

COSLA's response to the Homelessness etc (Scotland) Act 2003 - Implementation of Section 11 Consultation

Introduction

COSLA welcomes the opportunity to respond to the consultation on the **Homelessness etc (Scotland) Act 2003 - Implementation of Section 11**. Local authorities are supportive of the measures to prevent homelessness. This response focuses on the key issues that have been raised by local authorities. The key issues are:

1. The Information Contained in Forms 1 and 2
2. Landlord and Creditor Compliance
3. Notification Timescales
4. Informing Landlords and Creditors of their Local Authority Area
5. Resources
6. Awareness Raising

The Information Contained in Forms 1 and 2

For the Forms to be useful to local authorities they need to contain more detailed information about the landlord/creditor, the tenant/householder and include a short case history. Please refer to individual local authority responses for more detail, in particular South Lanarkshire, South Ayrshire and Dundee.

Landlord and Creditor Compliance

The failure of landlords/creditors to comply with Section 11 does not mean that a local authority has failed to fulfil their duties. Local authorities have stated they will go to reasonable lengths to notify landlords/creditors. The inspection of registered social landlords (RSLs) by Communities Scotland and the register of private landlords means it is easier to impose sanctions on those that do not comply with the legislation. However, there are not any sanctions imposed on creditors' non-compliance. **It is recommended that creditors face a sanction if they do not notify a local authority.**

There also needs to be incentives for landlords/creditors to comply, for example to work with householders and tenants to sustain their tenancies/accommodation. They need to understand how their actions may prevent homelessness.

Notification Timescales

It is unclear at which point the landlord/creditor must notify the local authority. **To avoid dubiety and non-compliance a set timescale for notifying local authorities should be explicitly stated in the guidance.**

Informing Landlords and Creditors of their Local Authority Area

The register of private landlords and the use of section 5 agreements with RSLs will assist local authorities in identifying landlords. However, it will be very difficult and impractical for a local authority to identify all of the creditors and non-registered private landlords that operate within a local authority boundary. The onus should not be placed on a local authority to identify every lender. Responsibility has to be placed on landlords/creditors to find out which local authority their property is situated in. **The landlord/creditor guidance should be strengthened, placing the responsibility on landlords/creditors to identify the local authority area for their property.**

Resources

Local authorities welcome this proactive approach to preventing homelessness. The proposed Section 11 process will be extremely resource intensive and place an unreasonable burden on

local authorities to identify landlords/creditors. Additional resources and funds will be required to enable a local authority to implement Section 11 effectively. The impact of Section 11 will see an increased demand and pressure on homelessness services and associated advice and information services, such as the Citizen Advice Bureaux, Advocacy Services and Money Advice.

Awareness Raising

The Scottish Executive needs to raise awareness at a national level with householders/tenants, landlords (both private and social) and creditors of the proposed changes. Clarification is needed on how creditors and landlords will be informed of their duties contained in the guidance.

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