



Consultation Response

**Scottish Executive Consultation Paper:
Homelessness etc (Scotland) Act 2003
Implementation of Section 11**

March 2007

Introduction

The Chartered Institute of Housing in Scotland (CIH) welcomes this opportunity to comment on the consultation paper *Homelessness etc (Scotland) 2003 – Implementation of Section 11*.

The Chartered Institute of Housing is the professional body for people in housing and related fields. The Institute has almost 20,000 members in the UK and internationally. Our purpose is to maximise the contribution that housing professionals make to the wellbeing of communities. There are over 2,000 members in Scotland working in local authorities, Registered Social Landlords, Communities Scotland, voluntary organisations, the private sector, educational institutions and the Rent Registration Service. The CIH aims to ensure members are equipped to do their job by working to improve practice and delivery. We also represent the interests of our members in the development of strategic and national housing policy.

Consultation response

Overall, the CIH welcomes the implementation of Section 11 of the Homelessness (Scotland) Act 2003 and have already taken steps to provide practical advice and information to practitioners in our briefing provided to members on the launch of the Act¹. (Insert details of how briefing can be accessed)

Rather than adhering to the structure of the consultation questionnaire provided, this response will reflect the issues that have arisen in our discussions with members as to their considerations. These issues relate to the following headings:

- Clarity of process
- Clarity of guidance
- Effectiveness of approach towards prevention

While these in some ways reflect the questions set in the questionnaire, the CIH feel that the potential benefits in respect of prevention require specific attention.

Clarity of process

While the CIH is aware that joint working between local authorities and other landlords in localities has continued to improve over the years, there is some concerns that authorities are at different stages in the development of their partnerships and may require more explicit guidance as to when referrals should be sent and what information should be provided.

¹ Available from http://www.cih.org/home_scotland/display.php?db=policies&id=399

It has been suggested that a minimum period of notice to a local authority should be specified. However, many authorities will already have considered the implications and be developing or have already developed protocols and briefings for their local partners. In this respect a quick review of the extent to which such local agreements are being developed should provide a benchmark by which such a standard could be applied.

In terms of the information contained within a referral, the inclusion of household details (which are required of social rented landlords in order to effectively service notices on householders under the Housing (Scotland) Act 2001) could usefully be provided to local authorities. There is potential for local authorities to be inundated with referrals and in order that they can prioritise their approaches to individual households, providing details of household members and any additional information in respect of health, social work and other service provision involvement could usefully provide additional support and a coordinated approach to preventing or minimising the effects of homelessness in individual cases.

There already exists a range of partnership approaches between local authorities and RSLs as a result of good practice and legislation. The consultation highlights these links in terms of Section 5 agreements and nominations but it should be highlighted that, in many local areas, the development of Local Housing Strategies (LHS) has involved local authorities and RSLs working jointly to improve service delivery and strategic planning. It would be useful to consider developing some of the guidance regarding Section 11 into a review of LHS and strengthen the relationship between local partners.

The extent of the information that RSLs, private sector landlords and creditors could usefully pass to local authorities could also be further developed through information sharing protocols similar to the approach taken in development of antisocial behaviour strategies where protocols have been developed that adhere to data protection conditions. CIH is aware that such protocol agreements are already in development in some local authorities and would encourage the adoption of such protocols to incorporate details of how information is to be managed and used at all stages of action including review arrangements and follow up in the event that actions are dropped.

In respect of private sector, the CIH has concerns that the extent of private sector registration has not progressed far enough to effectively provide a possible lever for the private sector to be compelled to participate in referring cases onto the local authorities. This is in part due to local authorities not having adequate resources dedicated to developing relationships with the private sector. In many cases, the development of work with private sectors is still in its early stages. However, the private sector is increasingly being realised as having an important role to play in assisting the Scottish Executive and local authorities in meeting the 2012 target established by the

HTF. In this respect, consideration should be given at both national and local levels to resolving issues around the registration process and targeting resources to speeding up this process.

In support of quicker implementation of the private landlord registration and in order to put creditors, private landlords and RSLs on a similar footing at legal action stage, it would be helpful to consider if there is a role for the courts in ensuring that a landlord or creditor has service notice on the local authority before a case is heard.

