

ANGUS COUNCIL
NEIGHBOURHOOD SERVICES COMMITTEE – 19 NOVEMBER 2009

REPOSSESSION OF RESIDENTIAL PROPERTY: PROTECTION OF TENANTS:
CONSULTATION: HOME OWNER AND DEBTOR PROTECTION (SCOTLAND) BILL

REPORT BY THE DIRECTOR OF NEIGHBOURHOOD SERVICES

ABSTRACT: This report sets out Angus Council's response to the Repossession of Residential Property: Protection of Tenants: Consultation: Home Owner And Debtor Protection (Scotland) Bill.

1. RECOMMENDATION

1.1 It is recommended that Members:

- (i) Agree to homologate the response from the Director

2. BACKGROUND

2.1 This consultation puts forward three proposals to improve protection for unauthorised tenants in the event of their landlord's property being repossessed by a mortgage lender, while balancing the needs and rights of lenders, who have a duty to minimise arrears on the mortgage and obtain the best price possible for repossessed properties. The aim of the proposals is to give tenants time to find alternative accommodation. Such improvements may also have beneficial effects for authorised tenants. The proposals do not cover lodgers or arrangements where the landlord shares the property with the tenant.

2.2 The proposals for consideration are:

- giving all tenants the right to be heard at the repossession hearing, including the right to seek a recall notice, by designating them as entitled residents;
- allowing the court to grant a delay of the repossession for a period (usually two months) after a court order has been granted to give tenants a reasonable time to move; and
- requiring lenders to repossess properties subject to tenancy, so that unauthorised, as well as authorised, tenants could remain in the property until the end of the lease.

3. Angus Council Response

3.1 A copy of the response is appended to this report and copies of the [Consultation](#) have been placed in the Member's lounge. A copy of the Consultation document is available at: <http://www.scotland.gov.uk/Publications/2009/10/08121110/0> and a draft copy of the Angus Council response has previously been circulated.

3.2 In overall terms, Angus Council is supportive of the consultation document recognising the need to protect tenants whose landlord is not operating with the permission of their lender and who may not be registered as landlord with Angus Council. Whilst it is not anticipated the numbers affected in Angus will be significant, given that around 95% of landlords in Angus (3,500) are already registered, the consultation is a further tactic which may be helpful in preventing and alleviating homelessness.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications for the Council arising from the recommendation in this report.

5. HUMAN RIGHTS IMPLICATIONS

- 5.1 There are no direct human rights implications arising from this report.

6. EQUALITIES IMPLICATIONS

- 6.1 The issues contained in this Report fall within an approved category that has been confirmed as exempt from an equalities perspective.

7. SINGLE OUTCOME AGREEMENT

- 7.1 This report contributes to the following local outcomes contained within the single Outcome Agreement for Angus:

- Good quality housing is available to all in communities throughout Angus.
- Resources are used effectively.

8. CONSULTATION

- 8.1 The Chief Executive, the Director of Corporate Services, and the Heads of Finance and Law & Administration have all been consulted in the preparation of this report.

9. CONCLUSION

- 9.1 Members are asked to agree the response and acknowledge that if the legislation is passed it will provide a further tool in the efforts to prevent and alleviate homelessness in Angus.

**RON ASHTON
DIRECTOR OF NEIGHBOURHOOD SERVICES**

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 on to a material extent in the preparation of this report:

Hsg/NS/AMcK