

Briefing

Eviction of children and families: the impact and the alternatives

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Shelter

Summary

Children growing up in social housing continue to lose their homes due to eviction. Eviction is a sign of failure and it is questionable whether eviction can ever be the most effective or ideal response to the difficulties faced by a family with children – from either an economic, social or moral perspective. Shelter believes alternatives need to be sought so that children do not lose their homes and spend unacceptable periods paying the price for debts which are the result of lack of appropriate support, housing benefit administration errors or financial mismanagement.

- Approximately 2,000 children lost their homes due to eviction action in 2007-08. This is the equivalent of five children every day in Scotland being evicted or forced to abandon their home.
- Children live in approximately a third of all households evicted by social landlords – includes councils and registered social landlords (RSLs).
- An estimated £11million was spent evicting families with children in 2007-08. This includes costs to the housing provider, homelessness services, social work and legal costs.
- Evicting a family with children is an ineffective method for collecting rent; it is expensive for social landlords and for the public purse, works against social landlords' statutory responsibilities to safeguard and protect the well-being of children and prevent homelessness and has a serious long term impact on children's lives.
- The reasons why families fall into arrears are complex but tend to be related to low or intermittent income, poverty and health issues while triggers include sudden changes in peoples' lives such as job loss, illness, relationship breakdown and bereavement alongside dealing with housing benefit claims and potentially multiple debts.
- There are more effective and efficient ways to deal with, and prevent, rent arrears and anti-social behaviour. Social landlords are key to this process. While some are making efforts to avoid problems escalating to the eviction stage and to seriously consider the impact an eviction may have on children's lives, more social landlords need to follow suit.
- This briefing highlights a selection of good practice activities to social landlords which can ensure families with children do not get into situations where they are threatened with losing their home

The briefing concludes with a call for social landlords and the Scottish Government to promote alternative courses of action to avoid eviction. It calls for social landlords to adopt precautionary, pre-crisis and crisis interventions, in partnership with a wide range of advice and support services, to reduce the number of families threatened with eviction.

Section 1: Setting the scene

Introduction

This briefing aims to promote alternative courses of action social landlords can take to avoid the eviction of families with children. The first section highlights the consequences of eviction for children, possible factors that make a family vulnerable to eviction and social landlords' responsibilities to avoid evicting families with children, wherever possible. To this end the second section shares a selection of current good practice that can help ensure children grow up in a safe and secure home without the threat of eviction, and not at a huge cost to everyone involved.

Eviction of families with children

Eviction of any tenant from social housing is a sign of failure that should only be used when all other options are genuinely exhausted. Eviction, for a family with children is even more traumatic since it is likely to affect more people and involve family members who are simply bystanders in the action. In fact, it is hard to imagine when an eviction of a family is ever the most effective or best response, for example to either a debt incurred or a neighbour dispute, considering the costs incurred, the impact on children and the tendency to merely displace a problem rather than solve it. Of course, we understand that in some cases, the actions of seriously anti-social households can have devastating impacts on their neighbours. We support firm action. But does eviction actually constitute firm action? Or does it simply displace the problem to some other neighbourhood?

The reality is that dependent children live in two out of every five households subject to an eviction decree and in nearly a third of all households who lose their homes following an eviction decree.¹ Almost all evictions are for rent arrears, with fewer than 3 per cent of evictions in 2007-08 being for anti-social behaviour.²

There are commonly a range of underlying difficulties experienced by families who fall into rent arrears and subsequent threats of eviction are usually related to sudden changes in circumstances such as relationship breakdown, job loss and illness. With the current recession taking grip a growing number of families in social housing are likely to fall into financial difficulties and find themselves at risk of eviction.³ As an indication of this, the Scottish Citizen Advice Bureaux (CAB) over the last five years has found there has been a

¹ Using findings from Communities Scotland (2005) *Evictions in Practice*. For a further explanation see section on eviction rates.

² Shelter (2008) *Evictions by social landlords in Scotland*, December

³ In turn tenants living in the private rented sector are at increasing risk of eviction due to the rising number of property owners defaulting on their mortgages and being repossessed

50 per cent increase in the consumer debt levels of CAB debt clients, including a rise in the proportion of debt clients with rent arrears.⁴

If a family is taken to court by a landlord seeking an eviction order the process can be an intimidating experience, particularly for those who are unrepresented. Recent research into people's experiences of the sheriff courts found many did not have access to the information, advice and legal representation services when they needed them, creating apprehension and difficulty navigating the court system.⁵ Before granting an eviction order the sheriff is obliged, by legislation, to consider whether it is a 'reasonable' decision – this includes considering what effect the eviction may have on any children in the household (see Box 1 for a further explanation of the reasonableness test). In practice, however, there tends to be a wide variation in the way that courts deal with eviction cases.⁶ If a tenant is not present or is unrepresented the case of reasonableness may never be properly considered before an eviction decree is granted. Therefore, despite a legal framework that seems to offer safeguards to families with children, they continue to be evicted.

