



**Homeless etc. (Scotland) Act 2003
Eviction Protocol (Preventing Homelessness)
Dundee City Council**

OCTOBER 2009

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EVICTION PROTOCOL (PREVENTING HOMELESSNESS)

STATEMENT OF BEST PRACTICE IN JOINT WORKING BETWEEN DUNDEE CITY COUNCIL AND REGISTERED SOCIAL LANDLORDS (RSLs), PRIVATE LANDLORDS AND CREDITORS IN THE DUNDEE AREA

1. INTRODUCTION

This Statement of Best Practice aims to ensure that prevention of homelessness and evictions takes place in a non-discriminatory way and that appropriate support is available to all tenants/owner-occupiers on individual bases.

The agreement relies on effective partnership working; built upon honesty, integrity, confidentiality and a willingness by all parties to prevent eviction and resultant homelessness.

2. BACKGROUND

The prevention of homelessness, whatever the cause, is a key strategic aim of Dundee City Council. Section 11 of the Homelessness etc. (Scotland) Act 2003 (hereinafter referred to as the Act) places a duty on all Registered Social Landlords (RSL)/ Private Sector Landlords (all private landlords letting property in Scotland have also had a duty since 2006 to register with the council) and Creditors to notify the local authority of any repossession proceedings. The duty under Section 11 became a statutory requirement on 1st April 2009.

This Statement of Best Practice sets out arrangements for **the implementation of Section 11** according to Scottish Government legislation to ensure that all tenants and legal occupants of dwellings in Dundee have access to services which can provide advice and assistance in preventing homelessness occurring as a result of eviction or repossession due to rent or mortgage arrears, or other management grounds.

As part of an ongoing restructure of homelessness services in Dundee, a Homeless Prevention Team has been established. Within this team there are Homeless Prevention Officers who have a dedicated role to assist households threatened with homelessness. Part of the remit of the Homeless Prevention Officer is to provide advice and support to households who are at risk of losing their home due to legal proceedings for eviction. This Team will focus on prevention activities for both the Council (although not part of the Section 11 legislation) and RSL tenants. Activities relating to the Private Rented Sector and owner-occupation will be the remit of the Welfare Benefits Team, Social Work. In accordance with the Act, local authorities should be notified by Landlords and Creditors when they are raising legal action.

This Statement of Best Practice's objective is to ensure that the Homeless Prevention Officer and Welfare Benefits Officer adhere to the requirements of Section 11 in their role of preventing homelessness when and if possible.

3. PURPOSE OF THE STATEMENT OF BEST PRACTICE

To define the roles and responsibilities of Dundee City Council and RSLs, Private Landlords and Creditors to ensure that:

- Appropriate action is taken to prevent evictions and homelessness.
- Appropriate support is offered, on an individual basis, to households facing eviction.
- Appropriate action is taken to safeguard vulnerable people when eviction is unavoidable.

4. **PREVENTION OF HOMELESSNESS**

The major objective of the council's homeless policy is the prevention of homelessness, through early intervention at the earliest possible stage. This Statement of Best Practice specifically covers eviction action being taken as a result of rent or mortgage arrears (including Scottish Secure Tenancies (SSTs) and Short Scottish Secure Tenancies (SSSTs)). However the spirit of the agreement with regard to joint working with vulnerable households should apply in respect to potential eviction for any other reason (e.g. other management grounds set out in the Housing (Scotland) Act 2001 such as anti-social behaviour or drug dealing).

In all cases, landlords and creditors will initiate legal action to evict a household only as a last resort when all other possible measures have been exhausted.

4.1 **Suggested Good Practice for Prevention at the Start of a Tenancy**

It would be good practice for landlords/creditors to offer pre-occupancy counselling, covering responsibility for rent/mortgage payments, advice on housing benefit eligibility, etc., to prospective tenants/occupants. Part of this pre-occupancy advice could highlight the consequences should the household fail to meet their responsibilities to the tenancy.

On acceptance of an offer, assistance should be given, where required, to new tenants on completion of Housing Benefit Claim forms, and the tenancy/occupancy conditions should be clearly explained. Further good practice would also provide for home visits to be made early in the tenancy where both rent and benefit checks should be discussed.

"Housing Options in Dundee - Renting in the Private Sector" has been produced by the Council and is on its website www.dundee.gov.uk/housingoptions/hopprivate, and contains useful information on the rights and responsibilities of tenants. The Council would encourage landlords to provide tenants with a copy of this publication at the start of their tenancy.

