

Preventing Homelessness – Averting Evictions

A Section 11 Process Guide

Produced by Scotland's Housing Network and
North and Islands Homelessness and Housing Options Hub
May 2020



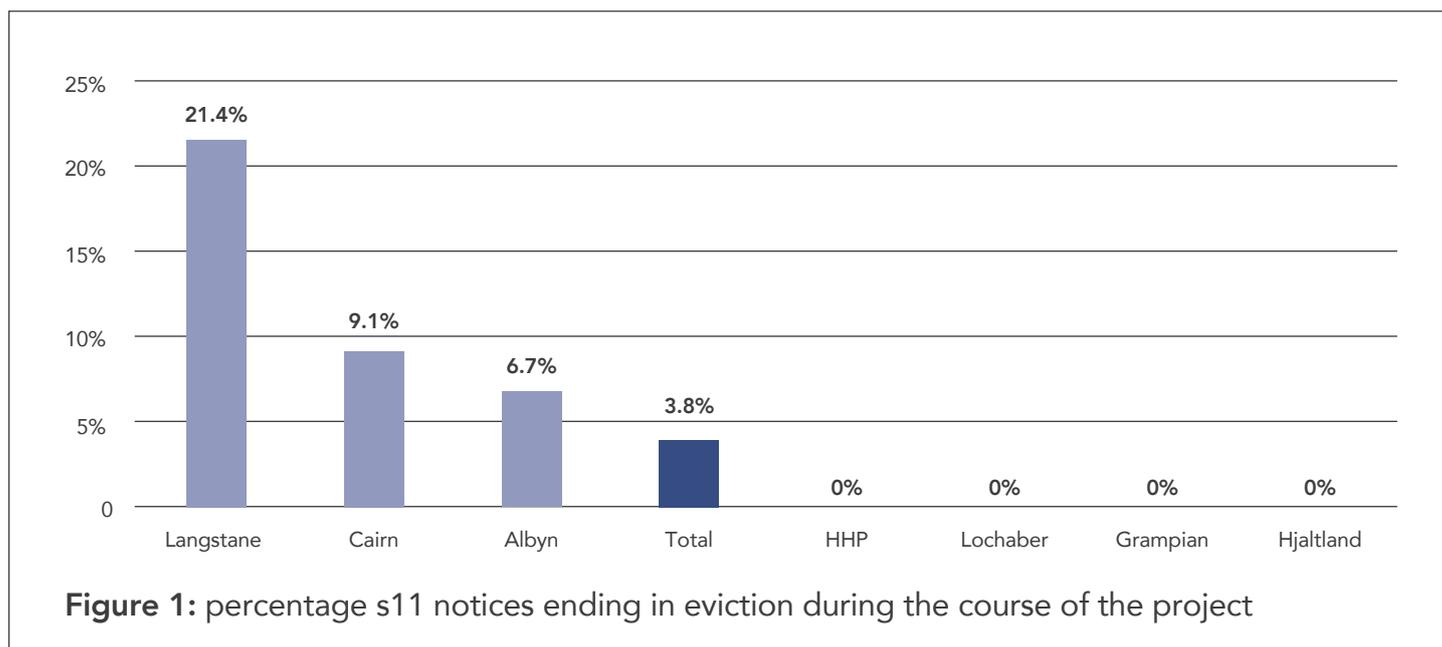
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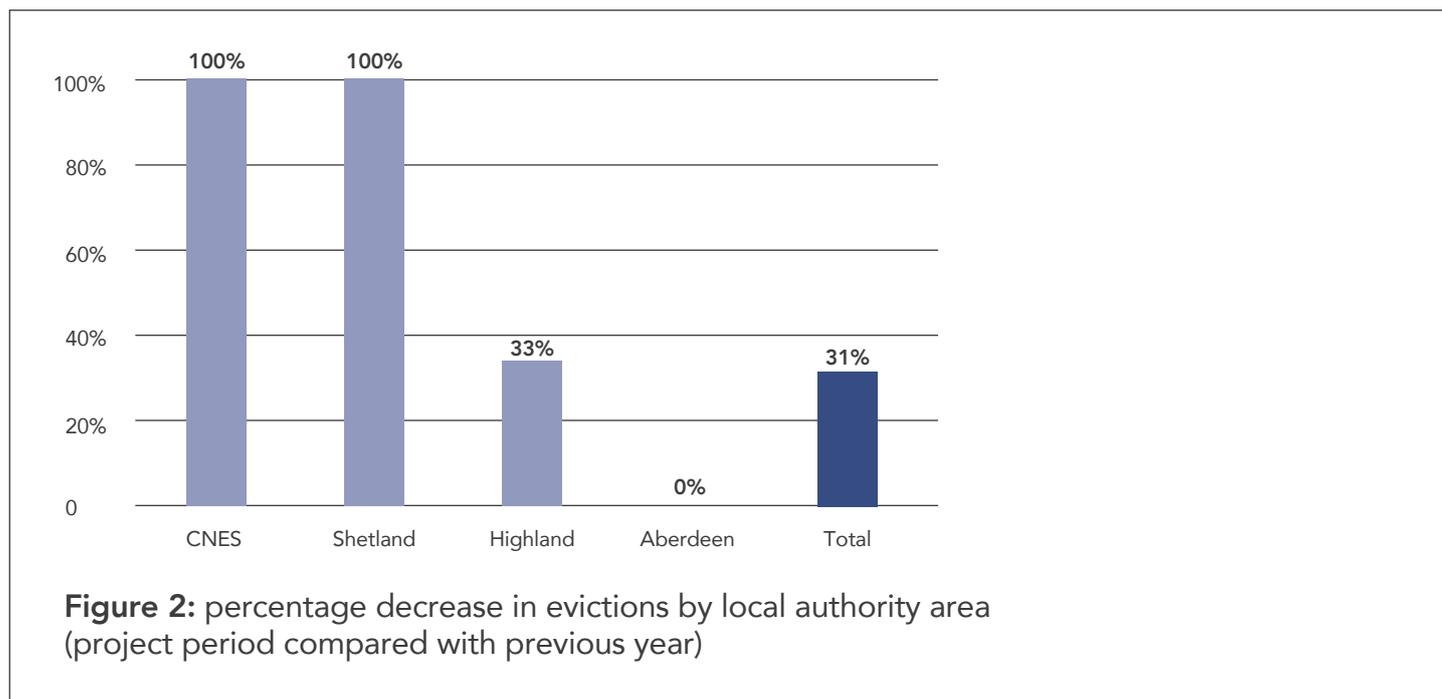
Background

