

## **Response to Scottish Government's consultation on improving Temporary Accommodation Standards**

### **August 2019**

The [Scottish Care Leavers Covenant](#) supports Scotland's [Corporate Parents](#), carers, practitioners, managers and decision makers in fulfilling their duties to improve the life chances of all of Scotland's looked after children and care leavers (and any individual with care experience). Created by an alliance of stakeholders (comprising Barnardo's Scotland, the Centre for Excellence for Children's Care and Protection (CELCIS), the Centre for Youth and Criminal Justice (CYCJ), IRISS, the Life Changes Trust, Quarriers, Staf (the Scottish Throughcare and Aftercare Forum), and Who Cares? Scotland) the Covenant calls upon all corporate parents to uphold particular principles in all areas of their work, and commit to actions which, if implemented fully and consistently, will transform culture and practice across all corporate parenting bodies. The Covenant is underpinned by a number of guiding principles, including:

- **Care-proofing of policy:** which recognises the inequalities in opportunity encountered by care leavers and their vulnerability as young adults, and prioritises and references them in policy documents; and
- **Assumption of entitlement:** Corporate parents will assume all care leavers are entitled to services, support and opportunities, up to their 26th birthday. Where discretion exists in definitions of vulnerability, or in giving priority access, these will be in favour of care leavers.

We welcome the opportunity to submit our views in response to the Scottish Government's consultation on improving Temporary Accommodation Standards. We support the recommendation of the Homelessness and Rough Sleeping Action Group (HARSAG) to extend the [Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2014](#) (The Unsuitable Accommodation Order) and reduce the amount of time all people experiencing homelessness spend in unsuitable accommodation. Care leavers are particularly vulnerable to homelessness and, in line with the principles highlighted above, their rights and needs require focussed attention in the consideration of improving temporary accommodation standards in Scotland.

### **Key messages**

- Care leavers are at a disproportionate risk of homelessness and of experiencing temporary accommodation. Corporate parents have both

legal and ethical duties to uphold the rights and safeguard the wellbeing of care leavers.

- Care leavers should be a priority group in the extension of the Unsuitable Accommodation Order, and the impact of any extension on the experiences of care leavers should be robustly monitored.
- Whether care leavers' needs for supportive relationships and access to emotional support are met should form part of the determination of whether accommodation is suitable or not. A crucial question should be "could this accommodation provide a homely environment for care leavers, even in the short-term?"

## **Background**

As of July 2018, there were 6,109 care leavers (young people previously 'looked after' and eligible for aftercare) in Scotland.<sup>1</sup> These young people may have experienced different forms of care, including foster care, residential care, kinship care, and living at home with one or both birth parents whilst receiving social work services. While the circumstances, needs and views of these young people are rich and varied, all have experienced major difficulties in their lives. Taken as a whole group, care leavers outcomes are poor across a range of indicators, including an over-representation in Scotland's youth homelessness population.<sup>2</sup> Despite difficult early life experiences, and often multiple placements during childhood, young people are still expected to leave care before they are ready, without adequate preparation, and with limited access to support. Unlike their peers, it is very unlikely care leavers will have the option to return when adult life becomes overwhelming. These factors combine to disproportionately increase their risk of homelessness and experience of temporary accommodation. A recent study '[Getting by, but is that good enough?](#)' highlights the impact that the daunting and unstable nature of temporary accommodation can have on care experienced people.<sup>3</sup> These are young people who require access to services which are designed to meet their particular needs for stability, rather than experience further insecurity.

Due to their level of need and vulnerability, and the state's duty to safeguard their rights and promote their wellbeing, [Part 9: Corporate Parenting of the Children and Young People \(Scotland\) Act 2014](#), requires Scottish Ministers, local authorities and a range of other public sector bodies to uphold particular responsibilities to care leavers in all areas of their work. Corporate parents must be alert to matters which adversely impact care leavers, promote their interests, and enable them to make use of supports and services they provide. As such, particular attention must be paid to care leavers' needs when considering improvements to temporary accommodation, and the extension of the Unsuitable Accommodation Order.

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<sup>1</sup> Scottish Government (2019) *Children's Social Work Statistics Scotland 2017/2018*, Edinburgh: Scottish Government.

