

PREVENTING HOMELESSNESS

STATEMENT OF BEST PRACTICE IN JOINT WORKING BETWEEN RENFREWSHIRE COUNCIL AND HOUSING ASSOCIATIONS (RSLs), PRIVATE LANDLORDS AND CREDITORS IN THE RENFREWSHIRE AREA.

EVICITION PROTOCOL

1. INTRODUCTION

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

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 Renfrewshire Council. Section 11 of the Homelessness etc. (Scotland) Act 2003 places a duty on all Registered Social Landlords/private sector landlords* and creditors to notify the local authority of any repossession proceedings. The duty under Section 11 becomes a statutory requirement on 1st April 2009

(* Since April 2006 all private landlords letting property in Scotland have also had a duty to register with the Council.)

This Statement of Best Practice sets out arrangements for the implementation of Section 11 to ensure that all tenants and legal occupants of dwellings in Renfrewshire 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 Renfrewshire, a 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 Prevention Officer is to provide advice and support to households who are at risk of losing their home due to legal proceedings for eviction or repossession.

This Statement of Best Practice will ensure that the Homeless Prevention Officer receives notification prior to the commencement of court proceedings against any household, to allow early intervention to prevent the household facing the crisis of homelessness.

3. PURPOSE OF THE STATEMENT OF BEST PRACTICE

To define the roles and responsibilities of Renfrewshire 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

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.

ARREARS

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

Landlords and creditors should take all appropriate steps to assist households in ensuring that they do not fall into arrears. If a household does fall into arrears, the Scottish Government’s consultation paper on the implementation of Section 11 recommends that;

- *Landlords and creditors should make, maintain and record personal contact with the tenant, which should be tailored to the tenant’s individual needs and circumstances and be sustained throughout the debt recovery and court action processes.*
- *There should be a full assessment of advice and support needs for every household threatened with eviction before a notice is issued, and Landlords and creditors should provide appropriate advice and assistance throughout the process.*
- *Landlords and creditors should work closely with the Housing Benefit Section or DWP to address any difficulties arising from benefit payment issues. Households should not face eviction action when arrears result from delays in the benefit system.*
- *Landlords and creditors should refer households with arrears to a debt counselling service or money advice centre. A referral would be defined as arranging a debt counselling appointment on the household’s behalf, or providing the households contact details to a debt counselling service for the purpose of setting up an appointment.*
- *Landlords and creditors should record and monitor the outcomes from referrals to advice and support services and periodically evaluate the effectiveness of the services.*

Landlords and creditors should ensure that these steps have been taken prior to referring the household to the Homeless Prevention Team, and will be able to provide records of action taken to assist the Prevention Team in deciding the appropriate course of action required.

Renfrewshire 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.

SUGGESTED GOOD PRACTICE FOR PREVENTION AT THE START OF A TENANCY

It would be good practice for Landlord/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.

A "Guide to Private Renting" containing useful information on the rights and responsibilities of tenants has been produced by the Council. The Council would encourage landlords to provide tenants with a copy of this publication at the start of their tenancy.

Renfrewshire Council also produce a "Housing Options Guide" which gives information on housing in Renfrewshire? The guide also gives information on a range of organisations that can give care, support, advice or practical help. The guide can be found online at

<http://www.renfrewshire.gov.uk/ilwwcm/publishing.nsf/Content/Navigation-hp-HousingOptionsGuideHomePage>

SUGGESTED GOOD PRACTICE REGARDING EXISTING TENANTS/OCCUPANTS WITH ARREARS

Where a household accrues arrears, all possible steps should be taken to agree an appropriate and affordable repayment plan and to ensure that the plan is adhered to. Where an agreed payment plan is not adhered to Landlords and creditors will ensure that immediate intervention takes place to assist the tenant in maintaining their agreement. Landlords and creditors will keep robust records of all steps taken to advise and assist tenants/occupants who fall into difficulty with arrears.