1. Section 11 of the Homelessness etc (Scotland) Act 2003 requires landlords to give notice to the local authority of its intention to seek repossession of a home, in order to give the authority warning of the need to provide information and support to the tenant at risk of homelessness. This guidance considers how this process can be better used to enable the tenancy to be sustained thereby, preventing homelessness occurring.
2. During 2019, funded by the North and Islands Homelessness and Housing Options Hub, seven housing associations and four local authorities engaged in a project to establish whether enhanced practices related to the serving of section 11 notices to local authority homelessness/Housing Options teams by housing associations could help prevent evictions and therefore homelessness. The project was managed by Scotland’s Housing Network.
3. The seven housing associations were:
 - Albyn Housing Partnership;
 - Cairn Housing Association;
 - Grampian Housing Association;
 - Hebridean Housing Partnership;
 - Hjaltland Housing Association;
 - Langstane Housing Association, and
 - Lochaber Housing Association.
 The four local authorities were:
 - Aberdeen City Council
 - Comhairle nan Eilean Siar
 - Highland Council, and
 - Shetland Islands Council.

The full project report can be read [here](#).

4. During the course of the project, homelessness was prevented in at least 96% of cases, and up to 100% in the case of some housing association landlords (Figure 1). The level of evictions reduced by 69%, compared with the previous year, and again in some cases this reduction was 100% (Figure 2).