<sup>2</sup> CELCIS (2019) [Beyond the headlines: Homelessness and care experience](#). Glasgow: CELCIS

<sup>3</sup> Frame, J. (2018) [Getting by, but is that good enough? Supported accommodation: a study](#). Glasgow: CELCIS

In February 2018, the Local Government and Communities Committee of the Scottish Parliament published its [Report on Homelessness](#), drawing particular attention to concerns about care experienced young people's over-representation in homelessness figures; their inconsistent access to support across the country; and the provision of accommodation in areas they do not know, do not feel safe in, and which leave them vulnerable to negative influences and threaten their safety and mental wellbeing. The Committee recommended that the Unsuitable Accommodation Order be extended to ensure that care experienced people do not experience unsuitable accommodation for any longer than seven days. In its [response to the recommendations of the Committee](#), the Scottish Government advised consideration would be given to the option of extending the Unsuitable Accommodation Order to people who are care experienced, and that this would be considered alongside any recommendations of HARSAG. In May 2018, HARSAG published an interim report '[Transforming the use of Temporary Accommodation in Scotland](#)' which recommended extending the 7-day restriction on unsuitable accommodation (which currently applies only to families and pregnant women) to all homeless people, rather than focussing on specific vulnerable groups.

## **Consultation questions**

**1. Scottish Ministers have used their powers under the Homelessness etc. (Scotland) Act 2003 to limit the use unsuitable temporary accommodation for families and children to a maximum of 7 days via The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2017. HARSAG has recommended that this restriction be extended to all people experiencing homelessness. Do you think we should:**

- **OPTION A** - Extend the restriction to all homeless people from an agreed date.
- **OPTION B** - Extend the restriction to all homeless people but introduced incrementally over a period of time.
- **OPTION C** - Not extend the restriction to all homeless people

Option B, for the reasons set out below.

**3. If the consensus for extension is option B:**

- **What types of experiences, circumstances or characteristics would you prioritise in the incremental extension?**

Young people with care experience have distinct needs which the State, as a result of its legal and ethical responsibilities as a corporate parent, has a duty to fulfil. In accordance with statutory corporate parenting duties, and the principles of care proofing of policy and the assumption of entitlement, any incremental extension of the Unsuitable Accommodation Order must prioritise care leavers.

- **Would you prefer a consistent national approach to the transition or for local authorities to take forward based on their own local circumstances?**

A number of policy and legislative commitments recognise the challenges faced by care leavers in terms of housing in Scotland.

- [Housing Options Protocols for Care Leavers - Guidance for Corporate Parents: Improving housing and accommodation outcomes for Scotland's care leavers](#) were launched by Scottish Government in October 2013. This practical guidance is designed to assist Community Planning Partnerships and corporate parents to ensure the housing and accommodation needs of care leavers are consistently met to a high standard.
- The principles and philosophy underlining the Housing Options Protocols are laid out in Scottish Government 2013 guidance [Staying Put Scotland: Providing care leavers with connectedness and belonging](#). Staying Put represents a philosophy of care whereby young people are supported and enabled to remain in care for longer, rather than being expected or encouraged to leave before they are ready.
- [The Children and Young People \(Scotland\) Act 2014](#) came into force in April 2015. In addition to Part 9: Corporate Parenting (discussed above), Part 10 of this Act increased the age of eligibility for aftercare support for care leavers up to the age of twenty-six (providing a young person is deemed eligible after assessment). Part 11 sets out Continuing Care provisions enabling young people who have ceased to be looked after to remain in the same accommodation and receive the same assistance as when previously looked after.

Despite this advanced policy and legislative landscape, its consistent implementation nationally remains a concern. The Housing Options Protocols, and Staying Put guidance explicitly state that no care leaver should be required to present as homeless in order to be able to access housing, however we are aware that this practice continues in some areas. Throughcare and aftercare service provision can be described as a 'postcode lottery', as it is variable across the country, and not all eligible young people are able to access a service.<sup>4</sup> Due to the inconsistency in young people's access to their rights and entitlements currently, we would suggest an approach which ensures consistency nationally, but one which recognises and responds to particular local needs and local implementation challenges. To achieve this, a twin strategy of clear, supportive national leadership, together with local commitment to creating tailored solutions, is necessary if we are to avoid further examples of a 'postcode lottery'.

#### **4. In your opinion is option A or B the best way to avoid an increase in the number of breaches of the Order? Please explain your answer.**

Option B is more likely to result in fewer breaches. To avoid breaches, capacity issues must be acknowledged. It is more realistic to anticipate successful implementation when the infrastructure needed to support the policy and

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<sup>4</sup> McGhee et al (2014). [Throughcare and Aftercare in Scotland's Local Authorities](#). Glasgow: CELCIS

practice changes required for new initiatives are developed, and then scaled-up.<sup>5</sup> It is important to engage with services at Local Authority level, and work on a collaborative basis on implementation. Avoiding breaches of the Order requires assessment of capacity and planning to meet future demand, and those with oversight of the needs of the local care leaver population have a crucial role to play in informing this assessment.