4.2 **Arrears**

The term "arrears" relates to rent or mortgage /secured loan payments lawfully due for the property.

Landlords and creditors should ensure all appropriate steps to assist households have been taken prior to referring them to the Homeless Strategy Team via Section 11. Landlords and Creditors shall be required to provide records of action taken to assist council officers in deciding the appropriate course of action required.

Dundee City Council is committed to ensuring that relevant financial/money advice is available to tenants/occupants and that the processing of any Housing Benefit takes place in accordance with current legislation.

4.3 **Registered Sex Offenders and Multi-Agency Public Protection Arrangements (MAPPA)**

The National Accommodation Strategy for Sex Offenders (NASSO), Multi-Agency Public Protection Arrangements (MAPPA) and Dundee City Council's *Information Sharing Protocol for Duty to Co-operate Agencies* detail the provisions for the risk management of Registered Sex Offenders in the community.

As part of these arrangements the RSL Officer informs the MAPPA Liaison Officer of any matters that might affect the sustainability of a registered sex offender's tenancy, to ensure that the issues involved inform and assist in the MAPPA risk management plan.

Where a tenant is known to the housing provider as a Registered Sex Offender and facing potential eviction, the appropriate notice under Section 11 will be sent to the Homeless Strategy Team with a Health and Safety/Risk assessment (Appendix 1), advising Council Officers of the potential risk involved. Council Officers must liaise with the MAPPA Liaison Officer before any home visit. Additionally, the RSL Officer will advise the MAPPA Liaison Officer when a notice of proceedings has been served or when potential repossession proceedings may take place, or an eviction is due to be carried out. When the MAPPA Liaison Officer is advised of the adverse development the Responsible Authorities will be informed to allow them to assess the potential risk management issues. Section 11 referrals which are received by The Homeless Strategy Team will be sent as a matter of good practice to the MAPPA Liaison Officer to confirm or otherwise as to whether they are a risk to any officers who are to interview the individuals in connection with Section 11. If any risk is detected, agencies will be informed appropriately.

4.4. **Referrals to the Homeless Strategy Team (Section 11)**

Where a Landlord/Creditor has exhausted all other possible measures and has taken the decision to move toward eviction/repossession via legal action, they should notify the local authority in accordance with Section 11 of the Act, which they have a duty to comply with. At this stage the Landlord/Creditor will be raising legal action against the household. As such they will be required to advise the Homeless Strategy Team (concurrent with when tenant or owner is informed of the action) in writing of the action being taken in the manner and form prescribed by legislation (Appendix 2a – Social Landlords & Private Landlords or 2b - Creditors). All correspondence should be sent to the Homeless Strategy Team by post at 1 Shore Terrace, Dundee DD1 3AH or by email at s.11@dundeecity.gov.uk.

All sections 11s will be referred to the appropriate agencies for investigation after they have been registered by the Homeless Strategy Team. An update will be required after the case has been closed by the investigating officer. Throughout the process the Landlord/Creditor should be kept informed of what is happening.

If the intervention by the Homeless Prevention Team/Welfare Rights and/or other agencies is unsuccessful and unable to prevent court action resulting in the Landlord/Creditor obtaining a decree to evict a household, they (Landlord/Creditor) will notify the Strategy Team in writing (Appendix 3) of their intent to proceed with eviction, providing relevant dates. This must be done prior to eviction to allow the Homeless Services Unit ample time to assess the household's accommodation needs, before they become homeless.

4.5 **Health and Safety Risk Assessment**

If there is a known risk to staff in relation to violence or health, the Landlord/Creditor will advise the Homeless Strategy Team of the known risk by completing a health and safety risk assessment form, which is the same as that which would be used to inform the council of MAPPA clients (Appendix 1), and attaching this to the referral letter.

This will enable the Homeless Prevention Officer/Welfare Rights Officer, who will predominantly be operating on a lone working basis, to decide upon the best method of making contact (including contacting MAPPA Liaison Officer if necessary) with the client.

Feedback

The Homeless Prevention Team/Welfare Rights Team will provide regular feedback to the referring Landlord/Creditor on intervention work that has taken place, and will advise them if the tenant fails to engage with the service or refuses assistance (see Appendix 4). A copy should be sent to the Homeless Strategy Team.

