

Enquiries to: Ms S Loudon
Telephone: 01324 504005
Email: susan.loudon@falkirk.gov.uk
Ref: 070213 L HOM 002 consultation Section 11 SL
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Homelessness Division
Development Department
Scottish Executive
Victoria Quay
EDINBURGH
EH6 6QQ

Dear Sir

FAO Robin Bate

Consultation on Section 11, Homelessness etc. (Scotland) Act 2003

Please find attached the completed questionnaire that was issued with the consultation paper on Section 11 of the 2003 Act. However, I would also wish to bring to your attention, for inclusion as an integral part of Falkirk Council's response, comments made by Falkirk Council's elected Members when the draft response was considered by the Policy & Resources Committee in February.

Falkirk Council's Members wish the Scottish Executive to know that they have concerns about the Executive's approach to tackling homelessness which seems to overly focus on issues of housing need without paying due regard to the crucial issue of housing supply, especially in relation to new social rented housing. Falkirk Council Members consider that a more effective strategic response to addressing the scale of housing need identified through Local Housing Strategies and Homelessness Strategies could be a substantial increase in new housing provision by those local authorities that have demonstrated that they are able to manage and maintain a quality housing stock. Current arrangements in respect of local authority house-building (the Right to Buy and cost-floor rules) mitigate against the positive role that local authorities could play in increasing the supply of affordable housing to meet needs and Members have serious concerns about this.

In addition, given that the Council has a range of statutory duties with regard to the allocation of housing, and requires to give due consideration to all groups of people who have housing needs, including, for example, those with medical needs or disabilities or those suffering from overcrowding, Members wish to seek assurances from the Scottish Executive that the Executive's proposals in respect of homelessness do not adversely affect other groups in housing need.

I trust that you will be able to incorporate these comments into the record of Falkirk Council's response.

Yours faithfully,



Susan Loudon
Service Manager

Proposed response to Scottish Executive Consultation on Section 11 of the Homelessness (Scotland) Act 2003.

Section 1 – Consultation Response

Name of individual/organisation: Falkirk 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 proposal 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, however, it will be vital to ensure that sufficient notice is given to local authorities that a household may become homeless to allow time for appropriate interventions to take place given that the intention is to prevent homelessness wherever possible.
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?
	It would be useful to have an early indication of the type of household affected by the notice in order to highlight whether there are children or other vulnerable people involved. It would also be helpful to know what measures the landlord/creditor has already taken to try to prevent the situation deteriorating to the extent that a notice of proceedings for possession or ejection is now required.
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?
	See comments in (2) above.
Q4:	Do you have any suggestions to make Forms 1 and 2 in the regulations more 'user' friendly?
	The proposed forms would benefit from being expressed in plain English. Whilst it is recognised that the format needs to be able to record that formal legal proceeding are in progress, the notification to the local authority could be more simply phrased - as proposed, the notification seems to be overly legalistic and may confuse frontline homelessness assessment staff who are currently having to deal with a vast range of changes to the environment in which they work. It is vital that there should be as little cause for confusion during this period of transition as possible. Whilst it would not make sense for every local authority that is being consulted to suggest different ways of wording the

	notification, it might be useful to hold a focus group of practitioners to look at this issue. Such a focus group could be facilitated by Shelter or the Chartered Institute of Housing.
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?
	See comments in (4) above.
Section 2	
Q6:	Are you clear from the guidance at which stage local authorities should expect to receive the notification of proceedings?
	No. Whilst the guidance seeks to ensure that sufficient notice is given to local authorities by prescribing when landlords/creditors must notify the relevant local authority, it is presently not clear how long before the actual loss of a home this is likely to be. It would be useful to have some general indication as to how long any action is likely to take before the individual/household is rendered homeless and the forms could perhaps show a date before which the individual/household could not become homeless. This would assist local authorities to know how quickly they will need to put preventative measures in place.
Q7:	Do you have any comments/suggestions in relation to local authorities ensuring landlords or creditors know where to send proceedings?
	Given the different operational structures which apply across Scottish local authorities, a simple way of ensuring that landlords/creditors know who to send notifications to in each local authority would be for the Scottish Executive to hold this information on its website for every local authority in Scotland. Each local authority could also be obliged to make this information available on its website.
Q8:	Is it clear from the guidance which information local authorities should expect to receive from landlords and creditors?
	Whilst the guidance specifies the information that local authorities can expect to receive from landlords and creditors is clear as far as it goes, the additional information referred to in above would assist local authorities to act appropriately.
Q9:	Is the guidance clear on what actions should be taken by local authorities when notification is received from landlords and creditors?
	Yes. The guidance spells out the type of action a local authority will be expected to take upon receipt of a notification from a landlord/creditor. However, staff training will be of great importance here and assistance from appropriate professional or voluntary organisations (e.g. Chartered Institute of Housing, Shelter, Scottish Council for Single Homeless) would be of assistance to local authorities as they try to move away from a reactive response once actual homelessness has arisen towards a more proactive approach that seeks to prevent homelessness.

Q10:	Do you have any comments about the data protection issues raised in the guidance?
	Yes. The data protection issues outlined are clear enough but, again, there will be a need to ensure that staff are fully trained in these issues and that documentation and procedures fully reflect the requirements. This will take time to implement.
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. The guidance needs to be as simple and as streamlined as possible. The use of flowcharts would assist staff dealing with these new requirements to be clear about what action they should take when. Where is not possible to prevent homelessness (hopefully this will be in the minority of cases) links also need to be made with the HL1 process to ensure a seamless process that it clear to all involved.
Q12:	Is it clear from this guidance what the duty of landlords and creditors under section 11 is and how it should be discharged?
	Whilst it is relatively clear what the duty on landlords and creditors is under Section 11, the same comments noted in (2) and (6) above would also apply here. It is recognised that some landlords and creditors might not generally hold such information but it would perhaps be useful if they were obliged to obtain this as part of the process for issuing proceedings. An obligation on landlords/creditors to provide such advice and information that will assist to prevent their tenants/mortgagors from becoming homeless would be helpful to reduce the burden that may fall on local authorities.
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?
	Yes, but the range of information sources suggested will not assist landlords/creditors to prevent homelessness when they are under pressure to deliver other priorities.
Q15:	Do you have any general comments or suggestions you believe would strengthen the guidance to landlords and creditors set out in section 2?
	It would be most helpful if a central resource could be made available that pulls together all the various sources of assistance into one user-friendly document/format. Again, a flowchart might be helpful.

Q16:	Do you feel the proposals promote equality? If not, please give details of your concerns?
	Yes, assuming all parties work to ensure that information is available in appropriate formats for the individuals concerned.
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.	
Q17:	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. There would appear to be no alternative to the proposal that local authorities monitor the implementation of Section 11 in the first year and report back to the Scottish Executive but the Executive, through consultation and partnership working, should make it clear from the outset the type of information it will require and the format in which it wishes this information to be provided so that local authorities can set up appropriate systems/procedures. This will help to ensure a level playing-field for benchmarking purposes.
Q18:	Do you have any other comments or suggestions about the monitoring and evaluation of the implementation of Section 11?
	No.