Scottish context

This briefing comes at a time when there is a national pressure on social landlords to reduce evictions and rent arrears, along with an increased emphasis on taking a proactive and early intervention approach to tackling homelessness rather than more traditional re-active responses to homelessness. Recent Scottish Government guidance places emphasis on the prevention of eviction and prioritising children's interests in decision making. The Government's Prevention of Homelessness Guidance highlights the need for local authorities and registered social landlords (RSLs) to tackle rent arrears before problems escalate and result in eviction and to have a full understanding of the impact on families of any eviction action taken.⁷ Meanwhile the draft guidance on working in the best interests of children facing homelessness stresses that children's interests need to be considered and kept central in respect to tackling homelessness.⁸

⁴ Citizens Advice Scotland (2009) *Drowning in Debt*, June

⁵ Ipsos MORI (2009) *The views and experiences of civil sheriff court users: Findings Report*, July.

⁶ Stalker, A (2007) *Evictions in Scotland*

⁷ Scottish Government (2009) *Prevention of homelessness guidance*, June. Available at <http://www.scotland.gov.uk/Publications/2009/06/08140713/0>

⁸ Scottish Government (2009) *Draft guidance for working in the best interests of children facing homelessness*, March. Available at <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/access/homeless/futurework/homelesschildren>

Box 1: The reasonableness test

When eviction is sought from a Scottish secure tenant the sheriff must always take into consideration whether it is 'reasonable' to grant an order of eviction (Housing (Scotland) Act 2001). In cases involving rent arrears, factors that may be relevant to the reasonableness argument include:

- the amount of the arrears
- the likelihood of the tenant being able to repay arrears and meet future rent repayments
- the length of time the person has been a tenant and their record as a tenant before the arrears arose
- the reasons for the arrears arising, for example, sudden loss of employment, problems with Housing Benefit
- duties of the local authority that may arise following an eviction under the homelessness or social welfare legislation, such as the Children (Scotland) Act 1995
- the implications of eviction for any 'innocent' joint tenant
- any action taken by the landlord to assist the tenant to address the cause of the arrears.

In all cases the tenant's personal circumstances and those of their family are potentially relevant. Even if the tenant's conduct is 'blameworthy' it may not be reasonable to evict because of the consequences for the tenant and/or her/his family. Where eviction proceedings are based on the actions of only one of the joint tenants it may not be reasonable to evict an 'innocent' joint tenant. The sheriff, if he/she feels there is not enough information available to make a decision on reasonableness, can use their statutory powers to adjourn a case. This would usually be because the tenant is not present or is not represented. Some sheriffs however will rely solely on information given by the landlord's agent to make their decision on reasonableness.

Eviction rates

Both councils and housing associations take tenants to court to gain an eviction decree. A number of these result in an eviction or an abandonment of the property following an eviction decree. Eviction figures used throughout the report refer to both actual evictions and to abandonments that occur after an eviction decree has been granted by the courts. In the text below we use data from 2007-08. Data from 2008-09 has been published and shows a modest decline in the number of evictions. But we currently only have these data

for councils and not for RSLs. There are variations in the frequency with which individual local authorities and housing associations use eviction but this will not be looked at in detail here, except to say that councils evict tenants at slightly higher rates than housing associations.⁹

Eviction action by social landlord	Total number of cases in 2007-08	No. of families with children (estimate)	No. of children (estimate)
Eviction decree granted	7,966	3,425	5,959
Eviction occurred	3,573	1,107	1,926

Table 1: Approximate number of children affected by eviction in Scotland, 2007-08¹⁰

There are no figures available on the number of households with children who are facing eviction and subsequently threatened with homelessness. However, research by Communities Scotland suggests that children live in 43 per cent of households where an eviction decree is granted and in 31 per cent of all households where an eviction occurs.¹¹ Using these figures and the latest eviction data it is possible to estimate the number of households with children affected by eviction in 2007-08. According to these calculations there were nearly 2,000 children evicted from their homes in 2007-08, as illustrated in table 1. This is the equivalent of five children every day in Scotland being put at risk of homelessness because they are either evicted or forced to abandon their home due to eviction action.¹²

While it is positive that a number of court actions for eviction do not result in eviction it raises the question whether it is necessary for as many households to go through the eviction process. The threat of eviction, let alone eviction itself, can put a family through unnecessary stress and uncertainty often compounded by other factors in their lives such as loss of employment, domestic abuse or ill health.

