

ANGUS COUNCIL

Housing Committee – 26 August 2004

CODE OF GUIDANCE ON HOMELESSNESS 2004

REPORT by DIRECTOR OF HOUSING

ABSTRACT

This report notifies members of the publication of a new code of guidance on homelessness and requests homologation of the decision to submit a response to the recent Scottish Executive consultation on the revision of the "Code of Guidance on Homelessness".

1. RECOMMENDATION

It is recommended that Members:

- (i) note the publication of a new statutory Code of Guidance on Homelessness
- (ii) homologate the decision taken by the Director of Housing, in consultation with the Convener of the Housing Committee, to submit a response to the Scottish Executive's consultation on revision of the "Code of Guidance on Homelessness".

2. BACKGROUND

As a result of recent significant changes in the legislation, the Scottish Executive has issued a revised Code of Guidance on Homelessness.

Under section 37 of the Housing (Scotland) Act 1987 local authorities must have regard to the Code of Guidance in their statutory duties towards persons who are homeless or threatened with homelessness, including the new duties introduced in the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003. Under section 79 (7) of the Housing (Scotland) Act 2001, Scottish Ministers can take into consideration the extent to which the Code of Guidance (and other relevant statutory guidance) is being followed by a local authority as part of the regulation and inspection process.

During the Autumn of 2003 the Scottish Executive undertook a consultation on a draft revision of some sections of the Code, and Angus Council's response to the consultation was approved by Housing Committee in January of this year. In the light of comments received the Scottish Executive decided to revise the whole Code and reissue it in a format that was easier to update.

The Scottish Executive formally published the revised Code of Guidance on Homelessness with effect from the 27 May 2004. A copy of the new Code is available in the Members Lounge.

The Code of Guidance is recognised by Angus Council in its homelessness policy and procedures as a statement of minimum standards in its homeless service. Frontline staff dealing with homeless people rely upon the Code and it is important that the Code reflects current legislation and best practice.

The new Code has been distributed to front-line staff and will be covered in staff training from September.

Although the new Code is now in effect, the Scottish Executive has requested comments on those sections which were not included in the earlier consultation, which cover “ways of working” and “prevention of homelessness”.

A copy of Angus Council’s response to the Scottish Executive can be found in Appendix 1 of this Report.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

4. HUMAN RIGHTS IMPLICATIONS

It is considered that in following the recommendation contained in this report, the Council would not be acting in any way which is incompatible with human rights.

5. CONSULTATION

The Chief Executive, Director of Finance, Director of Law and Administration and the Director of Social Work and Health Liaison have been consulted in preparing this report.

6. CONCLUSION

Members are asked to homologate the decision taken by the Director of Housing, in consultation with the Convener of the Housing Committee, to submit a response to the Scottish Executive’s consultation on revision of the “Code of Guidance on Homelessness”, as contained in the Appendix to this report.

Ron Ashton
Director of Housing

Note:- The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied upon in preparing this report.

Housing Committee Report no. 48/04, January 2004 – Revised Code of Guidance on Homelessness.

Angus Council Department of Housing

**PUBLICATION OF
THE CODE OF GUIDANCE ON HOMELESSNESS 2004**

Response to the Scottish Executive – July 2004

General Issues

- 1) It would be helpful if the new Code followed the old Code by having clear labels distinguishing restatement of the “legal position” from formal “guidance”, examples of “good practice” (including the source and an indication of why it is considered “good practice” etc.) and references to supplementary material.
- 2) Where other guidance bears directly on the duties covered in the Code, that guidance should be included as an appendix (e.g. the references in Chapter 2 section 17 and 56), and, where appropriate, specific reference made to a relevant section of the guidance, or a direct quotation where the precise wording is important.
- 3) Where reference is made to legislation, regulations, or guidance, it is important that that information is easily accessible. For example, the circulars referred to in chapter 2 section 68 and 72 should be directly accessible from the Code of Guidance page on the Scottish Executive web site.
- 4) The Code will be used by front line staff in a variety of agencies dealing with people affected by or at risk of homelessness. It is important that, where relevant issues are the subject of regulations or guidance specific to other agencies (e.g. guidance to Health Boards on “discharge planning”), these are clearly referred to so that other agencies can know what to expect from other partners. This is done at 52 in relation to children leaving care, but needs to be consistent throughout.
- 5) Phone numbers and email contacts should not be included in the body of the text as they may quickly become out of date. Rather, a contacts list should be included as an Appendix, with references back to the relevant sections of the Code. It would then be easy to replace on a regular basis as contact details were updated, perhaps by simply printing off copies of an update from the Executive website.
- 6) We welcome the significant improvement in the layout of chapter 9. However, in general the code would be more readable and easier to follow if solid blocks of text were broken up by appropriate use of bulleted lists, shaded boxes, diagrams etc.

Comments on Chapters 2 and 3

Paragraphs 74-76

The statement in 75 needs to be strengthened from “should be notified” to “must be notified”, to reflect the actual provisions of the Act.

While we recognise that section 11 has not yet commenced, it would be helpful to include guidance at this point on how local authorities should process and respond to notices under this section.

Paragraph 77

Reference should be made in this section to the requirement under sections 1 and 5 of the schedule to the 2003 Act that creditors give similar notice to local authorities in respect of proposed action for possession or enforcement of standard security against home owners.

Paragraph 97

It seems odd that “must” in the first sentence is in bold, but not in the second sentence. Wherever possible the wording of the Code should emphasise the corporate nature of the duties on local authorities, as this can assist both front-line staff and service planners to negotiate and engender cross-departmental co-operation.

Comments on Chapters 4-12

Paragraph 122

Reference should be made to the appropriate sections of the Race Relations (Amendment) Act 2000.

Paragraph 184

The Act does not specify the target date, but rather specifies that it must be no later than 31 December 2012 (section 3 (2)a). It would be helpful to restate here that ministers may set an earlier date for abolition and/or introduce interim measures before that date.

Paragraph 212

This paragraph seems to be out of place in a section covering “financial difficulties”. It would, perhaps, be better placed after 207 on “leaving temporary accommodation”.

Paragraph 286

Further guidance would be welcomed in relation to “choice based lettings”, particularly in relation to “discharge of duty” under the homelessness legislation.

Paragraph 294

This paragraph would make more sense before the subheading “protocols”.

Paragraph 297

Guidance providing best practice examples of initiatives for “freeing up” social rented stock, or “rebalancing” availability within the stock, would be helpful.

Paragraphs 302-303

While it may be useful to repeat it here, these paragraphs should follow 61-66 on Rent Arrears in the section covering action to prevent loss of accommodation.

Paragraphs 313-320

The final version of the Code should include the guidance already issued in relation to section 2 of the 2001 Act, as an appendix.

Paragraph 321

This paragraph needs to come after 322 as it describes the situation under the residual duties set out in sections 31(3) and (4) of the Act.

Ron Ashton
Director of Housing