4.6 **Vulnerable Households**

If a Landlord/Creditor is considering evicting a household with known vulnerabilities (eg dependant children, household member with a disability etc), they should normally advise the relevant section within Dundee City Council Social Work Department by letter/e-mail. However, to reduce the need for duplication of work, the Homeless Prevention Team/Welfare Rights Team will notify the relevant contact person at Social Work Services when they receive a referral from a landlord/creditor where the household contains dependant children or vulnerable adults.

5. **PARTNERSHIP WORKING**

The effectiveness of this agreement relies entirely on successful joint working and a commitment from Dundee City Council and its partners to prevent homelessness by:

- Effective communication
- Building local networks
- Honesty and willing co-operation between agencies.

6. **STATEMENT OF BEST PRACTICE PARTNERS**

Dundee City Council, Homeless Services Unit
Dundee City Council Social Work Department
Dundee City Council Private Sector Services Unit
Bield Housing Association
Hillcrest Housing Association
Servite Housing Association
Abertay Housing Association
Angus Housing Association
HOME in Scotland Housing Association
Margaret Blackwood Housing Association
Sanctuary Scotland Housing Association
Dundee Homefinders
Accredited Private Landlords/Landlords Forum
Cairn Housing Association

7. **MONITORING AND REVIEW**

Prevention of Homelessness relies on effective joint working arrangements at a local level. Given that this statement of best practice relates to the discharge of new duties (Section 11) on both local authorities and Landlords/Creditors this could have unknown resource implications until some time has elapsed to assess the implications. It is important therefore, that local and central monitoring arrangements be agreed and adhered to by all parties. These arrangements should be updated in line with any relevant guidance issued by the Scottish Government; however, Dundee City Council is committed to the regular review and monitoring of this agreement. An initial review will be carried out six months after the implementation of this Statement of Best Practice, to measure its effectiveness and address any operational issues.

Monitoring of the cases received and success of potential evictions/ repossessions that were avoided due to prevention work will be analysed, as will those which were not; from both a council perspective and also as part of the mandatory returns which are required for the Scottish Government.

Dundee City Council
HEALTH AND SAFETY/RISK ASSESSMENT

Tenant's Name:				Address:	
HOUSEHOLD MEMBER	DOES THIS PERSON HAVE A KNOWN HISTORY OF VIOLENCE TOWARDS STAFF/OTHER MEMBERS OF THE PUBLIC (Answer Y or N)	DOES THIS PERSON HAVE ANY KNOWN HEALTH ISSUES WHICH POSE A RISK TO OTHERS (Answer Y or N)	DOES THIS PERSON HAVE A KNOWN HISTORY OF ISSUES TOWARDS OTHERS DUE TO RACE/GENDER/SEXUAL ORIENTATION(Answer Y or N)	IS THIS PERSON A KNOWN REGISTERED SEX OFFENDER (Answer Y or N)	
TENANT					
PARTNER					
OTHER ADULT(S) IN HOUSEHOLD					

In the event of answering yes to any of the above questions, what is the most appropriate course of action for field staff dealing with this client/household?

- Office Interview Only
- Male staff only
- Female staff only
- Joint visit*

*Please specify if joint visit is with another agency

**HOMELESSNESS ETC (SCOTLAND) ACT 2003
SECTION 11 NOTICE BY LANDLORD OF PROCEEDINGS FOR POSSESSION**

To: Dundee City Council, Homeless Strategy Team, 1 Shore Terrace, DD1 3AH
(Email-- s.11@dundeecity.gov.uk)

Take note that proceedings have been raised as detailed below.

Name and address of landlord who has raised proceedings:	
Name and address of landlord's legal representatives:	
Contact telephone number of landlord:	
Landlord registration reference:	
Name of tenant/s against whom proceedings have been raised:	
Full postal address of property that is the subject of proceedings:	
Start date of the tenancy:	
Date of raising of proceedings:	
Court in which proceedings raised:	

The legislation under which proceedings are being notified:

(Various statutes require notice to be given to a local authority where a landlord has raised proceedings for possession of a house. The table below lists some of the legislation under which such proceedings might be raise for possession of a house; please tick in the appropriate box below which describes the proceedings you have raised).