⁹ Shelter (2008) *Evictions by social landlords in Scotland*

¹⁰ Own calculations using figures from Communities Scotland (2005) *Eviction in practice*; Scottish Government (2008) *Housing Statistics for Scotland*, November; Scottish Housing Regulator (2008) *Annual Performance and Statistical Return (APSR)*

¹¹ Communities Scotland (2005) *Evictions in Practice*. Available at http://www.scottishhousingregulator.gov.uk/stellent/groups/public/documents/webpages/shr_evictionsinpractice.pdf

¹² This is calculated by dividing estimated number of children in households where an eviction occurred by total number of days in a year ($1,926/365 = 5.27$ children evicted every day)

Too many children are losing their homes due to eviction, turning their lives upside down through no fault of their own, and at a huge financial and social cost.

Why do we need to reduce evictions of families?

The eviction of children is unacceptable for social, financial and statutory reasons. It is an ineffective means of collecting rent due, it is expensive, works against legislation and statutory guidance and has a long lasting impact on children's lives.

Eviction of Gill and her three children

Gill and her three children, Sarah, Jo and Mark* (aged 11, 8 and 4) were evicted three years ago and have been homeless ever since. They were evicted for rent arrears accrued over a year which Gill believed were being paid for by housing benefit but were not, due to a mix up with forms being lost. Since then the family have moved four times including a stint in bed and breakfast accommodation. They now stay in a two bedroom temporary furnished flat out of their local area, and are isolated from all family and support networks as a result.

Gill and her children wish to return to their local area. She asked the local authority to make a section 5 referral to her previous landlord but was advised that this was not possible as she still had arrears from her previous tenancy. Shelter became involved and pointed out that a section 5 referral could not be refused on the grounds of previous rent arrears. The local authority and housing association accepted that there had been an error in dealing with her case. A section 5 referral has now been made and Gill has been accepted for a four bedroom apartment in her local area.

Impact of eviction on Gill and her children

The decision by the housing association to evict the family has had far reaching effects on Gill and her children. It has caused considerable stress and unhappiness for all of them, including isolation from their support networks, disruption to the children's education and the uncertainty of not knowing when they will have a permanent home.

The children dislike where they live. The flat is too small, the neighbours are unfriendly and many of their belongings have got lost in the various moves. The children miss living near friends and family, being able to play outside and feeling safe in the local area. Sarah, the eldest misses having her own room. The two eldest children have moved schools twice, they were referred to the children's hearing system due to poor school attendance, and Jo, who has particularly low self-esteem, is unable to concentrate in class and displays challenging behaviour at home and at school. Alongside homelessness the family have had to deal with the breakdown of the mother's relationship with an abusive partner.

* Names have been changed to protect the family's identity

Ineffective in collecting rent

Firstly, eviction is not an effective way of getting rents paid; there are other ways of collecting unpaid rent and importantly once an eviction occurs it is almost impossible for the landlord to collect the arrears.¹³

Expensive

Secondly, evicting a family is expensive for social landlords. There are the court costs and legal fees, the loss of rent from an empty home following an eviction and the re-let costs to name a few. Councils may also have to pick up the bill for a subsequent homelessness application. There have been several efforts to estimate the financial impact of eviction and subsequent homelessness. The estimated cost of a homelessness case according to Crisis can range from £15,000 to anything as high as £83,000.¹⁴ SCSH has estimated the cost of a homelessness case to be in the region of £23,000.¹⁵ These costs include the provision of temporary accommodation, assessment and support services, furniture storage and uncollected rent (for more detail see Appendix 1). The higher figures for more complex cases include additional costs such as those to the health and criminal justice services. The figures from Crisis and SCSH are estimates for a single homeless person, meaning that the costs for a family are likely to be higher. Dundee Families Project estimated that the cost of an eviction, due to anti social behaviour, per household is £10,700.¹⁶

A conservative estimate therefore of the financial cost of evicting a family is £10,000. Assuming there were children living in 1,107 of the households evicted in 2007-08 and each eviction cost £10,000 of public money, this would equate to approximately £11million being spent last year alone on evicting and re-housing families with children.

Works against statutory responsibilities

Thirdly, deliberately forcing children from their homes is at direct odds with councils' and RSLs' statutory responsibilities to both tackle and prevent homelessness under the Homelessness (Scotland) Act 2003, and to safeguard and to promote the welfare of children under the Children (Scotland) Act 1995. It is also questionable whether an eviction of a family with children could ever be in line with Scottish Government guidance to prevent homelessness or to act in the best interests of children facing homelessness.