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 Renfrewshire Council's *Information Sharing Protocol for Duty to Co-operate Agencies (due to go out for final consultation)* detail the provisions for the risk management of Registered Sex Offenders in the community. As part of these arrangements the RSL Link Officer informs the Sex Offender Liaison Officer (SOLO) of any issues 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 the appropriate notice under Section 11 will be sent to the Local Authority together with a Health and Safety/Risk assessment advising that any officer should liaise with the SOLO before any home visit. Additionally, the Link Officer will advise the SOLO that a notice of proceedings has been served; potential repossession proceedings may take place or an eviction is due to be carried out. The SOLO will advise the MAPPA Co-ordinator of the adverse development and the Responsible Authorities will be informed to allow them to assess the potential risk management issues.

REFERRALS TO HOMELESS PREVENTION TEAM

Where a Landlord/creditor has exhausted all other possible measures and has taken the decision to move toward eviction/repossession, they should notify the local authority in accordance with Section 11 of the Homelessness etc (Scotland) Act 2003.

For prevention of homelessness to be effective, it is important that the Homeless Prevention Team adopt a policy of early intervention. Although the earliest time to involve the Prevention Team would be at the issue of any notice of intent to take proceedings, in practical terms it would be unlikely that the resources within the Prevention Team would be able to deal with a high volume of referrals at that stage.

This agreement will ensure that Landlords and creditors notify the Homeless Prevention Team when they are considering commencing with court proceedings. The initial referral will be made approximately 10 – 15 working days prior to court booking, in the form of a letter to the Prevention Officer (Appendix 1) which will give basic details of the household, and should detail if the tenancy was gained as the result of a Section 5 referral from Renfrewshire Council, which will enable the Prevention Team to ascertain if the household have a previous history of homelessness. In addition to this notification letter, Landlords and creditors should provide a detailed record of all previous activity of actions taken to prevent court action becoming necessary (Appendix 2).

All information provided by Landlords and creditors to the Prevention Team will be treated with the strictest confidence in line with the Data Protection Act. The Prevention Team will not pass on any information provided by the Landlord/creditor without the prior consent of the affected household. In addition to this, any personal data provided for this purpose will be used and stored securely and will not be kept any longer than is necessary for that purpose.

If a Landlord/creditor proceeds with court action against the household, they will advise the Prevention Team in writing of the action being taken with relevant dates (Appendix 3a – Social Landlords & Private Landlords or 3b - Creditors)

If despite intervention by the Prevention Team and /or other agencies the Landlord/creditor obtains a decree to evict a household, they will notify the Prevention Team in writing (Appendix 4) of their intent to proceed with eviction, providing relevant dates. This must be done prior to eviction to allow the Local Authority ample time to assess the household's accommodation needs

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 Prevention Team of the known risk by completing a health and safety risk assessment form (Appendix 5) and attaching this to the referral letter. This will enable the Prevention Officer, who will predominantly be operating on a lone working basis, to decide upon the best method of making contact with the client.

FEEDBACK

The Homeless Prevention 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. (Appendix 6)

VULNERABLE HOUSEHOLDS

If a Landlord/creditor is considering evicting a household with known vulnerabilities (e.g. dependant children, household member with a disability etc), they should normally advise the relevant section within Renfrewshire Council Social Work Department by letter/e-mail.

To reduce the need for duplication of work, the Prevention 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.

Landlords and Creditors may not always be aware that there is a vulnerable adult within the household. If the Prevention Team receives a referral for a household with no apparent vulnerability, they will arrange for checks to be done on the Social Work Department's "SWIFT" system to see if there is any indication of a vulnerable household member being known to Social Work. Where these checks show that there is a vulnerable household member, the Prevention Team will notify the relevant person at Social Work Services.

5. PARTNERSHIP WORKING

The effectiveness of this agreement relies entirely on successful joint working and a commitment from Renfrewshire 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

Renfrewshire Council, Housing Advice and Homeless Services
 Renfrewshire Council Social Work Department
 Bield Housing Association
 Blue Triangle Housing Association
 Bridgewater Housing Association Limited
 Cairn Housing Association
 Ferguslie Park Housing Association Limited
 Hanover Scotland Housing Association
 Horizon Housing Association
 Link Housing Association Ltd.
 Linstone Housing Association
 Loretto Housing Association
 Margaret Blackwood Housing Association
 Paisley South Housing Association
 Sanctuary Scotland Housing Association
 Williamsburgh 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 on both local authorities and Landlords/Creditors which have unknown resource implications, local and central monitoring arrangements must 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, Renfrewshire Council is committed to the regular review and monitoring of this agreement. An initial review will be carried out 6 months after the implementation of this SOBPs, to measure its effectiveness and address any operational issues.

