

Citizen Participation and Public Petitions Committee

14th Meeting, 2022 (Session 6), Wednesday
26 October 2022

PE1946: To call on the Scottish Government
to pay all charges for homeless temporary
accommodation

Note by the Clerk

Petitioner Sean Anthony Clerkin

**Petition
summary** Calling on the Scottish Parliament to urge the Scottish Government to use general taxation to pay for all charges for homeless temporary accommodation, including writing off the £33.3 million debt owed by homeless people for temporary accommodation to local authorities.

Webpage <https://petitions.parliament.scot/petitions/PE1946>

Introduction

1. This is a new petition that was lodged on 11 July 2022.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner did not collect this information.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.
6. A submission has been provided by the petitioner. This is included at **Annexe D**.

Action

7. The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe A

PE1946: To call on the Scottish Government to pay all charges for homeless temporary accommodation.

Petitioner

Sean Anthony Clerkin

Date lodged

11 July 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to use general taxation to pay for all charges for homeless temporary accommodation, including writing off the £33.3 million debt owed by homeless people for temporary accommodation to local authorities.

Previous action

Written to Shona Robison on the homeless issue and I have highlighted this issue in various newspapers. Jackie Baillie MSP has been involved in homeless issue as well.

Background information

The issue of the plight of homeless vulnerable people paying large charges for temporary accommodation from local authorities was first highlighted by a recent report from the Legal Services Agency in Glasgow which concluded that the Scottish Government should use general taxation to pay for all charges for temporary accommodation for homeless people.

More recently Homeless Action Scotland have highlighted in a report that working people who are homeless are being forced into serious debt. As they are above the threshold for housing benefits, the report suggests that local authorities are chasing after them using debt collection agencies.

The cost of living crisis will further impoverish many people in Scotland and it is highly likely there will be an increase in homeless applications

and homeless assessments therefore the state has to protect our most vulnerable.

It is in this context of terrible financial hardship being experienced by many people in Scotland that I present this petition calling on the State to protect very vulnerable homeless people from this financial burden that will drive many of them into physical and mental ill health.

Annexe B

The logo for SPICe, featuring the text 'SPICe' in a white, sans-serif font on a dark purple background.

The Information Centre
An t-Ionad Fiosrachaidh

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.](#)

Kate Berry
Senior Researcher
[14/07/22]

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

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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Annexe C

Scottish Government submission of 29 July 2022

PE1946/A: To call on the Scottish Government to pay all charges for homeless temporary accommodation

Sean Anthony Clerkin has submitted a petition to the Scottish Parliament which asks the Scottish Government to use general taxation to pay for all charges for temporary accommodation, including writing off the £33.3 million debt owed for temporary accommodation to local authorities.

In the Scottish Government's most recent responses to Mr Clerkin on this matter, issued on 31 January and 8 March 2022, we highlighted that the Scottish Government encourages all local authorities to take a person-centred approach and to take individual circumstances into account when deciding how much to charge for temporary accommodation.

The Scottish Government is working with COSLA to review the way in which funding provided to local authorities is used to prevent homelessness and reduce reliance on temporary accommodation – an action in our Ending Homelessness Together action plan. COSLA has stated that temporary accommodation charges are a matter for individual councils and are based on local need. These charges by councils for homelessness services have to cover the funding for providing the temporary accommodation, as well as staffing costs for providing these services.

The Scottish Government agrees that the cost of temporary accommodation – both to the household and local authorities – can be expensive, which is why we are firmly committed to reducing the number of households in temporary accommodation. We are committed to introducing new legal duties on the prevention of homelessness in a forthcoming Housing Bill. This will include new duties on public bodies to prevent homelessness alongside changes to homelessness legislation to ensure action can be taken at an earlier stage to prevent

homelessness. Our approach is guided by the principles of shared public responsibility to prevent homelessness, earlier intervention and increasing choice and control over their housing options for people at risk of homelessness. These changes are aimed at preventing the disruption and trauma of homelessness for individuals and families and reducing the need for temporary accommodation in Scotland.

In 2022-23, in addition to funding provided through the local government settlement, we are providing local authorities an annual share of £23.5 million for homelessness prevention and response measures and an annual share of £8 million to support the implementation of rapid rehousing transition plans, which aim to reduce the use of temporary accommodation by moving people into settled accommodation as quickly as possible.

We have also recently established a temporary accommodation task and finish group, chaired by Shelter Scotland and the Association of Local Authority Chief Housing Officers, to consider how Scotland can reduce the number of people living temporary accommodation and the length of time they stay there. The group has been asked to review other factors that impact on the use of temporary accommodation, including charging practices and affordability concerns. A representative from Legal Services Agency (LSA), who published the recent report on temporary accommodation charges, is on the group.

The Scottish Government is acutely aware of the impact the rising cost of living is having on people and the hardship this can bring, which is why we have committed to a £290 million package of support to help people affected by the cost of living crisis. This will allow us to provide £150 to every household in receipt of council tax reduction in all council tax bands and £150 to all other households in a band A to D property. The £290 million package includes an extra £10 million for the Fuel Insecurity Fund to help households at risk of self-disconnection or who are self-rationing their energy use due to unaffordable fuel costs.

These measures will help households impacted by the cost of living crisis who are not in receipt of benefits and who are not claiming a council tax reduction. However, the Scottish Government will continue to urge the UK Government to use all the powers at their disposal to address the cost of living crisis.

The Scottish Government is committed to working with local authorities and third sector providers to deliver vital homelessness services in their areas. I hope the Committee finds this information helpful.

Annexe D

Petitioner submission of 3 August 2022

PE1946/B: To call on the Scottish Government to pay all charges for homeless temporary accommodation

I have read the Scottish Government's response to this Petition with great interest and want to comment on their letter. The cornerstone of the petition is that the vulnerable homeless in temporary accommodation cannot pay the very high charges of that accommodation to local authorities, hence the very large debt of £33.3 million that has occurred. Therefore the Scottish Government should step in to cover the costs of temporary accommodation and write off that debt. They have failed to do this and have no intention to do so.

Instead we are given various figures of £23.5 million, £8million and other amounts that the Scottish Government have regurgitated time and again as spin. While in reality the Scottish Government are cutting budgets for Local Government and for building affordable homes, ensuring growing numbers of homeless people being locked into the ghettoisation of temporary accommodation and this will worsen as the cost of living crisis deepens in the months to come.

The setting up of the Temporary Accommodation Task and Finish Group which includes a member of the Legal Services Agency, the organisation that wrote the report advocating the state paying the charges of temporary accommodation may appear positive but is no more than paying lip service to this petition.

The reality is that with the rise in vulnerable homeless households in temporary accommodation from 11,345 in 2019 to 13,192 in 2021 and with the numbers of those in temporary accommodation expected to rise further because of the cost of living crisis we need action and resources now to tackle the homeless and housing emergency. Therefore the near £500 million underspend from last year which is now residing in the Scottish Government's cash reserves could easily be used for paying the charges for housing the homeless in temporary accommodation in Scotland and writing off the £33.3 million debt.

Unless the terms of this petition are met we are condemning our vulnerable homeless households in Scotland into penury and further poverty which will be disastrous for their physical and mental health.