



# What you need to know: the Unsuitable Accommodation Order Guidance

## Background

Following recommendations made by the Homelessness and Rough Sleeping Action Group (HARSAG), the Scottish Government committed to extending the scope of the Unsuitable Accommodation Order (UAO). The UAO previously limited the amount of time that a homeless household with children or a pregnant woman could spend in “unsuitable” temporary accommodation, such as a B&B, to fourteen days. This was reduced to seven days in 2017.

The Homeless Persons (Unsuitable Accommodation)(Scotland) Amendment Order 2020 ([SSI 2020/139](#)) introduced on 5 May 2020 extends the UAO to all homeless households but also makes some changes to the definition of unsuitable accommodation for different groups of people. This includes more flexibility in the type of accommodation that can be used to house some people, recognising that the extension of criteria to all homeless households will cover a range of groups who may not have the same needs as those with children. New types of suitable accommodation include:

- Shared tenancies
- Community housing
- Rapid access accommodation

The extension of UAO came into immediate effect but some temporary exemptions were introduced to allow local authorities to house people in accommodation that might otherwise be deemed unsuitable due to the ongoing Covid-19 pandemic if this was required for health reasons, e.g. to allow a homeless household to self-isolate or maintain social distancing.

Amendments were introduced on 1 September 2020 ([SSI 2020/268](#)) to extend the Covid-19 exemptions until 31 January 2021, allowing local authorities to place households in unsuitable accommodation if there was a lack of supply due to Covid-19. Further

amendments were introduced in December 2020 ([SSI 2020/249](#)) to address drafting issues with the May Amendment Order (SSI 2020/139) and in January 2021 ([SSI 2021/10](#)) to extend temporary Covid-19 restrictions until 30 June 2021.

**The Covid-19 supply exemption does not apply to households with children or pregnant women** who will still not be allowed to remain in unsuitable accommodation for longer than seven days.

[New guidance](#) setting out how the changes should be applied was published on 31 January 2021. Local authorities should use this guidance when developing Local Housing Strategies and Rapid Rehousing Transition Plans. This briefing summarises the main changes.

## What is ‘unsuitable’ accommodation?

Local authorities must take account of the needs of each member of the household, whether it is a single person, couple or household with children. The accommodation must be wind and water tight and should meet minimum safety standards consistent with the advisory standards for temporary accommodation set out in Annex A of the updated interim [Code of Guidance on Homelessness](#).

Article 5 of the [Homeless Persons \(Unsuitable Accommodation\)\(Scotland\) Order 2014](#) sets out circumstances under which accommodation should be deemed unsuitable:

- It is outwith the local authority area.
- The household cannot access health or education facilities.
- It does not have adequate toilet and washing facilities for the exclusive use of the household.
- It lacks adequate bedrooms for the exclusive use of the household.
- It does not contain adequate cooking facilities



and the use of a living room.

- It cannot be accessed 24 hours a day.

The May 2020 Amendment Order (SSI 2020/139) added two further circumstances that would make accommodation unsuitable:

- It is not in the locality of a member of the household's place of work.
- Where a member of the household has parental rights but the accommodation is not suitable for a child to visit.

The Scottish Government guidance includes further explanation of each of these circumstances with reference to the Code of Guidance on Homelessness.

## Exemptions

As well as the temporary exemptions introduced in relation to Covid-19, permanent exemptions to the criteria set out in Article 5 of the 2014 Order apply where:

- the household has been made homeless or is threatened with homelessness because of an emergency such as a flood, fire or disaster;
- the household has been offered accommodation that meets the criteria but chooses to be accommodated elsewhere;
- the accommodation is being used to house someone fleeing domestic abuse and is managed by an organisation that is not a public or local authority and does not trade for profit; or
- the accommodation is secured by a local authority and does not meet all of the criteria but does provide services relating to health, child care or family welfare which is deemed to be beneficial to the household.

The final point corrects a previous anomaly whereby the original exemption only covered supported accommodation that was owned by the local authority. This will allow local authorities to make use of accommodation that is not owned by them but provides essential support services.

The Scottish Government guidance includes further explanation of each of these exemptions with reference to the Code of Guidance on Homelessness.