5. There is a close correlation between the degree of success in preventing homelessness experienced by the different housing associations and local authorities and their ability to adopt enhanced practices around section 11 notices, which emphasises the argument that the practices adopted during the project do support the prevention of homelessness, albeit that in some cases, numbers of notices served were small and therefore there has to be an awareness that anomalies can arise.
6. In evaluating the final project outcomes, and also the experiences of some of the staff who were responsible for delivering the project practices and also the experience of one tenant whose threatened homelessness was prevented during the course of the project, a number of lessons became apparent that may be applicable to practices related to section 11 notices served by housing associations other than those involved in this project and also to other landlords and creditors. Elements of these project lessons may also be applicable to other causes of homelessness, other than being evicted by a landlord or creditor.
7. The lessons that were distilled from the project experience were:
 - i. intervene earlier, when the situation can be more readily resolved;
 - ii. share more information, and information that will be more useful in terms of seeking to prevent homelessness;
 - iii. ensure that communication is between known, named contacts;
 - iv. act jointly in order to prevent repossession;
 - v. standard letters sent in response to section 11 notices are probably of little practical use;
 - vi. keep each other informed of action taken subsequent to serving of the section 11 notice;
 - vii. actively involve other agencies in preventing homelessness where relevant;
 - viii. hold regular joint meetings to review section 11 caseloads, and
 - ix. ensure organisational resources are committed to prevention.

Project Lessons

1 Intervene earlier

- 1.1 The housing associations involved in the project agreed to serve section 11 notices to the local authority homelessness/Housing Options team earlier in the process than is statutorily required. Rather than serving the section 11 notice when starting court action for repossession of the tenancy, the housing association landlords agreed to serve the section 11 notice at the same time that they served the Notice Seeking Possession (NOSP) to the tenant. This enabled the local authority staff to work with the tenant when s/he had a smaller arrear and when the legal action had not reached such a critical stage. This meant that the solution to the problem was potentially more easily achieved by the staff seeking to prevent homelessness and also by the tenant him/herself.
- 1.2 Project practice related the timing of the section 11 notice to a stage in the legal process, as does the statutory requirement albeit a later stage. A further suggestion was to relate the timing of the section 11 notice, i.e., the alerting and potential involvement of staff expert in homelessness prevention, to the size of the arrear, potentially also relative to the financial capacity of the tenant to repay that arrear. Some local authority staff commented that by the time they had the opportunity to get involved and seek to help, the arrear was already too big, relative to the capacity to repay, and nothing could be done to prevent homelessness. Clearly this requires a judgement on the part of the landlord serving the section 11 notice and this judgement would potentially be different for every tenant.
- 1.3 This clearly involves more work for the housing association, but hopefully this work would pay off financially, through reduced void costs and legal costs and improved rental income, to say nothing of sparing a tenant the trauma of repossession. In a world of scarce resources, the housing association may choose to apply such enhanced practices subject to a relative risk assessment of their tenants, where they feel that the extra investment of resource may save them the most in terms of avoiding repossessions. One housing association involved in the project adopted the agreed enhanced project practices in relation to their tenants that had come through the homelessness route of rehousing whilst maintaining the statutorily required standard of practice in relation to their other tenants.
- 1.4 One challenge throughout this project was the willingness of tenants to engage with activities that were seeking to sustain the tenancy and prevent homelessness. Whilst this project did not discover the golden bullet for engaging with tenants, some of whom may be hard-to-reach, it was felt that various project practices did contribute towards tenants being more likely to engage, one of which was having the opportunity to engage earlier in the process, when the size of debt was more manageable, the legal threats less daunting and the solutions potentially more achievable.