¹³ Dunlop, C. (2007) Can't pay? You can stay?, *Roof*, November/December: 44 - 45

¹⁴ Crisis (2003) *How Many, How Much? Single homelessness and the question of numbers and cost*, London

¹⁵ SCSH (2007) *Tenancy Failure - how much does it cost?*

¹⁶ Scottish Executive (2001) *Evaluation of the Dundee Families Project: Final report*

Nonetheless, children live in nearly a third of all households who lose their home following an eviction decree.¹⁷

Social impact on children

Finally, the long term social costs to children and their families related to eviction and potential homelessness should not be ignored or under-estimated. Eviction puts children's wellbeing at risk, potentially pushing them into overcrowded, poor quality or temporary housing and seriously disrupting their lives. Beside the upheaval of losing their homes, bedrooms, pets and having their toys packed up, they may be forced to move out of their local area, change schools or have long distances to travel, leave friends and family behind who offer vital support, miss out on play opportunities and out of school activities and interests. The varied course of events that eviction plays a part in and how it directly affects children's lives is evident in the real life stories about Gill's, Lucy's and Sarah's children, described in this report.

Considerable stress is caused by debt, eviction and housing problems which can have a detrimental affect on adults' physical and mental health, and also compound existing health problems.¹⁸ The problems families face are aggravated by the fact that many are unable to, or do not, access good quality and timely independent advice, advocacy or legal representation.

Parents' stress levels and general well-being will undoubtedly have an impact on family life and parents' capacity for childcare. Children will pick up on the fear and anxiety experienced by parents who are dealing with threats of eviction. Equally children will have to deal with the disruption and uncertainty it causes, for example not knowing where they will be living next, moving into a new place or moving from place to place - sleeping on sofas and floors of relatives and friends, and living in cramped conditions. It is likely to put enormous strain on immediate family relationships and relationships with friends and relations. If the family makes a homeless application they potentially face being moved numerous times from bed and breakfast hotels into often unsuitable temporary accommodation, sometimes waiting months, even years for a permanent home.

¹⁷ Communities Scotland (2005) *Evictions in Practice*

¹⁸ Danny Phillips Associates (2009) *Prevention of homeless partnership evaluation: Section 11 Homelessness etc. (Scotland) Act 2003 pilot project*

Section 2: Alternatives to eviction

What makes a family at risk of eviction?

Families, in the majority of cases, are evicted from social housing for rent arrears. The causes of arrears are complex. However it is always related to low or intermittent income and poverty. Frequently rent arrears are triggered by sudden changes in people's personal circumstances such as job loss, illness, relationship breakdown or bereavement which can all result in a drop in income. Further triggers that lead to families falling into arrears include delays and failures in the housing benefit system, alongside the bureaucracy of making a housing benefit claim, as well as the challenge for families of dealing with multiple debts and the pressures placed on them to prioritise other debts over rent arrears.¹⁹

Frequently tenants with rent arrears will have multiple debts and therefore will be adding to the financial difficulties they already have to cope with. According to research by CAB over half of clients (58 per cent) facing court action for rent arrears in England and Wales had other priority debts (where the creditor can take drastic sanctions to recover the debt such as eviction, loss of fuel supply or liberty) and 49 per cent had other non-priority debts.²⁰ There is no reason to believe that the situation is any different in Scotland.

Many of these tenants have specific problems which make them vulnerable, for example numeracy and literacy difficulties, physical or mental health problems or domestic abuse. These can all contribute to tenants' difficulties in paying their rent and coping with the pressure of rent debt. Problems experienced by vulnerable tenants can escalate if they are not identified early on by housing officers or other front line workers and subsequently are not provided with the necessary additional support to help them sustain their tenancy. Research by Communities Scotland found that in most of the cases it looked at there was little information in the case files on the tenants' support needs and in most cases no assessment of vulnerability.²¹

How to avoid eviction of families with children?

