

# SCOTTISH COUNCIL FOR **SINGLE HOMELESS**

## **Consultation Response: Homelessness etc (Scotland) Act 2003 – Implementation of Section 11**

### *Introduction*

The Scottish Council for Single Homeless (SCSH) is the national membership body in Scotland for organisations and individuals tackling homelessness. Our members include voluntary sector providers, housing associations, local authorities (LAs), academics and other professionals involved in homelessness prevention and alleviation.

SCSH is grateful for the opportunity to comment on the Scottish Executive Consultation: Homelessness etc (Scotland) Act 2003 – Implementation of Section 11. SCSH fully supports the Executive's homelessness prevention agenda and acknowledges the importance of implementation of Section 11 as a further piece of the jigsaw to ensure all unintentionally homeless people have access to permanent accommodation by 2012. We agree with the general approach taken by the Executive in the setting out of draft regulations and guidance so that LAs can be alerted in advance of households at risk of homelessness through repossession proceedings and other similar notices.

### *General Comments*

SCSH is pleased that the Executive is issuing non-statutory guidance for landlords and creditors. We believe this provision is important as landlords and creditors have a key role in preventing homelessness, wherever possible. SCSH has concerns, however, there will be no 'sanctions' for private landlords, RSLs and creditors who do not comply with the regulations; this may in turn affect how well the guidance is adhered to, and ultimately have an impact on the prevention of homelessness.

SCSH understands that LAs are able to determine whether private landlords are 'fit and proper' from landlord registration (and a landlord who contravened Section 11 could be refused subsequent re-registration), but it is debateable that these provisions will be sufficient to force the majority of landlords to comply with the regulations. Given the limited mandatory and compliance procedures that LAs will have at their disposal, SCSH would like the Executive to consider the role of Rent Assessment Committees in undertaking an element of this work.

SCSH would like to see the Executive include provisions, where possible, which would allow a review of the effectiveness of the regulations, in terms of landlords compliance rates with the view to subsequent changes in the law if there is non-compliance.

While SCSH recognises that Section 11 does not apply to LAs own landlord function, we feel the available guidance for LAs on this matter should be more comprehensive

and include practical examples of the links of responsibility required between LA departments.

SCSH has concerns on how the regulations and requirements under Section 11 will be made clear to UK based creditors and mortgagors. Individuals living in Scotland may have credit agreements with companies who are based in London, for example. As a result, the information flow between creditors and mortgagors outside of Scotland to Scottish LAs on Section 11 issues may be impractical.

More specific points on the consultation paper are outlined in the sections below.

### *Section 1 – Regulations on the Form and Manner of Notifications to LAs*

SCSH believes it is important that LAs have sufficient notice of proceedings of eviction so that appropriate interventions can be put in place so to help prevent homelessness. The form issued from landlords to LAs should clearly stipulate the grounds for the proceedings being raised so that authorities are able to plan appropriately and more efficiently to provide tailored interventions to individual cases (for example, potential eviction reasons could vary from being debt related through to having an anti-social behaviour element). A record of this type of information could also help LAs prioritise more serious cases where the tenant/owner is more in danger of becoming homeless imminently.

SCSH would like the Executive to consider the possibility of information being collected by landlords in a 'follow – up' manner. In some situations there may be changes to the eviction case; for example, a planned eviction could be cancelled by the landlord where an agreement has been reached between the landlord and tenant. We also believe it would be beneficial for LAs to have information on household size and type and tenancy type and length, and where possible, information on planned eviction dates.

### *Section 2 – Statutory Guidance to LAs/Landlords/Creditors*

In terms of the statutory guidance available to LAs, the Executive should consider issuing more comprehensive guidance on who would be the most appropriate person to notify within the LA for repossession proceedings. Not all LAs have the same internal structure and the level to which the departments work together on issues such as eviction will differ too. As touched on earlier, it is also important guidance is issued to all affected parties on how Section 11 notifications from creditors or mortgagors based outwith Scotland, reach LAs within Scotland in an appropriate manner.

LAs should be given guidance on how best to draw up a list of tenants in their area who are more likely to, or have a history of, becoming homeless based on their tenancy history. Although such tasks would be resource intensive for the LA concerned (there may also be data confidentiality issues to resolve here too), an accessible list of those tenants 'at risk' would be beneficial to allow a more focused and appropriate response to their crisis.

SCSH would like to see the guidance to all parties successfully convey the benefits of preventing homelessness in terms of the financial benefit (i.e. through the avoidance of re-letting) to the landlord (including the LA) and social benefits to the tenants involved.

RSLs Section 11 duties are entirely separate from their duties to serve a notice through Section 14 of the Housing (Scotland) Act 2001. As a result, SCSH believes it is vital Communities Scotland issue guidance as soon as practicably possible on how RSLs implement their duty under Section 11, and how this new activity is to be interpreted and recorded during their routine inspection programme.

SCSH has a number of issues with data confidentiality and the proposed regulations. The Executive should provide LAs with explicit guidance on what happens to the collected information after a specified time and how tenants/owners should be made aware of data having been collected. In terms of LAs/landlords liaising with tenants who may be at risk of homelessness there could also be some issues in terms of 'engagement'. For example in a 'debt case' where both partners are living in the home, should the LA/landlord approach only the tenant/owner who has the debt problem or both tenants/owners (given that both individuals are at risk of homelessness)? Similar 'engagement' issues and complications arise where there are cases of domestic abuse. Further to this, SCSH is unsure whether information contained within notices from landlords can be shared with outside agencies (some of which may be funded by LAs) who may provide important homelessness prevention work. In essence, the first approach to a household at risk of homelessness may be made only by the LA - which in some circumstances may not be desirable.

### *Equality Issues*

SCSH believes the proposals may create inequalities for LAs and landlords, as action for non-compliance (i.e. for breach of the regulations) differs depending on landlord type – as discussed earlier.

As touched on above, the consistency of services provided to prevent homelessness for tenants or owner occupiers will inevitably differ, due to the likelihood of the varying quality of information flow (and subsequent notifications) between their landlord/lender and the LA.

Throughout the consultation document there is no mention of how the provisions will be appropriately resourced. The Executive should be aware that Enactment of Section 11 may increase demand for, and put pressure on, existing advocacy, advice and homeless services.

### *Monitoring and Evaluation*

To gauge the effectiveness of the regulations, SCSH believes it is important that the Executive carries out a study on responses of LAs, landlords and creditors to implementation of Section 11. We also believe the Executive should consider

monitoring the provisions over a longer period than the one year suggested in the consultation paper.

The Executive should consider through Section 11 whether it would also be appropriate to monitor aspects of 'repeat homelessness'. While SCSH recognises that 'repeats' can be identified through HL1 homelessness monitoring it may be beneficial to look at the issue in more depth and/or with a different approach.

The proposals highlight that LAs will be asked to monitor implementation of the regulations in the first year and asked to provide information to the Executive. While a necessary process for the LAs, the Executive must understand that LAs will be placed under a greater degree of administrative burden. It is also important that LAs are informed from the outset of the information types and formats that are required by the Executive.

SCSH is happy to elaborate on any of the points raised and are happy for the contents of this report to be made publicly available.

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