2 Share more information

- 2.1 Housing associations are required to share minimal information with the local authority homelessness/Housing Options team as part of the section 11 notice:
- the name, address and contact telephone number of the landlord;
 - the name and address of the landlord’s legal representatives;
 - the name of the tenant(s) against whom court action is being commenced, and
 - the address of the property which is being sought to be recovered through the court action.
- 2.2 As part of the project, housing associations agreed to share more, and more useful, information with their local authority partners:
- i. contact details for the tenant;
 - ii. knowledge of the best means of contacting the tenant;
 - iii. contact details of the housing association officer responsible for the case;
 - iv. the composition of the household;
 - v. the employment status of household members;
 - vi. housing benefit/Universal Credit housing cost details for the tenancy;
 - vii. any known vulnerabilities or risk factors within the household;
 - viii. the reason for possession being sought, i.e., arrears or antisocial behaviour, and
 - ix. what minimum response on the part of the tenant the housing association would require in order to suspend possession proceedings.
- 2.3 Knowing this information made it easier for the homelessness prevention staff to make contact with the tenant and for them to be able to triage the case in advance of contacting the tenant, to establish how best they may be able to help. Having this information also meant that the local authority was able to approach the tenant in that way that they felt would maximise the chances of engagement.
- 2.4 Again this clearly represents more work on the part of housing association staff to collate and share the additional information. However, those staff who shared this information as part of this project reported that the additional work was not onerous, and of course would be worthwhile if it led to legal action being suspended and a repossession avoided.
- 2.5 The project participants developed a form to capture and share this information. This form is attached as Appendix 4.

- 2.6 After the project had concluded, local authority staff reported further information that they felt it would have been useful for the housing association landlord to share with them as part of the section 11 notice:
- the degree to which the tenant had or had not engaged with the attempts of the housing association staff to date to resolve the tenancy breach;
 - what housing support, if any, the tenant and other members of the household were receiving, and
 - copies of letters that had been sent by the housing association to the tenant aimed at bringing a satisfactory conclusion to the tenancy breach.
- 2.7 The housing association staff who were involved in this discussion with their local authority partners agreed that this was information that they would be able to share as part of the section 11 notice.

3 Ensure the section 11 notice is served to a known named contact

- 3.1 Section 11 notices are often served to a generic local authority email address, such as housingoptions@localauthority.gov.uk. This can often turn out to be a black hole, in that what happens, if anything, after serving the section 11 notice is generally not known to the housing association or indeed the homelessness/Housing Options team.
- 3.2 If the section 11 notice is served to a named individual within the local authority, it is much easier for the landlord to follow up with the local authority what action is being taken. Named personal contacts also make a big difference to the nature of the relationship between the two parties to the section 11 notice and their subsequent working relationship.

4 Take joint action to prevent homelessness

- 4.1 Following serving of the section 11 notice, the housing association and the local authority should consider what action they could take jointly that might prevent homelessness. When considered helpful and proportionate, for example, the local authority homelessness/Housing Options officer and the housing association officer might meet with the tenant jointly, the housing association officer to explain the consequences of continuing to not pay rent and the local authority to discuss the tenant's housing options in the event that they were to lose their housing association tenancy and apply to the local authority as homeless. The tenant's understanding of these consequences may be based on a lack of accurate knowledge rather than the most likely outcome in practice.
- 4.2 As a lesser step to jointly meeting with the tenant, the housing association and local authority may consider writing jointly to the tenant.
- 4.3 Again, these activities may constitute more work on the part of the local authority and/or the housing association, so it is probably unlikely that a blanket approach would be agreed as a response to all section 11 notices, but that a response would be determined based on the facts of each individual case and what was felt to be most likely to evoke a positive response on the part of the tenant.

- 4.4 Again this might in part be a consideration of what would engage a tenant who is proving reluctant to engage for whatever reason. It might be that a tenant would respond positively, e.g., agree to enter into an arrear payment plan, to a conversation about their housing options in the event of them applying as homeless to the local authority if their understanding is more rosy than it has genuine good reason to be.

5 Don't just send a standard letter

- 5.1 The response of some local authorities to section 11 notices is to send a standard letter to the tenant informing them of their rights in the event of them becoming homeless and directing them to sources of support at this time of being threatened with repossession of their home.
- 5.2 It is possible that this minimal response is not worth the labour and cost, relatively small though those might be. When the landlord has started legal proceedings in order to repossess the tenancy, it may well be that the tenant has other debts too and is likely to be in receipt of a number of formal letters chasing debt and threatening various forms of legal action. Letters may or may not still be being opened by the tenant and may be being read with varying degrees of commitment. Another letter of formal appearance probably in a brown envelope is likely not to be opened or if opened, likely not to be read with much interest.
- 5.3 Something more than just sending a standard letter is probably going to be required in order to effectively support a tenant in this position. Consider with the housing association officer who knows the tenant best what actions might most effectively engage the tenant and might support him/her to enter into an agreement with the housing association that will lead to the legal action being suspended. In short, adopt a person-centred approach.