Councils and RSLs are central to preventing families reaching a point where they are threatened with losing their home and risk children becoming homeless. This section provides some examples of action taken by councils and RSLs which can help to reduce

¹⁹ For further discussion see Phelps, L. and Carter, M. (2003) *Possession action – the last resort?: CAB evidence on court action by social landlords to recover rent arrears*. Referred to hereafter as Phelps, L. and Carter, M. (2003)

²⁰ Phelps, L. and Carter, M. (2003)

²¹ Communities Scotland (2005) *Evictions in Practice*

the number of cases reaching the courts so that eviction and the threat of eviction truly become a last resort. It is important to note that the good practice highlighted here is not an automatic indicator of a social landlord's positive track record in relation to eviction due to the complex processes involved in tackling eviction. The good practice is divided into three categories of activity. These are:

1. Precautionary activity/early intervention – identifying those potentially at risk and support services provided before incipient problems or disputes escalate beyond repair.
2. Pre-crisis intervention – can take the form of advice and mediation services and targeted services at risk points in people's lives.
3. Crisis point intervention – such as recalling decrees and providing a last chance to halt the eviction

1. Precautionary/early intervention activity

Early intervention includes both providing comprehensive support and information at the beginning of a tenancy and identifying those families who are vulnerable and need some additional support and advice to ensure any difficulties they face do not escalate. There are a variety of ways that this work can be done.

Early sustained contact with families at the beginning of a tenancy, ideally through face to face contact, and follow up visits helps to identify families at risk and build a relationship of trust between the tenant and the housing officer. Areas that should be covered in these initial visits are ensuring families are linked into local services and amenities, and checking they are receiving the correct benefits and have access to money advice which not only covers rent payments but also general budgeting and financial management.

Moray Council uses a **comprehensive tenancy sign-up process** to give a range of good quality information to new tenants, together with a named housing officer as their key contact. The Council aims to visit new tenants within six weeks of their tenancy starting and analyses outcomes from the visits to identify any emerging problems. New tenants who are identified as potentially vulnerable are visited earlier than the six week target. During 2007/08, the Council carried out 86 per cent of its settling-in visits within its target timescale. The estate caretakers also visit all new tenants to introduce themselves and advise tenants of the services they provide. The Scottish Housing Regulator reports that this approach has contributed to a high tenancy sustainment rate, with 97 per cent of tenants still in their homes six months after their tenancy started.

Stirling Council has created four new posts – two new **'settling in' officers** and two additional housing officers - to help make sure they are able to provide new tenants with the face-to-face contact and support they need in the initial stages of their tenancy and for as long as additional support is required. This is in response to Stirling Council's recent ban on evictions for rent arrears and its subsequent new approach to focus on prevention and support rather than rent arrears recovery through eviction.

Vulnerable families and their support needs can be identified through starting **an assessment process at the beginning of a family's tenancy**, or even prior to them settling in. A full assessment of a family's situation will identify the barriers families may face in helping them settle into and maintain their tenancy, for example poor literacy levels, physical or mental health issues, language barriers, or fear and anxiety about contacting services. For families with children it should also include **prompts to identify children's support needs**. Any assessment needs to be followed up with the provision of relevant support services which means it is important housing staff are aware of the services operating in their local area.

Tenants' circumstances can change at anytime meaning all front line staff have a role to play in identifying vulnerable families throughout their tenancy and not only when they first move in. East Dunbartonshire Council uses a **web-based diagnostic tool to help identify vulnerable tenants**. With the support of the Homelessness Prevention Innovation Fund (HPIF), the council recently developed a web-based diagnostic tool to identify vulnerable tenants at an early stage. This involved identifying the circumstances which may put people at risk of homelessness. They developed a web-based reference system for use by front line staff across various services who do not necessarily have specialist experience of homelessness to help them identify vulnerable households and recommend a course of action to prevent homelessness. The project built up a profile of primary risks which may increase the vulnerability of tenants as well as prompts for action and services available that could provide assistance. Although the project has yet to be evaluated, the development process was a beneficial training experience in itself which improved understanding of the key risks and awareness of the various partners and services available.

For families with particularly chaotic lifestyles Shelter Housing Support Services provide **intensive practical and emotional support** following a full assessment of their situation, to help them settle into and sustain their tenancy. Using a solution based approach Shelter works with the parents and children, to help them build on their strengths and find ways to cope with their situation. This may mean helping them to access grants and benefits or mental health services as well as dealing with bullying issues a child might be facing at school or linking them into social activities. Over a five year period 96 per cent of families supported by such a project did not become homeless again as opposed to local

authority figures of between 50 and 80 per cent success rate of people retaining their tenancies post-homelessness (over the first two years).

Social landlords, through changes in the way they handle benefits and rent can ease the likelihood of families beginning their tenancy in arrears, and therefore challenge the culture of arrears being an acceptable state. Glasgow Housing Association (GHA) and Glasgow City Council have made efforts to **streamline housing benefit administration** for homeless households who move from temporary accommodation into a permanent tenancy. It is no longer necessary for them to re-submit a housing benefit form which is a lengthy and time-consuming process that can lead to a household beginning their tenancy with rent arrears. Instead a tenant is only required to provide the housing benefit office with a change of circumstances form which helps to make the process more streamlined. Furthermore, it makes sense for **rent payments to be aligned with housing benefit periods** so tenants are starting with clear rent accounts, rather than being expected to pay rent a month in advance while receiving benefits two weeks in arrears.

