

East Renfrewshire Council

Consultation Response to the
Homelessness etc (Scotland)
Act 2003 – Implementation of
Section 11

Section 1

Q1: Is the form and manner of notifications of proceedings to local authorities clear to you from the information contained in these regulations?

YES

Comment:

Q2: Do you believe that the information outlined in the Notice of Proceedings in Form1 is sufficient to ensure effective implementation of section 11?

YES

Comment:

The information contained on the form is sufficient to allow us to contact the householder and offer assistance however the information contained in the forms is limited. It would be useful to have details of household composition, arrears/debts/ reasons for N.O.P and what action landlords/creditors have taken so far to assist the household. This would allow us to have a more planned approach to contacting the householder and ensure that we could offer some practical solutions on first contact, which should hopefully alleviate some of the stress and anxiety they will feel at the local authority contacting them.

Q3: Do you believe that the information in the Calling – up Notice etc, in Form 2 is sufficient to ensure effective implementation of Section 11?

YES

Comment:

As above

Q4: Do you have any suggestions to make Forms 1 & 2 in the regulations more ‘user friendly’?

YES

Comment:

They would be easier to read and complete if they were in table format

Q5: Do you have any general comments or suggestions on the form and manner of the notifications to local authorities from landlords and creditors as outlined in the regulations set out in section 1?

YES

Comment:

A section could be added to both forms asking for the date that notification was sent to local authorities.

We also have some concerns about contact methods, particularly by email. Although this will allow the detail to be passed to local authorities more quickly than in writing it cannot be guaranteed that it will always be received timeously or at all i.e. firewalls on p.c's, nominated contact on leave/off sick. Notification may best be carried out on a more formal basis to ensure that they can be logged and tracked more effectively.

A) STATUTORY GUIDANCE TO LOCAL AUTHORITIES

Q6: Are you clear from the guidance at which stage local authorities should expect to receive the notification of proceedings?

YES

Comment:

Notification should be sent to local authorities when the landlord/creditor raises any action covered by the legislation. However the term 'notification should be sent' is a bit vague, it should state that notification must be sent and this should be at the same time the landlord/creditor raises any action. Paragraph 17 (page 15) states that 'notification should occur when proceedings are raised and this should normally be construed as within a reasonable time' – this leaves it open to interpretation and as previously stated notification should be sent to the LA at the same time action is raised

Q7: Do you have any comments/suggestions in relation to local authorities ensuring landlords or creditors know where to send proceedings?

YES

Comment:

Local publicity could ensure that landlords are aware of who to contact however this would have additional resource implications over and above our usual annual commitments. It would be impossible for individual local authorities to identify and advise creditors/lenders of who to notify within the local authority as people borrow from a range of lenders based throughout the country. How do the Scottish Executive propose to distribute the Guidance for Landlords and Creditors?

It would be useful if the contact details for local authorities and the areas they cover were made available via a central point e.g. Scottish Executive Website or similar to how the Homepoint Housing Options Guide links to L.A Websites. This would provide consistency and one route of access for all and would also allow landlords/creditors to obtain more detailed information from the L.A's own website once they had identified which L.A to contact

Q8: Is it clear from the guidance which information local authorities should expect to receive from landlords and creditors?

YES

Comment:

See comments at question 2

Q9: Is the guidance clear on what actions should be taken by local authorities when notification is received from landlords and creditors?

YES

Comment:

We are concerned about the additional resource implications of responding to section 11 in terms of the financial costs and possible additional staff resources required to respond to the level of notifications. Maintaining contact with households who accept local authority intervention will also be resource intensive. Once we have contacted the householder on receipt of N.O.P or calling up notice to offer assistance and/or referrals to more specialist agencies we would then have an obligation to maintain contact with the householder and other agencies to ensure that homelessness has been prevented or if this cannot be achieved offer homelessness assistance.