APPENDIX 1

Renfrewshire Council
Housing Advice and Homeless Services
Prevention Team
15 Abercorn Street
Paisley
PA3 4AA

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

NOTIFICATION OF INTENT TO COMMENCE COURT PROCEEDINGS FOR RECOVERY OF POSSESSION

Tenant's name:

Full Postal Address (including Postcode):

In accordance with Section 11 of the Homelessness etc. (Scotland) Act 2003, we write to inform you that it is our intention to commence court proceedings against the person named above for repossession of the property which they currently occupy due to outstanding rent/mortgage and arrears.

I can provide the following information to enable you to provide this household with advice and support.

FAMILY COMPOSITION

<u>TENANT(S) NAME</u>	<u>RELATIONSHIP</u>	<u>AGE</u>	<u>KNOWN VULNERABILITY</u>	<u>OTHER AGENCY INVOLVEMENT</u>
(name of tenant/occupier)				(i.e. Social Work)
(Name of joint tenant/occupier if applicable)				
	(i.e. son/daughter etc)			

CONTACT PHONE NUMBER (IF KNOWN):

ARREARS AMOUNT: £

(RSL USE ONLY) WAS HOUSEHOLD PREVIOUSLY HOUSED VIA SECTION 5 REFERRAL: YES/NO

I have also completed and attached your health and safety risk assessment form.

Yours sincerely

APPENDIX 2

FROM: RSL/PRIVATE LANDLORD/CREDITOR NAME

TO: HOUSING ADVICE AND HOMELESS SERVICES – PREVENTION TEAM

Tenant's name:

Address:

Was the tenant re housed as a Section 5 referral? YES/NO

CONFIRMATION OF ACTION TAKEN TO PREVENT COURT ACTION

The Action detailed below is a minimum standard and is based on good practice.

ACTION (Where applicable)	ACTION CONFIRMED YES/NO (Where applicable)
Tenant has been issued with the correct tenancy agreement	
Notification of rent & service charges	
Notification of the debt in writing	
Check for ongoing support & if yes contact support provider – RSLs only	
Check for information being provided in different language/format & if yes contact appropriate service – RSLs only	
Check if housing benefit in payment	
Sign posting to the council/ undertaking a check for housing benefit entitlement	
Sign posting to an agency for money advice	
Final reminder for the debt	
Personal contact with the tenant(s) regarding the debt	
Issue of appropriate notices for the recovery of the debt	
Referral to wider role projects (tenancy intervention officer/ welfare rights officer) – RSLs only	

Signed (on behalf of RSL/Private Landlord/Creditor): _____

Contact details: _____ (Phone number/e-mail address)

APPENDIX 3a

HOMELESSNESS ETC (SCOTLAND) ACT 2003

SECTION 11 NOTICE BY LANDLORD OF PROCEEDINGS FOR POSSESSION

To: Renfrewshire Council

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 raised 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 dwelling house 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 dwelling house 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 dwelling house 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 dwelling house let on a short Scottish secure tenancy.</i>
(5)	Other proceedings for possession of a dwelling house. <i>Tick this box if you have raised proceedings to recover possession of a dwelling house and none of the above boxes are appropriate. For these purposes a dwelling house 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: Renfrewshire Council

(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 the creditor:

Name and address of the creditor's legal representatives:

Contact telephone number of the 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.

APPENDIX 4

Renfrewshire Council
Housing Advice and Homeless Services
Prevention Team
15 Abercorn Street
Paisley
PA1

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 in the near future...

....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

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



APPENDIX 6

RSL Name and Address

Renfrewshire Council
Housing Advice and Homeless Services
Prevention Team
15 Abercorn Street
Paisley
PA3 4AA

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.

Yours sincerely,

Homeless Prevention Officer