Box 2: GHA's new approach to tackling rent arrears

Last year GHA developed a new tenancy sustainment and prevention of homelessness approach to tackle their high rates of tenancy failure and loss of income. In 2007/08, GHA issued 8,000 Notice of Proceedings, leading to 1,000 decrees for eviction and 500 evictions. This left £1million of debt with only £50,000 recovered. Clearly the decision to pursue legal action for rent arrears was not particularly successful in recovering arrears.

Some of the procedural changes GHA has made in relation to tackling rent arrears and homelessness include:

- Joint process reviews with Glasgow City Council (GCC) Revenue and Benefits and the Glasgow Homeless Partnership
- Information sharing protocols with Revenue and Benefits
- Training local housing officers and Customer Service Centre staff to provide basic housing advice to tenants on housing benefit
- Joint training with GCC to ensure front line housing staff are aware of the range of support provision and issues families may have, as well as child protection training

Underlying all of these examples is a need for a **shift in attitude and approach by social landlords** towards rent recovery. Glasgow Housing Association (GHA) is trying to make a general shift in the way it tackles rent arrears and the culture of pursuing legal action to one that is focused on tenancy sustainment and early intervention (see Box 2). Social

landlords must be of the mindset that they are in the business of keeping people in houses. As part of this **awareness raising and training** among landlords and frontline staff is necessary to highlight the impact of eviction and to promote early intervention activities.

2. Pre-crisis intervention

Early-warning procedures are essential for ensuring there is prompt pro-active action to deal with rent arrears before problems escalate, such as a system to alert the landlord or advice services of rent arrears before they reach the threshold for eviction procedures. The CAB Rent Arrears Project in East Lothian enables the **local authority to share finance information with external advice agencies**. Two local CAB have direct on-line access to information on the Council's various revenues systems meaning CAB advisors can intervene more quickly so that the financial situation of individuals does not escalate and result in homelessness presentations. The evaluation found that the project dealt much more with consumer debts being owed rather than rent and housing benefit arrears cases. These 'non-priority' debts still influence people's ability to pay priority debts such as rent and mortgages and therefore advice on dealing with them can also help to reduce evictions due to rent arrears.

Problems with rent arrears, according to research by CAB, often start at the beginning of a tenancy because of hitches in the initial claiming process for benefits, with forms going astray or supporting documents not being provided or simply processing delays.²² There are also issues when housing benefit has to be reassessed due to a change in income, and many people have wages which continually fluctuate, requiring repeated adjustments to benefits and leading to confusion over entitlement and the amount of rent left to pay making it difficult to budget on a low income.²³ It is therefore important that tenants have **adequate information and support to navigate the claiming process and to maximise their benefit take-up**, complemented by an understanding from the arrears team when arrears are due to housing benefit issues.

GHA uses **Welfare Benefits Advisors (WBA)** help to boost housing benefit take-up by supporting tenants with new applications, requests for back dated payments, discretionary housing payment awards and assisting tenants with over payments. Since January 2004, WBAs have worked with 7,000 clients leading to a gain of £5million in unclaimed benefits for tenants, half of which was housing benefit.

Provanhall Housing Association, in partnership with Greater Easterhouse Money Advice Project (GEMAP), has a **Money Advice Worker (MAW)** available two days a week who

²² Phelps, L. and Carter, M. (2003)

²³ Phelps, L. and Carter, M. (2003)

can offer confidential advice on financial issues such as housing benefit claims, managing money and dealing with debt problems as well as advocacy. During 2008/09, the MAW dealt with 401 benefit claims, helping tenants to claim about £340,000 of unclaimed benefits. GEMAP are also piloting a peer education financial inclusion and money advice project with tenants who have attended their financial inclusion workshops so that they can provide money management services within their own communities, in an effort to engage with tenants before their debt problems escalate.

When a tenant starts falling into arrears every effort needs to be made to contact the tenant and help them **find a realistic solution to pay outstanding arrears** before problems escalate. **Face to face contact with tenants** is likely to be more effective than a formal letter from their landlord. Provanhall Housing Association make contact with a tenant as soon as they start falling into arrears to discuss the cause of the arrears, agree a realistic repayment plan and encourage a visit to the MAW. They use tailored letters, text messages, phone calls and home visits to establish and maintain contact with tenants.