6 Keep each other informed

- 6.1 Following serving of the section 11 notice, the housing association and the local authority homelessness/Housing Options team should keep each other informed of subsequent actions they are each taking.
- 6.2 As an absolute minimum, the housing association should keep their local authority counterpart informed of court dates, as these are likely to be directly associated with an application of homelessness.
- 6.3 However, the flow of information between the local authority and the housing association should be mutual and should be about all aspects of the case management that may have a bearing on the other's approaches. The housing association will continue to work with the tenancy and to seek to avoid repossession. If the local authority is working with the tenant during this same time on essentially the same course of action with the same purpose, it would be beneficial for the two organisations to know this and to be able to coordinate their actions. There was a suggestion during the project activity that each respective organisation might set up a mechanism for updating the other on a weekly basis on their relevant actions and plans in relation to each tenancy that is the subject of a section 11 notice.

7 Involve other agencies where relevant

- 7.1 If a tenant is in financial difficulty such that they are faced with losing their home and making a homeless application to the local authority, it is likely that other agencies are also involved, or perhaps that if other agencies, some of which may not be known to the tenant, were involved, the current situation might be eased and possibly avoided entirely. Therefore it was suggested that where relevant, other agencies should be involved in discussions of supporting households subject to section 11 notices. These agencies might include social work, mental health support, other health agencies, etc, etc, from the third and public sectors; the list of potentially involved agencies would be extensive. The suggestion was that a 'case conference' approach to such threatened repossessions may be useful to allow all potential available resources to be focussed at preventing that household's homelessness.

8 Hold regular joint meetings

- 8.1 Some of the local authorities and housing association partners involved in the project found that regular meetings to discuss the current section 11 caseload were helpful. Not only did this allow for the discussion of strategies and plans in relation to individual households, regularly meeting also enhanced the working relationships between the staff of the respective organisations. Going from a situation where the response to a section 11 notice was silence, as far as the server of the notice was concerned, to one in which the housing association staff and local authority staff are working jointly to preserve a tenancy and prevent homelessness requires far closer personal working relationships. Regular meetings focussed on the homelessness prevention caseload were found to be a very effective way of developing those essential personal working relationships and agreeing common strategies.

9 Commit resources to prevention

- 9.1 On a daily basis, homeless households are contacting local authorities who have a statutory duty to complete a homelessness application on behalf of each of those households. Potentially, each one of those applications, which represents some degree of crisis and trauma for the household, could have been prevented by intervening in the right way at the right time previously in the applicant's life. However, the statutory pressure on local authorities to intervene in order to prevent homelessness is less acute than is the statutory pressure to complete and process an application on behalf of a household that presents as homeless.
- 9.2 Preventing a housing association tenant losing their home clearly represents less resource expenditure for the local authority than assessing a homelessness application on behalf of that household, providing them with temporary accommodation for potentially a lengthy period and eventually supporting them to access a new sustainable home, whilst all the time meeting any support needs the household might have. However, balancing the undoubted realities of where it would be preferable to focus resource with the undeniable statutory pressures is a challenge.
- 9.3 The biggest challenge to achieving positive outcomes as part of this project was this, to be able to commit resource to preventing homelessness rather than servicing ongoing crisis applications of homelessness. Resources must be made available and strategically focussed on prevention rather than homelessness assessment and casework. This is clearly a strategic commitment of the organisation and can only be made by the leadership of that organisation.