Clarity of guidance

On the face of the guidance presented within the consultation, it is not clear the point at which referrals should be made to local authorities. In many respects this is understandable as local networks may agree different timescales and/or triggers for referral. While there is a recognition by RSLs and others that local authorities may experience considerable difficulties in coping with a potential level of referrals, there is still a need to progress with as early intervention as possible in order to maximise the impact of preventative measures. Clearly there is a potential resource consideration in applying an early trigger but this should be considered in the widest possible terms of not only preventing homelessness, but also minimising rent arrears levels.

It is widely recognised as positive practice that early intervention in tenancy breaches that have potential to result in recovery action minimises the impact of the breach and/or impact to the household or community. While it is understandable that the Scottish Executive would not wish to impose as firm a trigger as the issuing of a notice of proceedings for recovery, a staged implementation may benefit the social rented sector. Such an approach would support the provision within legislation and guidance that notices should not be sought unless the intention is to recover the property.

The guidance implies a degree of intervention through liaison and mediation between landlords, creditors and occupants but it may be useful to consider a higher level of intervention in order to promote good practice as indicated above and minimise the effects of homelessness e.g. working with lenders to encourage participation in the mortgage to rent scheme.

The guidance provided within the consultation document is much depleted in relation to creditors. This group are the least easy to regulate in this regard, and are a fairly unknown quantity in terms of working with local authorities. Local authorities require to be geared up to provide effective advice and information or to ensure that agreements are in place to raise awareness of the rights of households affected and that effective arrangements are in place within local money advice or citizens advice services. Such advice services need to be as reactive as possible, flagging up situations where creditors are not providing adequate referrals directly to local councils.

For such an approach at a local level to be effective, and in recognition that most lenders operate nationally, there is a need to identify a suitable partnership (e.g. CoSLA and CML) to develop guidance and training for lenders that can be filtered through to local branches if necessary. Local authorities will then be able to refer creditors to this guidance and help to resolve problems more effectively.

Effectiveness of approach towards prevention

The CIH understands that the whole approach to Section 11 comes explicitly from the Homelessness Task Force's recommendation that local authorities intervene and prevent homelessness occurring whenever possible². The implementation of Section 11 can potentially make considerable headway in the generally preferred move towards tackling prevention as opposed to the current concentration on dealing with those who become homeless and the associated detrimental effects that this change in circumstances has.

The effects of homelessness have, for a long time, been recognised as presenting long term detriments for individuals, families and the wider community as well as the associated increased burden on health, social care and other policy areas.

In addition, in the event that Section 11 referrals do not manage to enact effective prevention measures being taken, there are better prospects for the referral to improve the transition into and out of homelessness for those individuals affected. Central to positive outcomes is a coordinated approach to a holistic service delivery and, if nothing else, notifications to local authorities through section 11 referrals enable these other services to be notified of the potential service requirements prior to crisis point. This affords other services to assist with the transition in as planned a way as possible, minimising the disruption and detriment that becoming homeless can be accompanied by.

In ideal circumstances, there would be early intervention by landlords and creditors to prevent high level debt and long term problems from putting the occupation of a home at risk. In addition, actions would only be taken where the landlord or creditor has exhausted all opportunities to resolve the problem. In these circumstances section 11 referrals would be minimal and potentially homeless applications due to recovery of property would be minimal. However, due to a preoccupation with financial performance indicators, information systems and processes have developed a reliance on the 'system' managing cases up to a certain level. The implementation of section 11 provides landlords with an added incentive to attain a better balance between performance management and improvements in performance. It is therefore essential that good practice examples of

² HTF Final Report – Helping Homeless People: An Action Plan for Prevention and Effective Response (Scottish Executive 2002)

organisations who have developed less rigid systems are promoted widely and that regulatory bodies take into consideration the implementation of section 11 in consideration of performance against Key Performance Indicators as well as promoting examples of initiatives where a better balance has been achieved.

This submission has been prepared by:

The Chartered Institute of Housing in Scotland
6 Palmerston Place
EDINBURGH
EH12 5AA

For further information, please contact:
Lyn Jardine, Policy and Practice Officer
E-mail: lyn.jardine@cih.org