Impact of eviction on Lucy and her daughter Maria, aged 2

Lucy, aged 22, and her 2 year old daughter Maria, were evicted from their temporary accommodation in October 2008. Lucy had been given the six month temporary lease when she split with her partner and could no longer afford the rent on her own.

They were evicted for rent arrears despite Lucy supplying the council with the necessary information about her 16 hours a week job for her housing benefit claim. The council agreed they had a duty to provide permanent accommodation but denied any responsibility to provide further temporary accommodation while they waited for a place because of the rent arrears accrued.

Lucy, and her daughter, then stayed with her sister who had an 18 month old son. Conditions were cramped; Lucy and Maria slept on a mattress in her nephew's room while her sister and nephew shared a room. Inevitably this put a huge strain on the sisters' relationship to the point that Lucy and Maria had to move out. They then had to stay on various friends' sofas.

It was difficult and stressful for them not having a permanent base. Most of their possessions were put in storage and Lucy always has to carry a small bag of things for them both. Most of Maria's toys were left at Lucy's sisters. Lucy and Maria also rarely got a break from each other, apart from when Maria saw her dad.

With the help of the Shelter Housing Advice Service Lucy was able to challenge the council's decision to not provide them with temporary accommodation. Lucy and Maria are now staying in a private rented flat.

* Names have been changed to protect the family's identity

Social landlords need to ensure tenants can **access independent advice and legal representation** from agencies such as Shelter, CAB, law centres, solicitors and in-court advice services. Shelter has found that a high proportion of cases we deal with are related to rent arrears and eviction: since January 2009 over 6 per cent of clients' problems Shelter dealt with were related to an eviction notice being served and a further 10 per cent of problems were related to rent arrears.

Written information and advice needs to be available and accessible, for example a comprehensive, easy to understand booklet available in different languages outlining the housing association or council's eviction procedures, the various stages of the legal process, where to seek independent advice to deal with debt and/or social issues and tenants' rights. Research on sheriff court user experiences concluded that it is essential court users receive the right information and advice, particularly at the early stages of their case, as well as improved access to legal advice in court, which in turn may improve the efficiency with which cases are dealt with.²⁴

The Prevention of Homelessness Section 11 pilot project in South West Glasgow used **partnership working to offer fast track access to quality legal representation, money advice and advocacy, and social support**. The project is a collaboration between Glasgow South West Community Health and Care Partnership (CHCP), Money Matters Money Advice Centre and Govan Law Centre. When an RSL first takes legal action against a tenant they notify the project, which is in line with the recent introduction of section 11.²⁵ The project coordinator and the CHCP social work team then contact the tenant, assess their needs and refer them for housing support, legal representation and money advice where appropriate. An evaluation of the project found that the service was valuable because it is able to quickly draw on each partner agency's respective strengths to deal with the complex causes of people's housing problems. Clients appreciated the professional yet personal manner of staff and felt their health, in particular mental health, improved substantially because of the help they received in finding solutions to their problems.²⁶

At the point when a landlord decides to start legal action for an eviction order, there needs to be **effective liaison with housing benefit, homelessness, information and advice, housing support and social work** to make sure the family has access to high quality advice and support in an effort to prevent eviction and homelessness. It would also be

²⁴ Ipsos MORI (2009) *The views and experiences of civil sheriff court users: Findings report*, July

²⁵ Section 11 of the Homelessness etc. (Scotland) Act 2003 places a duty on private and registered social landlords, as well as creditors, to notify the relevant local authority when they raise repossession proceedings or service certain other notices such as anti-social behaviour orders.

²⁶ Danny Phillips Associates (no date) *Prevention of Homelessness Partnership Evaluation: Section 11 Homelessness etc. (Scotland) Act 2003 Pilot Project*

valuable for councils to look at taking a more **corporate approach to dealing with the recovery of debts** whether these are related to council tax arrears, rent arrears, or housing benefit overpayments. Within the council each department may have different ways of dealing with debt recovery and it makes sense for them to harmonise their approaches, thus saving on resources and being more effective in terms of drawing up a realistic overall repayment plan for the household. The **Debt Arrangement Scheme** works along these lines by helping people repay debts by setting up a single regular payment to a distributor who forwards payments to each of the creditors. The creditors will not be allowed to take further action to enforce the debt while the agreed payments are met.

Importantly, there are other, and arguably more effective, ways for social landlords to recover debt, rather than by raising a court action for eviction. These include pursuing a **debt only action** as opposed to an eviction action, a **small claims action** (used for claims below £3,000), an **earnings arrestment** (money is deducted direct from the debtor's salary via their employer), a **bank account arrestment** (a debtor's account is frozen until an agreement is made to release funds to either pay the total debt or a sum towards it), an **attachment** (property, usually non-domestic items, are seized and sold to pay the debt), or **deductions from benefits** (deductions are made direct from benefits to pay towards arrears). Of course, none of these options are pain-free and some may even be controversial in their own right, but we believe their consequences are still less dramatic than eviction.