Appendix 1

RSL Practice Checklist for Maximising the Contribution of the Section 11 Process

1. Agree with your local authority partner at what point in the repossession process it would be most helpful to issue the section 11 notice.
2. Agree with your local authority partner what information about the tenancy it would be most useful to share as part of the section 11 process in order to support them being able to prevent repossession.
3. Ensure your organisation's privacy notices appropriately cover the sharing of information about the tenancy with third party organisations including local authorities in order to help prevent homelessness.
4. Ensure you have full contact details for named officers at your local authority partner to whom you will most appropriately send section 11 notices.
5. In all cases, consider whether joint action by the housing association and the local authority might help prevent repossession, for example, a joint letter or a joint meeting with the tenant.
6. Following serving of the section 11 notice, keep the named officer at the local authority informed of ongoing action you are taking to support the tenant and/or to end the tenancy. Especially ensure the local authority officer is informed of any relevant court dates with as much notice as possible. Agree with your local authority counterpart how this mutual flow of updating between you will best be managed in practice.
7. When discussing support for a household threatened with repossession, consider involving other agencies that are involved with the household or that the household may benefit from being involved. Consider whether a 'case conference' approach may be helpful.
8. Meet regularly with local authority colleagues to discuss the caseload of section 11 referrals specifically and whether approaches to preventing repossessions in general are working as well as they might.

Appendix 2

Local Authority Practice Checklist for Maximising the Contribution of the Section 11 Process

1. Agree with your RSL partners at what stage in the repossession processes it would be most helpful for them to serve the section 11 notice in order to most effectively support you being able to prevent homelessness.
2. Agree with your RSL partners what information it would be most useful for them to share with you about tenancies threatened with repossession in order to most effectively support you being able to prevent homelessness.
3. Ensure that your RSL partners know the full contact information for the most appropriate named officers to whom they should be serving section 11 notices.
4. In all cases, consider whether joint action by the local authority and the housing association might help prevent homelessness, for example, a joint letter or a joint meeting with the tenant.
5. Consider whether posting a standard letter to the tenant in response to a section 11 notice is best use of resources. Almost certainly a more creative, proactive approach will be more likely to result in a positive outcome. Working with the relevant housing association officer, take a person-centred approach to what might best prevent homelessness.
6. Following receipt of the section 11 notice, keep the responsible housing association officer informed of ongoing action you are taking to support the tenant and prevent homelessness. Agree with your housing association counterpart how this mutual flow of updated information between you will best be managed in practice.
7. When discussing support for a household threatened with repossession, consider involving other agencies that are involved with the household or that the household may benefit from being involved. Consider whether a 'case conference' approach may be helpful.
8. Meet regularly with housing association colleagues to discuss the caseload of section 11 referrals specifically and whether approaches to preventing repossessions in general are working as well as they might.
9. Ensure that organisational resources are committed proportionately and appropriately to the prevention of homelessness.

Appendix 3

Protocol between Local Authority X and Housing Association Y for the Management of Section 11 Notices

In order to support the prevention of homelessness among the tenants of Housing Association Y, Local Authority X and Housing Association Y have agreed the following protocol.

1. Section 11 notices will be served to Local Authority X at the following point in the legal repossession process and/or when the arrear has reached an agreed level relative to the ability of the tenant to pay the owed rent, if relevant [a combination of factors may be agreed dependent on the circumstances of tenants threatened with repossession and the assessed relative risk of them losing their home]
2. Housing Association Y agrees to share the following information with Local Authority X as part of served section 11 notices [delete as appropriate]:
 - contact details for the tenant;
 - knowledge of the best means of contacting the tenant;
 - contact details of the housing association officer responsible for the case;
 - the composition of the household;
 - the employment status of household members;
 - housing benefit/Universal Credit housing cost details for the tenancy;
 - any known vulnerabilities or risk factors within the household;
 - the reason for possession being sought, i.e., arrears or antisocial behaviour;
 - what minimum response on the part of the tenant the housing association would require in order to suspend possession proceedings;
 - the degree to which the tenant has engaged with housing association staff to date;
 - what housing support, if any, the tenant and other members of the household are receiving, and
 - copies of letters that have been sent by the housing association to the tenant aimed at bringing a satisfactory conclusion to the tenancy breach.
3. Section 11 notices will be sent to the following officers at Local Authority X:

Name:	Name:
Direct Dial:	Direct Dial:
Email Address:	Email Address:
4. In all cases, following the serving of a section 11 notice, staff of Local Authority X and Housing Association Y will consider whether joint activity, for example, a joint letter and/or a joint meeting with the tenant, may be helpful in averting repossession.
5. Following serving of a section 11 notice, staff of Local Authority Y and Housing Association X will keep each other informed of all activity relevant to the threatened repossession. This information will be exchanged by telephone and/or email and/or regular meetings either face-to-face or online [delete as appropriate].

