

SECTION 11 – CONSULTATION RESPONSE

Name of individual/organisation: Isobel Kelly, Assistant Principal Officer
(Welfare Rights and Debt Advice)

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

Comment: No comment

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?

YES

Comment: If landlord completes form accurately, and does so at the same time as Notice of Proceedings.

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?

YES

Comment: Form needs to be completed accurately and at the same time as Action is taken.

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

YES

Comment: Add a section for additional comments/information e.g. Email, Telephone contact for tenant/proprietor. Useful to know if tenant / occupier is resident. Local authority will not be able to contact occupier if, e.g. living somewhere else, in custody, hospital.

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: Should do more than advise landlord/creditor to inform local authority within a “reasonable” time scale. “E” version will allow faster action and should be preferred method of notification. Although it is possible that local authority could take action against landlord who fails to comply to do so after the event does nothing to prevent a person becoming homeless. To follow up non-compliance creates additional work for local authorities and to refuse registration is out of proportion for e.g. late notification. Also to refuse registration could have a negative effect on the availability of property and

homelessness.

The local authority has no sanction against creditors who do not comply and this is not addressed in the legislation / guidance.

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: Believe there needs to be clear instruction to landlord/ creditor to notify at same time as they raise proceedings.

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

YES

Comment: Most local authorities have websites and "contact me" section or links for to appropriate sections of the Council.

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

YES

Comment: Some concern that the basic information even if given in good time will be insufficient to allow local authority to take action, e.g. if occupier is in hospital.

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

YES

Comment: It is very general advice but writer's experience is that people in debt/at risk of repossession can be in denial and very hard to engage. Most authorities already have a strategy to prevent homelessness, including advice and information.

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

NO

Comment: No comment

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: That appropriate actions in relation to Section 11 should be included in general Housing Strategy or Homelessness Strategy.

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: No comment

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: Not clear that landlord/creditor will agree that their interests coincide with objectives of local authority. Creditors in particular are motivated by commercial factors not social concerns. The fact that their actions might attract bad publicity is more likely to prevent repossession than impact on occupier.

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

NO

Comment: Not convinced that landlords/creditors believe they have a specific responsibility to prevent homelessness. Even if they comply with notification procedure may do nothing more. If occupier is not "vulnerable" will simply want to recover their property.

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: As the guidance is not statutory it is difficult to see how it can be strengthened.

EQUALITIES

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

YES

Comment: No comment

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: With appropriate support from the executive.

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

YES

Comment: The local authority – or other agency – should receive appropriate funding to carry out monitoring and evaluation.

Isobel Kelly