

## ANGUS COUNCIL

## NEIGHBOURHOOD SERVICES COMMITTEE –26 February 2009

## REPORT BY THE DIRECTOR OF NEIGHBOURHOOD SERVICES

## INTERIM ARRANGEMENTS FOR THE MANAGEMENT OF THE INTRODUCTION OF THE HOMELESSNESS (SCOTLAND) ACT 2003, SECTION 11 REQUIREMENTS

**Abstract:** This report outlines the introduction of new statutory requirements of the Homelessness etc. (Scotland) Act 2003 and sets out Angus Council's interim management arrangements for this new burden.

## 1 RECOMMENDATION

1.1 It is recommended that the Committee agree:

- i) the interim management arrangements set out in this report;
- ii) to seek a report on the volume of referrals following in the first six months of the introduction of the referrals;
- iii) that any concerns on the impact of the new statutory requirements are reported to Committee, COSLA and the Scottish Government.

## 2 BACKGROUND

2.1 Section 11 of the Homelessness etc. (Scotland) Act 2003 requires all landlords (other than local authorities) and creditors to notify the relevant local authority when they raise possession proceedings or serve certain other notices. The section gives Ministers powers to specify in Regulations the 'form and manner' of such notifications.

2.2 The duties placed on landlords and creditors under S11 will come into force on 1 April 2009. The Notice to Local Authorities (Scotland) Regulations 2008 come into force on the same date.

2.3 The aim of placing a duty on landlords and creditors to inform the relevant local authority when they raise proceedings for possession, or serve certain other notices, is to ensure that local authorities are alerted to households at risk of homelessness at an early stage. Local authorities may be able to respond on an individual basis to prevent homelessness occurring, and the information contained in the notices can also help inform strategic planning of prevention and homelessness services.

2.4 Prevention of homelessness has been identified by the Scottish Government and COSLA as one of four key joint priorities that will enable local authorities to address homelessness. This is in line with the general principles of early intervention, and set within the context of preparations for the right of all unintentionally homeless people to access settled accommodation by 2012 (the 2012 target). The duty on landlords and creditors under Section 11 can play a crucial part in these prevention activities.

2.5 The Scottish Government has no direct sanctions against non-compliance with the duties under Section 11. Courts are not obliged to check whether the landlord or creditor has followed the procedure under Section 11 and this is not necessarily a reason for withholding a decree.

## 3 SECTION 11 CONCERNS

3.1 A number of concerns remain unanswered on the introduction of this aspect of the 2003 Act. Through COSLA, Councils have raised a number of issues for the Scottish Government's further consideration and action. These are:

- Concerns that there are no sanctions or penalties in the regulations for creditors that fail to notify councils of any repossession proceedings they take. What will the Scottish Government do if a landlord/lender chooses not to inform a council?

- It remains unclear how national lending institutions – which will have central departments dealing with the administration of repossession actions – are going to notify individual councils. There needs to be clearer guidance from the Scottish Government on this issue before commencement;
- No additional resources have been made available;
- There is no sense of the additional burden this work will generate;
- Need the finalised guidance to be published as soon as possible.

3.2 These issues remain unresolved and it seems that resolution will not be secured prior to the introduction of the requirements. Only through the operation of the referral scheme will the volume of work be determined and the compliance with the Act ascertained. What is clear is that Angus Council will have to closely monitor the volume of work created by the introduction of the work, and may have to make adjustments to the use of its homelessness budget if there is a significant volume of referrals made to the Council, and these referrals generate work which would require additional resource to be directed to dealing with this statutory requirement.

## **4 PROPOSED INTERIM ARRANGEMENTS**

4.1 Members are asked to note that Angus Council will manage the requirements of the regulations in the following manner:

- Within current resources (but kept under review);
- A dedicated Section 11 Mailbox has been set up to receive referrals;
- Referrals can be made through the current telephone arrangements;
- A named person has been established to manage the receipt of referrals;
- A lead officer within the homelessness team has been identified;
- The Scottish Government has been informed of the contacts and contact arrangements;
- It is understood the Scottish Government will be organising central awareness raising;
- Angus Council will inform private landlords and local Banks and Building Societies of the requirements and our management arrangements;
- The referrals will be judged against the draft guidance (finalised guidance is not yet available);
- The impact of the requirements will be monitored and recorded and reported to Committee.

## **5 FINANCIAL IMPLICATIONS**

5.1 There are no immediate financial implications for the Council arising directly from the information contained within this report, but the volume of referrals and the work generated by those referrals will be reviewed and reported to committee and the prospect of having to alter the use of the Homelessness budget cannot be ruled out, but will be done with the approval of Committee.

## **6 HUMAN RIGHTS IMPLICATIONS**

6.1 There are no human rights implications for the Council arising directly from the information contained within this reports.

## **7 SINGLE OUTCOME AGREEMENT**

7.1 This report contributes to the following local outcomes contained within the Single Outcome Agreement for Angus –

- We live longer, healthier lives;
- We have tackled the significant inequalities in Scottish society;
- We have improved the life chances for children, young people and families at risk;
- Our children have the best start in life and are ready to succeed.

## **8 CONSULTATION**

8.1 The Chief Executive, the Director of Corporate Services the Head of Finance and the Head of Law and Administration have been consulted in the preparation of the report.

## **9 EQUALITIES IMPLICATIONS**

9.1 The issues dealt within this report have been subject of consideration from the equalities perspective. No equalities impact assessment is required.

## **10 CONCLUSION**

10.1 Angus Council fully supports the policy intentions behind the introduction of the Section 11 requirements and is committed to tackling homelessness and meeting the 2012 target. Whilst we have reservations about the potential impact of this element of the legislation, we recognise it is a statutory requirement and will, within the resources available, do all we can to ensure we comply with the law in this area. Members can be assured that Angus Council will keep the impact of this element of homelessness law under review and where resource or policy amendments are required to ensure compliance, these will be fully reported through the relevant Committee.

**RON ASHTON  
DIRECTOR OF NEIGHBOURHOOD SERVICES**

**Note:** The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report.

Hsg/NS/AMcK