## Suitability for different types of household

While the UAO has been extended to all households and the general criteria set out above should be used to inform decisions on the suitability of accommodation, it is acknowledged that different types of households will have different needs and these should also be taken into account. For example, a single homeless person may decide to move into shared temporary accommodation where they have their own bedroom but share a bathroom, kitchen and/or living room. **This would only be deemed suitable with the consent of the households involved.** (Details of different types of accommodation that may be deemed suitable for specific types of household are set out below.)

In these cases, the local authority should use their own houses in multiple occupation (HMO) standards to assess the suitability of the accommodation.

Local authorities will also have to consider a range of factors when placing a household that has experienced domestic abuse in temporary accommodation, especially where children are involved. This must include consideration of adequate child protection measures and suitability of accommodation for a parent who has been the victim of domestic abuse and has been temporarily separated from their child (or children) and will need space to facilitate visits.

The guidance clearly states that **shared tenancies, community hosting and rapid access accommodation are never suitable accommodation options for families with children, pregnant women and households where a person who exercises parental rights** in respect of a dependent child who is not part of the household.

## New types of suitable accommodation

As far as possible, local authorities should seek to use self-contained accommodation meeting all of the criteria set out above and included in Article 5 of the 2014 Order – **this should always be the case for households with children or pregnant women.**

However, depending on the circumstances of different household types, three new accommodation types may be utilised where there is agreement from the homeless household.

The Scottish Government guidance includes useful case studies to demonstrate how each of these accommodation types is already working in practice in different local authority areas.

**Shared tenancy accommodation** – is based on applicants agreeing to share small scale temporary accommodation such as a furnished flat and specifically excludes large scale ‘shared accommodation’ such as hostels. Legislation allows for up to five people sharing a property but most local authorities that have used this model have done so on the basis of two people sharing.

Identifying and matching applicants is key to the success of this model, as is discussing all possible options and the suitability of sharing with the applicant. The final decision lies with the applicants and if a household declines a shared tenancy, this will not count as a local authority discharging its duty.

Each person should have their own bedroom which can be locked for privacy but may have to share washing and cooking facilities and living space.

**Community hosting** – is a model that is often used to support an individual at the point of crisis and will not be suitable for all homeless households. It involves a ‘host’ with a spare room volunteering to support a person who is homeless or at risk of homelessness. Community hosts are vetted, registered and receive training and support from the organising body. In most cases, facilities will be shared with the host.

As with the shared tenancy accommodation, this option should be discussed with the applicant and only used where appropriate and with consent.

**Rapid access accommodation** – is aimed at supporting rough sleepers or those at risk of rough sleeping, ensuring that they can access somewhere safe to stay without having to go through the full homelessness assessment process in advance.

The Scottish Government guidance states that this model should provide onsite homelessness assessments from specialist staff with experience of dealing with complex needs, access to a range of support services and allow people to stay for as long as they need but provide support for them to move on to alternative temporary accommodation or settled accommodation when they are ready.

## The CIH View

We welcome the degree of flexibility that has been applied to the extension of the UAO, particularly the temporary exemptions that have been introduced in relation to the Coronavirus pandemic. As local authorities have been working to eradicate rough sleeping and ensure that every household in Scotland has a safe place to stay, the number of households in temporary accommodation has increased significantly. It would not be possible to meet the UAO for all households during the pandemic while ensuring everyone is housed as safely as possible.

Other exemptions are also necessary to ensure that specialist accommodation remains available for those who need it. For example, there are currently 477 refuge spaces in Scotland, with a third of refuge spaces provided in shared, usually local authority owned accommodation. These refuge spaces have an exemption from the requirements of the UAO legislation. The [Business and Regulatory Impact Assessment](#) (BRIA) for the UAO amendment states that the exemption for refuges was introduced “to ensure that a barrier does not occur that may prevent a household accessing emergency accommodation when fleeing domestic abuse.” On the basis that without the exemption, refuge places across Scotland would be severely reduced and the state would be unable to fulfil its responsibility to provide adequate shelter for victims of domestic abuse.

We appreciate that different types of accommodation may be suitable for different types of households. Sharing a

tenancy may be a more affordable option for some and help to reduce loneliness and isolation. However, we would not like to see these options being used due to a lack of supply. Amending the UAO but adding exemptions may not lead to any improvement in conditions for everyone who experiences homelessness.

To truly transform the use of temporary accommodation and provide real choice for households, we need to invest in delivering 53,000 new affordable homes over the next five years and ensure that local authorities have adequate funding to implement Rapid Rehousing Transition Plans.