(1)	Section 12A(1) (notice to local authority of proceedings for possession of a dwelling-house let on a protected tenancy or subject to a statutory tenancy) of the Rent (Scotland) Act 1984 (c.58). <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a protected tenancy or subject to a statutory tenancy.</i>
(2)	Section 19A(1) (notice to local authority of proceedings for possession of a house let on an assured tenancy) of the Housing (Scotland) 1988 (c.43). <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse let on an assured tenancy.</i>
(3)	Section 14(5A) (notice to local authority of proceedings for possession of a house let on a Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10). <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a Scottish secure tenancy.</i>
(4)	Section 36(6A) (notice to local authority of proceedings for possession of a house let on short Scottish secure tenancy) of the Housing (Scotland) Act 2001 (asp 10). <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse let on a short Scottish secure tenancy).</i>
(5)	Other proceedings for possession of a dwellinghouse. <i>Tick this box if you have raised proceedings to recover possession of a dwellinghouse and none of the above boxes are appropriate. For these purposes a dwellinghouse is any building or part of a building, which is occupied or intended to be occupied as a separate dwelling, and in particular includes a flat.</i>

**HOMELESSNESS ETC (SCOTLAND) Act 2003
SECTION 11 NOTICE BY CREDITOR OF:
SERVICE OF CALLING-UP NOTICE/NOTICE OF DEFAULT
APPLICATION TO COURT FOR A WARRANT TO EXERCISE REMEDIES ON DEFAULT
PROCEEDINGS TO EJECT PROPRIETOR**

To: Dundee City Council, Homeless Strategy Team, 1 Shore Terrace, DD1 3AH (Email: s.11@dundeecity.gov.uk)

(Delete any of the following 3 statements if it is not applicable.)

**Take note that a calling up notice/notice of default has been served as detailed below.
Take note that an application to court has been made as detailed below for a warrant to exercise remedies on default.
Take note that proceedings to eject a proprietor have been raised as detailed below.**

(Please give the following information)

Name and address of creditor:	
Name and address of creditor's legal representatives:	
Contact telephone number of creditor:	
Name of debtor/proprietor:	
Full postal address of property referred to in the calling up notice/notice of default or application or proceedings:	
Recording/registration date of the standard security (if applicable):	
Date of calling up notice/notice of default or application or raising of proceedings:	
Court in which application made or proceedings raised:	

Note to Creditor

This form of notice must be used to give notice to a local authority where a creditor has served a calling-up notice or notice of default or has applied to court for a warrant to exercise any of the remedies which can be exercised on default of a standard security, or for a warrant for sale or has raised proceedings to eject a proprietor.

A "calling-up notice" is a notice described in section 19 of the Conveyancing and Feudal Reform (Scotland) Act 1970 issued by a creditor in a standard security requiring discharge of the debt secured.

A "notice of default" is a notice described in section 21 of the Conveyancing and Feudal Reform (Scotland) Act 1970 issued by a creditor calling on a debtor to remedy a default.

The remedies which a creditor is entitled to exercise when a debtor is in default are described in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970. In terms of section 24 of that Act a creditor may apply to court for a warrant to exercise those remedies.

Proceedings to eject a proprietor are raised under section 5 of the Heritable Securities (Scotland) Act 1894 and must be notified to the local authority by virtue of section 4(4) of the Mortgage Rights (Scotland) Act 2001.

Homeless Services Unit
cc Homeless Strategy Team

Housing Association/Private Landlord/Creditor
address and named contact details

NOTIFICATION OF PENDING EVICTION FOR RECOVERY OF POSSESSION DUE TO ARREARS

Tenant's name: _____

Address: _____

In accordance with Section 11 of the Homelessness etc. (Scotland) Act 2003, we write to inform you that we have now obtained a decree for eviction against the person named above for repossession of the property which they currently occupy.

The decree was granted at (*name of sheriff court*) on (*insert date*) and it is likely that Eviction of the household will take place on.....

....subject to approval by our Management Committee, which will meet to consider this on (*date*)

Or

....when we receive the extract of decree from the court. (*Delete as appropriate*)

(And additionally, if known)

....This household has indicated that they will have no alternative accommodation if evicted and may approach homeless services for advice and assistance.

Yours sincerely



Landlord Name and Address

Dundee City Council

Dear.....,

SECTION 11 REFERRAL - CASE UPDATE

Tenant's name: _____

Address: _____

I refer to your referral of the above household under the section 11 protocol and write to advise you that I....

(Examples responses)

-have successfully made contact and referred them for legal advice/debt advice on (***date***)
-have been unsuccessful in making contact following two attempted visits on the (***dates***)
-have successfully made contact on the (***date***). The household advise that they have been in contact with you and negotiated a manageable repayment arrangement prior to their court hearing date.
-have successfully made contact on the (***date***). The household have declined any assistance.