



SFHA Response

**Consultation on the implementation of Section 11 of the
Homelessness Etc (Scotland) Act 2003**

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Introduction

The SFHA welcomes the opportunity to respond to the consultation on the implementation of Section 11 of the Homelessness Etc (Scotland) Act 2003.

The SFHA is the membership body for housing associations and housing co-operatives the length and breadth of Scotland. It is owned by its membership, and exists to support the work of Registered Social Landlords by providing services. The mission statement of the SFHA is "to assist in creating the conditions that allow the work of housing associations in Scotland to flourish".

The voluntary housing movement is a growing sector and now houses approximately 12% of the population in Scotland, a figure likely to increase in the coming years as a result of Large Scale Voluntary transfer. In some areas of Scotland, housing associations now represent the only social housing providers.

The SFHA welcomes, in principle, the implementation of Section 11 which requires landlords and creditors to notify the relevant local authority when they raise repossession proceedings or serve certain other notices. However the SFHA believes that serving a Section 11 notice has to be meaningful and initiate appropriate responses from the local authority.

S11 requires landlords and creditors to notify the local authority when they intend repossession action. This will be a statutory requirement. However the response of the local authority to notification remains guidance and there is no statutory requirement to act to prevent homelessness. The SFHA understands that it would not be desirable to identify prescriptive responses for local authorities but believes that the effectiveness and purpose of the S11 notification

The SFHA has responded only to those questions in the consultation which are within our locus.

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

NO

The SFHA has received responses from members that indicate that they are not clear whether notice should be served on raising a Notice of Possession or referral to court stage. The accompanying guidance refers to both Notice of proceedings and referral to court which is confusing.

Section 11 of the Act states:

- 1) *Where a landlord raises proceedings for possession of a dwellinghouse, the landlord must give notice of the raising of the proceedings to the local*

authority in whose area the dwellinghouse is situated,

The Act suggests that notice should be given to the local authority on issue of a Notice of Proceedings (NOP). However other tenures require different notices and the notice needs to be clearer in identifying when a S11 notice should be served for different tenures.

However the SFHA has concerns that S11 notices should be served on local authorities at NOP stage. The SFHA agrees that good practice dictates that NOP, the first stage in formal eviction proceedings, should only be served as a last resort . However it is a reality that despite many attempts by our members to engage tenants in resolving tenancy breaches it is often only after an NOP has been issued that tenants engage with their landlords to resolve problems.

The SFHA is concerned that notification to the local authority at NOP stage will weaken the potential of S11 to prevent homelessness as local authorities will be overwhelmed by Notices and S11 would become an administrative notice rather than a preventative tool.

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

The SFHA believes that the effectiveness of S11 will depend on a local authority's ability to efficiently target appropriate resources to potentially homeless households. It would be helpful if the grounds on which the tenancy is being terminated could be notified to the local authority. That would mean that the local authority was able to identify the nature and type of intervention which may be required, e.g. debt advice, support to change behavior . The SFHA is not clear whether this would raise data protection issues but believes it would be useful to investigate whether it would be possible.

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

It may be helpful if, in addition to notification, joint protocols could be agreed between RSLs and local authorities on local authority timescales for responding to S11 Notices and agreed responses by the local authority. S11 should be an opportunity for local authorities and RSLs to work together to prevent homelessness..

The SFHA suggests that Regulation and Inspection could have a key role in compliance with good practice established by protocols.

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

See above

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

YES

In order to increase take up and compliance with S11 local authorities should be clear how and within what timescales they will respond to notification so that landlords and creditors see some benefit.

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

NO

The guidance offers suggestions as to what local authorities *could* do but apart from a very general phrase of 'act to prevent homelessness' there are no actions in the guidance which the local authority 'should' do.

This is not just an academic point as it could mean that monitoring information provided by local authorities will not provide any consistent information on the effectiveness of local authority interventions.

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?

NO

The SFHA does not believe that the guidance provides clarity about what stage S11 notices should be made to the local authority - see above

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

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

NO

Paragraph 9 of this guidance suggests that, in the case of housing benefit delays a landlord should contact the local authority prior to serving a NOP. The SFHA suggests that this is common practice in RSLs however we are concerned that the introduction of S11 may mean that local authorities do not respond until they receive a S11 notice. This would contradict the intentions of this legislation and good practice but may be an inevitable result of local authorities being overwhelmed by s11 notices.

The SFHA believes, that in the case of RSLs, protocols(see above) could be used to avoid this situation and that there is no reason why these could not be extended to the private sector and improve partnership working.

Paragraph 21 identifies the relationship between S5 and S11. Eviction is sometimes inevitable despite all attempts by RSLs to resolve tenancy breaches. The SFHA welcomes the introduction of S11 as a means of providing additional measures to prevent homelessness. However the SFHA is concerned that the implication of Para 21 is that all evictions by RSLs can be avoided and therefore referral back to an RSL of an evicted tenant is acceptable in all circumstances. The SFHA believes that the introduction of s11 should not mean that protocols and/or practice for Section 5 referrals which agree that any such referral backs should be avoided where possible are changed.

EQUALITIES

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

S11 notifications have the potential to identify and act on previously hidden homelessness. Research has identified that BME households and e.g young people being made homeless as a result of their sexuality may be reluctant to approach and/or lack trust or knowledge of the homelessness service. S11 offers an opportunity to provide advice and information on rights and entitlements prior to homelessness occurring. However the SFHA believes that interventions by local authorities need to proactively consider the needs of these particular groups to be able to respond effectively.

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?

Q.18 Do you have any other comments or suggestions about the monitoring and

evaluation of the implementation of section 11?

YES

Monitoring and reporting should have three main aims.

It should be used to evaluate the effectiveness of S11 notifications to:

- a. Prevent homelessness
- b. Plan for homelessness more effectively and how this impacts on lessening the trauma of homelessness for households
- c. Inform homelessness strategies

Conclusion

While SFHA welcomes the implementation of S11 the consultation does not suggest that local authorities will be given any more resources to respond to S11 notifications. Currently many support services are being adversely affected by cuts to Supporting People grants. The SFHA has reservations about the abilities of local authorities to properly resource effective interventions to prevent homelessness following implementation of S11. Monitoring should inform resource implications of S11 in preventing homelessness as well as prevention activity..

RESPONDEE INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name: **Scottish Federation of Housing Associations**

Postal Address: **38 York Place, Edinburgh, EH1 3HU**

Consultation title: **Implementation of Section 11 of the Homelessness Etc (Scotland) Act 2003**

1. Are you responding as: (please tick one box)

- (a) an individual (go to 2 a/b)
- (b) **on behalf of** a group or organisation **YES** (go to 2c)

If responding as an INDIVIDUAL:

2(a) 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

2(b) **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

If responding ON BEHALF OF GROUPS OR ORGANISATIONS:

2(c) Your name and address as respondees **will be** made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

- Yes **YES**
- No

SHARING RESPONSES/FUTURE ENGAGEMENT

3. 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 for consultation or research purposes?

- Yes **YES**
- No

Signed : **Liz Burns**

Organisation : **Scottish Federation of Housing Associations**





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