**7. Do you believe the current definition of unsuitable accommodation set in 2004 as set out in legislation (Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014), which focusses on the location of the accommodation and the facilities the accommodation offers, is still the most appropriate or are there any factors you would like to see changed? Please explain.**

Sections 3-6 of the Unsuitable Accommodation Order set out the definitions of accommodation which is unsuitable. These focus on proximity to services being used (or which might reasonably be expected to be used) for the purposes of health and education; exclusive access to bedroom, toilet, and personal washing facilities; access to adequate cooking facilities and use of a living room; and being usable 24 hours a day.

In addition to these factors, it is particularly important to recognise that care leavers' needs extend far beyond the need for bricks and mortar. Having a homely environment, and access to emotional support are critical for care leavers, especially for those who are experiencing temporary and/or unsuitable accommodation. Young people need to feel safe, and identify the 'small things' that can matter most – having someone who will listen, and access to support 'out of hours' when they are most likely to need it.<sup>6</sup> Enabling and encouraging positive, enduring relationships with former carers, residential workers or other significant adults can be critical to this.<sup>7</sup> Young people leaving care require holistic, person centred planning and the establishment of reliable, accessible networks of support. Therefore for care leavers, accommodation is unsuitable where young people feel unsafe, and where emotional support is lacking. This can be expressed in terms of proximity to services providing supportive relationships, but equally relates to the holistic, person-centred planning and support which corporate parents (from a range of agencies) are responsible for providing.

**8. In extending the Order do you think the same definition should apply to all homeless households as it currently does to families with children and pregnant women? If not, please provide an explanation of how you feel the definition should be amended to take account of the extension.** Yes, with the additions discussed above in relation to care leavers.

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<sup>5</sup> Fixsen, D et al (2013) [Scaling-up Brief](#). State Implementation & Scaling-up of Evidence-based Practices Center, UNC.

<sup>6</sup> The Debate Project (2009) ['Life after care': Young people's views on leaving care](#)

<sup>7</sup> Swain, V. (2016) [Keep Connected: Maintaining Relationships When Moving On](#). TFN; Boddy J (2013) [Understanding permanence for looked after children](#): A review of research for the Care Inquiry. London: The Care Inquiry.

**10. We have already outlined that some local authorities have breached the current UAO, so that may mean it is likely that some local authorities will face challenges in meeting the extension of the UAO to all homeless households. We are interested to hear your views on whether additional measures should be introduced to help ensure local authorities do not continue to breach the UAO.**

As the national regulator for care services in Scotland, the Care Inspectorate have a role in scrutiny, and supporting improvement. The Care Inspectorate has revised its model for joint inspections of services for children and young people, to focus on vulnerable children and young people, specifically including those to whom the state has corporate parenting responsibilities. Thematic joint inspections with a focus on care leaver transitions to adulthood could involve the evaluation of the implementation of the Unsuitable Accommodation Order for care leavers, and support necessary improvements. Ensuring that plans and monitoring progress towards eradicating the use of unsuitable temporary accommodation is included within Corporate Parenting Plans and Children's Services Plans are other important measures will help prevent breaches of the Order for care leavers.

**11. The performance of local authorities against their obligation to comply with the UAO will continue to be monitored, including any extension if introduced, by the Scottish Housing Regulator (SHR) as part of its role in assessing performance on discharging of their statutory duties.**

**Would you like to see the SHR gain any enhanced responsibilities in order to effectively monitor and assess the implementation of the extended Order?**

Both the Scottish Housing Regulator and local authorities are corporate parents under the Children and Young People (Scotland) Act 2014. As such, both have duties to publish plans regarding how they intend to fulfil their corporate parenting responsibilities, as well as to collaborate with one another (and other corporate parents) where this would safeguard or promote care experienced people's wellbeing. Collaborating regarding the monitoring of the implementation of the extended Unsuitable Accommodation Order, and the impact this has on care leavers, would be a useful addition to the corporate parenting plans and activity of the Scottish Housing Regulator, and local authorities.

**Thank you for providing us with this opportunity to respond. We hope the feedback is helpful; we would be happy to discuss any aspect in further detail.**

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