

SECTION 11 – CONSULTATION RESPONSE

Name of individual/organisation: Julie Hunter, North Lanarkshire Council

Views are sought in relation to:

- the regulations on the form and manner of notifications to local authorities set out in Section 1 of this paper
- the statutory guidance to local authorities and the guidance to landlords and creditors set out in Section 2
- whether the paper addresses equalities issues
- the proposals for monitoring and evaluation of 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 the form and manner of the notice is clear.

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 is limited as it would be beneficial to have more detailed information about household circumstances (including family composition), the level of outstanding arrears and an email address for the landlord/creditor. This would assist the local authority to prioritise each case more effectively. It would also be an indicator of the landlord/creditor having utilised internal housing and debt management procedures prior to raising a court action.

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

NO

Comment: For reasons previously outlined at Question 2.

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

YES

Comment: Both forms are suitable but would benefit from additional qualitative information about the case. There should also be a requirement to sign and date the forms.

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?

NO

Comment:

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?

YES

Comment: It would be helpful to stipulate a timescale for notification and ideally this would be before the proceedings are raised. At the very least though the notification should be issued at the same time as proceedings are raised to give a meaningful opportunity for intervention.

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

YES

Comment: As with most legislation, local authorities can make information/processes known through publicity, but it is the responsibility of landlords/creditors to act on that knowledge. We would probably have few problems in contacting local landlords as we could write to all RSLs operating in the area and any private sector landlords known to us through Housing and Council Tax Benefit records. It would be considerably more difficult to identify and contact mortgage lenders.

Publicising the process will still not guarantee that landlords/creditors will comply, particularly as there are no meaningful sanctions for those not complying. Whilst we are of the view that RSLs will work with us there is less certainty about other landlords. We are not of the view that possible refusal to re-register landlords will provide sufficient motivation for landlords to comply, particularly if they are determined to get a tenant out. There are no sanctions available for mortgage and other lenders so less likelihood of compliance.

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

YES

Comment: We do feel strongly that his needs to be improved as suggested earlier.

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

YES

Comment: Whilst the guidance offers suggested courses of action we are of the view that writing to people in this situation is unlikely to be helpful. Generally, people in debt don't open mail, particularly when it appears to come from an official source. There are also potential literacy and language barriers, which could make written notifications a waste of time and effort.

For meaningful prevention activity the best means of contact tends to be achieved through home visits and follow up appointments. This will clearly have implications for local authority resources, which are already stretched and is extremely time consuming.

This does also raise issues about data protection, particularly where it becomes clear that people need to be signposted to other agencies.

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

YES

Comment: Beyond the obvious issue around sharing information with other agencies there appears to be a presumption that Council departments routinely share data at the moment. Recent internal discussions within this council demonstrate that this is not the case. We take the view that the legislation should be framed to allow local authorities a presumption of disclosure for Data Protection to enable a local authority to mobilise support and assistance across a range of services within the council to assist in preventing homelessness.

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

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: As previously stated, where possible it would be helpful to include other data.

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 :

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

YES

Comment :

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

NO

Comment:

EQUALITIES

Q.16: Do you feel the proposals promote equality? If not, please give details of your concerns?

NO

Comment: The likely uneven application of the legislation due to the lack of meaningful sanctions for landlords/creditors will probably lead to more effective activity to promote prevention work with tenants in the social rented sector. Tenants of the private rented sector, people facing actions for unpaid mortgage payments, and other debtors are less likely to benefit from the legislation.

MONITORING AND EVALUATION OF IMPLEMENTATION

The Scottish Executive will consider carrying out a study on responses of local authorities, landlords and creditors to implementation of section 11. This will require local authorities to monitor implementation during the first year and provide this information to the Scottish Executive.

Q.17: Do you agree with local authorities be asked to monitor implementation in the first year and being asked to provide this information to the Scottish Executive?

YES

Comment: It would be beneficial for local authorities in formulating strategic responses to

prevent homelessness to monitor the implementation and work with the Scottish Executive during the first year.

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

NO

Comment ;

Respondent information form

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name: Julie Hunter

Postal Address: Housing & Property Services, Municipal Buildings, Kildonan Street, Coatbridge, ML5 3NG

1. Are you responding: (please tick one box?)
- (a) as an individual go to Q2a/b and then Q4
- (b) **on behalf of a group/organisation** X go to Q3 and then Q4

INDIVIDUALS

- 2a. Do you agree to your response being made available to the public (in Scottish Executive library and/or on the Scottish Executive website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

- 2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

3. The name and address of your organisation **will be** made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

Yes X

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

4. We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes X

No