

## **WEST DUNBARTONSHIRE: SECTION 11 - CONSULTATION RESPONSE**

### **Section 1**

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

**YES**

**Comment:**

The form of notice is clear. However, it appears that, in terms of Forms 1 and 2, the local authority is being notified after the proceedings have been lodged in court. If the aim of Section 11 is homelessness prevention, I would suggest that landlords and creditors should be required to advise the local authority before proceedings are raised.

**Q2: Do you believe that the information outlined in the Notice of Proceedings in Form 1 is sufficient to ensure effective implementation of Section 11**

**NO**

**Comment:**

The information provided in the Notice of Proceeding gives no information on household composition, the level of the arrears and any previous action take to resolve the difficulties. In terms of homelessness prevention, Section 11 should be more than just a 'tick box' for landlords and creditors.

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

**NO**

**Comment:**

See response to Question 2

**Q4: Do you have any suggestions to make Forms 1 and 2 in the regulations more 'user friendly'?**

**YES**

**Comment:**

The forms are designed to provide basic information. The addition of a 'narrative' box could provide background information. If Section 11 is intended to prevent homelessness, information should also be provided on what if anything would stop the action e.g. a lump sum or an arrangement.

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

**YES**

**Comment:**

Clear timescales should be attached to ensure that local authorities are notified at the earliest possible opportunity. Landlords and creditors should also be required to advise the local authority if the situation changes.

## **Section 2**

### **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**

**NO**

**Comment:**

Section 17 of the 'GUIDANCE FOR LANDLORDS AND CREDITORS' is somewhat confusing. On the one hand it states that 'notification should occur when proceedings are raised' but then goes on to state '...that this notice is given at the same time, or as soon as possible after, raising proceedings'. The timescales for notification should be clear e.g. within 24 hours.

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

**YES**

**Comment:**

This will be a time consuming and potentially costly process for local authorities and could have resource implications. Initially, the onus is on the local authority to contact landlords and creditors to ensure that they have details of who to contact when an action is being raised. In terms of private landlords, we accept that information is available through both the registration requirements of the Anti Social Behaviour Act 2004 and the Housing Benefit system. However, we believe that contacting mortgage lenders will be more problematic due to both the sheer volume of lenders and the fact that they are based all over the country. As an alternative, perhaps the Sheriff Court in which the action is raised could be given the responsibility for contacting the local authority.

For Section 11 to operate effectively, local authorities will have to develop a system to monitor compliance by both landlords and creditors. However, although the guidance outlines possible sanctions for non compliance by private landlords and RSLs, it is unclear what action will be taken if creditors fail to comply.

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

**YES**

**Comment:**

However, the information is limited.

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

**YES**

**Comment:**

However, it is essential that staff have the appropriate training to ensure that any contact with the households concerned is effective. In our experience, households facing repossession actions often have multiple debts and expertise will be required when negotiating with a creditor's legal department.

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

**NO**

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

**YES**

**Comment:**

If the implementation of Section 11 is to be successful in homelessness prevention, local authorities must be properly resourced to meet potential demand. In advance of Section 11 being implemented, it would be useful if the Sheriff Courts could provide information on the number of actions that landlords and creditors have raised in the last 12 months.

## **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:**

In general terms, the guidance is clear in that it highlights the importance of homelessness prevention. However, as outlined in the response to Q6, there is some uncertainty in relation to how it should be discharged.

**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:**

The importance of homelessness prevention is highlighted throughout the guidance. However, given that this is a new initiative, it is essential that procedures are put in place both at a local and national level to monitor its effectiveness. Section 11 relies heavily on landlords and creditors being willing to follow the guidance. Whilst the local authority has more control over landlords in terms of the 2004 Anti Social Behaviour Act's registration requirements, there are no obvious penalties for creditors who do not comply. The implementation of Section 11 is, therefore, reliant on

creditors being willing to follow the guidance. This may prove to be a weakness in the long term.

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

**YES**

**Comment:**

The guidance is clear in terms of preventative actions. However, previous experience would suggest that if landlords and creditors are having difficulty with their tenant or mortgagor, they have not always been willing to look at ways of resolving the situation with a view to preventing homelessness.

**Q15: Do you have any general comments or suggestions you believe would strengthen the guidance to landlords and creditors set out in Section 2?**

**YES**

**Comment:**

In addition to the Section 11 guidance, the Executive should issue good practice guidance on homelessness prevention to all landlords and creditors.

## **EQUALITIES**

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

**NO**

**Comment:**

I do not believe that the Section 11 proposals will have a significant impact on equalities as the proposals are aimed at the prevention of homelessness across all housing tenures. However, given that there are no penalties for non compliance by creditors, there would appear to be an inequality in terms of repossession actions in the private sector.

## **MONITORING AND EVALUATION OF IMPLEMENTATION**

**Q.17: 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:**

It is important that all new initiatives are monitored closely to measure effectiveness. West Dunbartonshire Council will provide information to the Scottish Executive as and when required.

**Q.18 Do you have any other comments or suggestions about the monitoring and evaluation of the implementation of Section 11?**

**YES**

**Comment:**

We welcome the opportunity to comment on the implementation of Section 11. However, as highlighted, it is difficult to estimate the numbers involved. To assist in the planning process, it would be useful if the Sheriff Courts could provide information on the number of court actions that have been raised in each local authority's area over the last 12 months.