Over this financial year the 2 main RSL's in this area have issued just under 90 notice of proceedings (this figure does not include default notices). We have a high rate of owner occupation in this area at approximately 83% of households and generally 2% (8-10 households per annum) of our homeless presentations are from households presenting as homeless due to mortgage default. We do not know how many owners are issues with notices on an annual basis nor do we know how many private tenants are affected by this therefore it will be difficult to plan our response to dealing with this.

We have one Homeless Persons Officer and one Housing Advice and Information Officer for this authority. We generally deal with approximately 400 presentation per annum and are concerned about our ability to cope, within our current resources, with the probable increase in the need for housing and homelessness advice and information due, not only to the implementation of Section 11, but also the suspension of local connection and target to reduce applicants found to be non priority

On page 9 paragraph 20 the guidance states that local authorities should give priority to households already known to them and known to be at risk of homelessness. Could you please give clarification on this statement as everyone who is served with a notice of proceedings is at risk of becoming homeless. Could you also clarify what is meant by giving priority to people known to local authorities, surely local authorities should not be discriminating in favour of families who are known to them.

Q10: Do you have any comments about the data protection issues raised in the guidance?

YES/NO

Comment:

Q11: Do you have any general comments or suggestion you believe would strengthen the statutory guidance to local authorities set out in section 2?

YES/NO

Comment:

B) GUIDANCE TO LANDLORDS AND CREDITORS

Q12: Is it clear from this guidance what the duty of landlords and creditors under section 11 is and how it should be discharged?

YES

Comment:

I think there should be a distinction made between landlords and creditors. Creditors are not landlords and there appears to be no consequences for creditors failing to comply with the legislation therefore no incentive for them to notify local authorities.

Page 9, paragraph 15. 'Any contravention of section 11 could be used by the local authority to prevent subsequent registration' Given that the majority of landlords are now registered on the Landlord Registration Scheme and re-registration takes place every 3 years would the Scottish Executive suggest revoking registration for landlords who do not comply, if so further guidance is required.

Q13: Is it clear from the guidance what the purpose of section 11 is and how landlords and creditors can contribute to and benefit from this?

YES

Comment:

Unsure as to how effective the guidance is in demonstrating the importance of preventative action for those who are not used to this kind of activity e.g. small private landlords and creditors. It may be useful to make more explicit why this will be of value to them.

Q14: Is it clear from the guidance what action landlords and creditors can take to help prevent homelessness?

YES

Comment:

Although not convinced some landlords and particularly creditors will see signposting to agencies who can help the households as their role. However it will hopefully highlight to landlords/creditors that they do have a role to play in the prevention of homelessness and explain how this can assist them as well as the tenant/occupier.

If they are asked to provide detail, on the notification, of what steps they have taken to assist the tenant/occupier prior to issuing any notices it will hopefully encourage them to review and improve their current practices, ensuring that they are documenting cases sufficiently and taking preventative action where they can.

Q15: do you have any general comment or suggestions you believe would strengthen the guidance to landlords and creditors set out in section 2?

YES

Comment:

See comments at question 6

EQUALITIES

Q16: Do you feel the proposals promote equality? If not, please give details of your concerns?

YES

Comment:

There is nothing in the guidance to suggest that it will not promote equality

Q17: Do you agree with local authorities being asked to monitor implementation in the first year and being asked to provide this information to the Scottish Executive?

YES

Comment:

Q18: Do you have any other comments or suggestions about the monitoring and evaluation of the implementation of section 11?

YES

Comment:

General Comments

Publicity at a national level would be useful, not only to inform landlords/creditors but also to advise the public about section 11 and what it means to them. This will ensure that the public are aware that creditors/landlords have a duty to inform the local authority when proceedings have been raised, what information the landlord/creditor will pass to the local authority about them and what action the local authority will take on receipt of the notification.

It cannot be assumed that all members of the public will welcome local authorities contacting them. They may find this intrusive, particularly at such a difficult and stressful time, they may also be concerned that personal information has been passed to the local authority without their knowledge and consent.