6. Staff of Housing Association Y will inform staff of Local Authority X by telephone and/or email [delete as appropriate] immediately if and when any court dates are confirmed.
7. We will include other agencies in discussions aimed at averting repossessions whenever this may be relevant. Relevant agencies will include, but not be limited to, housing support, family support, social work, mental health and other health agencies, addictions services, debt advice agencies, education, training and employability support, etc.
8. Relevant staff of Local Authority X and Housing Association Y will meet regularly at the following frequency, [weekly/monthly /quarterly as appropriate], [face-to-face/by telephone/online] [delete as appropriate], in order to review the current caseload of live section 11 notices and also to review the effectiveness in general of approaches to avert repossession among Housing Association Y’s tenants.
9. Local Authority X commits to making every effort to appropriately resource homelessness prevention activity in general and to work with Housing Association Y in order to prevent repossessions and homelessness amongst their tenants specifically.

Signed:
Head of Housing Options/
Homelessness, Local Authority X

Signed:
Director/Housing Manager,
Housing Association Y

Date:

Date:

Appendix 4

Homelessness etc. (Scotland) Act 2003

Section 11 notice by landlord of proceedings for possession

To:	
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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			
Name of tenant(s) against whom proceedings have been raised			
Full postal address of tenancy			
Start date of tenancy			
Date NOP issued			
Date court application			
Court in which proceedings raised			
RSL Housing Officer			
Office base			
Phone		Email	

The legislation under which proceedings are being notified (please tick):

(1)	<p>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).</p> <p>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.</p>	<input type="checkbox"/>
(2)	<p>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).</p> <p>Tick this box if you have raised proceedings to recover possession of a dwelling house let on an assured tenancy.</p>	<input type="checkbox"/>
(3)	<p>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).</p> <p>Tick this box if you have raised proceedings to recover possession of a dwelling house let on a Scottish secure tenancy.</p>	<input type="checkbox"/>
(4)	<p>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).</p> <p>Tick this box if you have raised proceedings to recover possession of a dwelling house let on a short Scottish secure tenancy).</p>	<input type="checkbox"/>
(5)	<p>Other proceedings for possession of a dwelling house.</p> <p>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.</p>	<input type="checkbox"/>

Tenant Information

Tenant 1 contact details (please tick best preferred contact method)			
Name		Email	<input type="checkbox"/>
D.O.B		Mobile	<input type="checkbox"/>
Tenant 2 contact details (please tick best preferred contact method)			
Name		Email	<input type="checkbox"/>
D.O.B		Mobile	<input type="checkbox"/>
Other household members			
	Name	D.O.B.	
1			
2			
3			
4			
5			
Reason for proceedings (Arrears/Asb)			
Minimum action required by tenant to suspend action			
Known vulnerabilities/ support requirements within household			
Previous NOP/Court action – dates and outcome			

Where action taken due to rent arrears:

Current level of debt (£)	
Last payment received	
Relevant employment information	

Following receipt of a section 11 notice, the staff of local authority Homelessness/Housing Options Teams commit to:

- Keeping the Housing Association officer informed of what actions are being taken by the team in relation to the case, e.g., attempts to make contact, appointments and meetings with the tenant, outcomes achieved, etc, and
- Working collaboratively with the staff of the Housing Association whenever it is felt that this may have a positive effect on preventing homelessness, including any proposed joint appointment with the tenant at risk of homelessness.

Housing Associations will continue to notify Local Authorities of progress once the court process has commenced, including hearing dates and outcomes.