

Briefing for the Citizen Participation and Public Petitions Committee on petition PE1946: To call on the Scottish Government to pay all charges for homeless temporary accommodation

Brief overview of issues raised by the petition

- The legal framework for homelessness is contained in the Housing (Scotland) Act 1987 (as amended). The Scottish Government has also published a [Code of Guidance on Homelessness](#) to which councils must have regard.
- Under the 1987 Act, councils have duties accommodate homeless people in temporary accommodation while a homelessness application is being assessed or until permanent accommodation becomes available.
- Section 35(2) of the 1987 Act provides that a council can make 'reasonable' charges for the provision of accommodation.
- Councils provide different types of temporary accommodation using both social rented housing and private rented housing. Some accommodation may be furnished and some may include specialist support services for those with complex needs. Councils also use different methods of calculating charges for temporary accommodation, for example, charges could be set on a cost recovery basis or are set at relevant local housing allowance rates.
- A [2018 report by Social Bite noted the wide variation in costs](#), for example, weekly charges for temporary furnished flats ranged from £65 a week in some areas to over £400 in other areas.
- The legislation or Code of Guidance does not set out the amount that would be considered a reasonable charge. The Code of Guidance advises that the councils should take account of what the applicant can pay in the longer term:

“8.84 An applicant can be asked to pay a reasonable charge for any accommodation provided directly by the local authority; or a reasonable

amount for accommodation supplied by another housing provider but paid for by the local authority (Section 35(2) of the 1987 Act). In deciding what is reasonable, the local authority should take account of what the applicant can pay in the longer term. If an applicant is being asked to pay for accommodation provided by or paid for by the local authority then the applicant should be informed in advance of the cost of the accommodation. They should also be assisted when applying for benefit to cover the cost of such accommodation. The local authority should take account of, and advise of, the likely level of benefit when considering charges.”

- Additionally, there is a list of ‘advisory standards’ in the Guidance relating to the standards of temporary accommodation. The advisory standards require that any temporary accommodation should, “Include a household assessment to consider whether the temporary accommodation being offered is affordable by the household.” The term affordable is not defined in the guidance.
- The Legal Services Agency (LSA) report [Charges for Temporary Accommodation in Scotland: Law and Reality](#) published in December 2021, states that there is a lack of caselaw in this area but that English caselaw suggests that the failure to take into account the affordability of temporary accommodation may be unlawful.
- The LSA submitted a Freedom of Information request to all councils in Scotland asking about their temporary accommodation charges. The report noted varying levels of detail in local authority policies and varying regard for, and definition of, the affordability of temporary accommodation:

“Responses revealed varying levels of detail in local authority policies and varying regard for, and definition of, the affordability of temporary accommodation. Only four local authorities confirmed that they take individual circumstances into account when deciding how much to charge, while ten stated that they do not. While figures vary greatly across Scotland, and some local authorities claimed to mitigate the impact of arrears on individuals by writing off or declining to pursue debt, the high cost of temporary accommodation is leading to high levels of debt nationwide.

- The LSA report recommended that in the short-term local authorities should review and update their policies for charging for temporary accommodation. In the longer term it recommends that the Housing (Scotland) Act 1987 should be changed to prohibit local authorities from charging individuals for the provision of temporary accommodation. In the event that there is no political support for this proposal, it recommends that the ability of local authorities to charge individuals for temporary accommodation should be much more tightly regulated and that charges should only be made following an

affordability assessment and where the local authority is satisfied that the charges are affordable.

- In an article from [December 2021, Scottish Housing News reported the following Scottish Government quote](#) in response to the LSA findings.

“A spokesperson for the Scottish Government said it expects local authorities to follow existing guidance, which “includes looking carefully at the needs and situation of the household before making any decision about any reasonable charge”.

“Local authorities share our ambition to ensure stays in temporary accommodation are short-term, and we will be working with them to achieve this. We encourage local authorities to take a person-centred approach and to take individual circumstances into account when deciding how much to charge.” “

- The Scottish Government is also working with councils and their partners to implement rapid rehousing plans to reduce the time spent in temporary accommodation as part of the Ending Homelessness Together Action Plan. [It has provided funding to councils to assist with this.](#)

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The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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