakeholders commenced on 29 June 2017 and ran until 20 July 2017. A total of 17 responses were received. Responses were received from ALACHO, COSLA, Glasgow Homelessness Network, Shelter Scotland, Crisis, Scottish Women's Aid, Highland Council, South Lanarkshire Council, West Dunbartonshire Council, Angus Council, Aberdeen City Council, Fife Council, East Ayrshire Council, Clackmannanshire Council, Glasgow City Council, South West of Scotland Housing Options Hub and Aberdeenshire Council.

- **Business**

2.3 Through the consultation, we gained an understanding of the business impact of amending The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014. Stakeholders considered that this change would not have an impact on business i.e. proprietors of bed and breakfast accommodation, as this type of accommodation is used infrequently by local authorities.

Options

Option 1: Amend The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 to reduce the period of time during which accommodation can be provided in terms of regulation 7 which would otherwise be unsuitable from 14 days to 7 days.

Option 2: Do not amend the existing Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014.

Sectors and groups affected

3.1 Local authorities and homeless households where the applicant is (a) pregnant; (b) a person whose household includes a pregnant woman; or (c) a person whose household includes dependent children.

Benefits

Option 1

3.2 The amendment to the Order looks to reduce the time pregnant women and families with children would be required to stay in bed and breakfast accommodation to 7 days (currently 14) before being moved to suitable temporary or settled accommodation.

Costs

3.3 Local authorities currently demonstrate good practice in providing suitable accommodation for homeless applicants and respondents felt that there would be little or no likely impact on costs.

Option 2

3.4 If the order was to remain unchanged, then pregnant women and families with children could be required to stay in bed and breakfast accommodation for a maximum of 14 days instead of the desired 7 days as set out in the amendment to the legislation.

Costs

3.5 No cost implications for this option.

Scottish Firms Impact Test

4.1 As part of the consultation process, we engaged with local authorities and other key partner organisations to gain an understanding of the business impact of replacing or amending The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 and identifying costs associated with this. Respondents identified no or little impact on their organisations and its stakeholders in terms of cost or resources. Respondents pointed out that it would give an added layer of protection to potentially vulnerable households, and that it would be cost neutral as bed and breakfast accommodation is currently rarely used.

Competition Assessment

4.2 We have applied the Competition and Markets Authority (CMA) Competition Filter questions and find there will be no impact on competition.

4.3 Using the CMA Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

- Will the measure directly or indirectly limit the number or range of

suppliers?

No

- **Will the measure limit the ability of suppliers to compete?**

No

- **Will the measure limit suppliers' incentives to compete vigorously?**

No

- **Will the measure limit the choices and information available to consumers?**

No

Test run of business forms

4.4 No new business forms are expected to be introduced as a result of the amendment.

Legal Aid Impact Test

5.1 Colleagues from the Scottish Legal Aid Board have confirmed that they do not foresee an impact on the legal aid fund.

Enforcement, sanctions and monitoring

6.1 Local authorities are required to report breaches of the Unsuitable Accommodation Order to the Scottish Government through their statistical returns, which will be monitored by the Scottish Housing Regulator and investigated accordingly.

Implementation and delivery plan

7.1 The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2017 will be laid in the Scottish Parliament on 31 August 2017 and will come into force on 2 October 2017.

- **Post-implementation review**

7.2 Scottish Government Legal Directorate has confirmed that there is no statutory requirement to review the operation of the Order. As part of the high level homelessness group, part of its role may be to look at opening up the Order to wider equality groups. If no review takes place, then one will take place within 10 years.

Summary and recommendation

8.1 We recommend the implementation of option 1; Amend The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 to reduce the period of time during which accommodation can be provided in terms of regulation 7, which would otherwise be unsuitable, from 14 days to 7 days.

- **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative

1	The social benefit would be to pregnant women and families with children who could be required to stay in bed and breakfast accommodation for less time than they do currently, reducing from the current 14 to 7 days.	Local authorities are unlikely to incur any additional costs as they rarely use bed and breakfast accommodation.
2	No particular benefit to this option, other than local authorities can keep pregnant women and families with children in bed and breakfast accommodation for 14 days instead of 7.	The social cost would be for the occasions that pregnant women or families with children are placed in bed and breakfast accommodation could be required to stay there for 14 days instead of the proposed 7 days as proposed in the amendment in the legislation.

Declaration and publication

- Sign-off for Final BRIAs:

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Angela Constance MSP

Date: 29 August 2017

**Angela Constance
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