It is essential that any decision to evict takes into account individual households' needs and circumstances which may have led to the outstanding arrears, and in particular the impact the eviction process would have on any children in the household, before putting a family through the stress and upheaval of the eviction process. The decision to evict a family must also be balanced against other duties to both prevent homelessness and to protect and safeguard children's well-being. By the point that court action is taken, and preferably before this stage, there should be a case conference with relevant agencies to find ways to avoid eviction, and to assess the likely outcome of any decision to evict a family along with the consequences for the children.

South Lanarkshire Council has developed a **joint working and information sharing protocol between the housing, benefit and revenue and social work teams**, in respect of families with children subject to eviction for rent arrears or anti-social behaviour. The benefit and revenue team notifies social work of all cases where a court date is set due to rent arrears. If there are children within the household the benefit and revenue team will provide a summary of the case, a copy of the Notice of Proceedings, details of Money Matters advice provided and copies of other relevant correspondence. Within three working days social work must contact the tenant and arrange an interview to provide

advice and assistance. If the tenant does not attend the interview and there are children in the household social work will arrange a home visit within three working days of the appointment. At the home visit social work will make an assessment of the family's situation and explain how they can avoid the eviction. On the same day social work will inform benefits and revenue of the outcome of the meeting with the tenant, any factors that will impact on the eviction, whether a referral to Money Matters was made and whether the tenant intends to pay off the debt. If social work feel there are exceptional circumstances they must meet with the benefits and revenue team who will decide whether the circumstances warrant the cancellation of the eviction. There are protocols in place to deal with situations where the decision is disputed by social work.

Halting the eviction of Sarah and her 3 children

Sarah, 23, had been living in her house for two and a half years, with her partner and three children. Part of her rent to the landlord from which she rented her house was being paid through housing benefit, or so she thought. She received a letter saying she was £1,000 in rent arrears due to a housing benefit error. A proportion of her rent arrears were paid off by the housing benefit but she was still liable for rent and court costs. She missed payments, due to spending time in hospital with her pregnancy, and eviction proceedings were started again. She received notification she was due to be evicted on the day she was to be induced with her fourth child. She contacted Shelter. Case workers for Shelter asked for the case to be called again in court so she could be represented. The decree for eviction was recalled and the case continued for six weeks to monitor payments towards the rent and the arrears.

* Names have been changed to protect the family's identity

South Lanarkshire also has joint working protocols in place between housing and social work for investigating anti-social behaviour where a household is considered vulnerable for example when the safety and well-being of children is of concern.

When Moray Council is making a decision to evict a tenant, the homeless officers and housing management staff co-operate in a **comprehensive assessment of a household's circumstances**. They must also seek the community care and social work teams' views on whether to proceed with the case for eviction. The Council will only proceed to evict once staff from its homeless service have agreed to it. This assessment must take place before the Council requests a date for a court hearing.

More intensive intervention is necessary for families with multiple and complex support problems who are at risk of losing their tenancy due to rent arrears or, less frequently, because of anti-social behaviour. One such example is the Breaking the Cycle

programme in South Lanarkshire, which is an **intensive family intervention to deal with anti-social behaviour**. The Breaking the Cycle project, originally funded by the Scottish Government, was set up to work with families with children who are either subject to court proceedings for anti-social behaviour or are in temporary accommodation awaiting a tenancy but have a history of anti-social behaviour. Referrals generally come from housing area officers or the social work department. The project offers intensive support to a small case load of families to help address the root causes of the anti-social behaviour.

The families tend to have multiple and inter-related support needs which in many cases have not been adequately addressed by other agencies. Problems common to many of the families apart from nuisance caused to neighbours are lack of parenting skills, drug and/or alcohol dependency, depression, low self esteem of parents and children and debt. The assistance provided is broad depending on the issues but may include for example trying to improve family dynamics, help to establish routines in the house, giving advice on 'door control', introducing family members to new leisure activities and whole-family activities. They often make referrals to other services such as alcohol counselling, counselling on self-esteem and personal relationships and drug de-toxification. Project staff have to collaborate closely with various other professionals, especially the relevant social workers because of child protection concerns, and the anti-social behaviour officers. The project is only two years old so it is difficult to draw any firm conclusions but an evaluation at 18 months concluded that in most cases families supported by the project had ceased to inflict distress on their neighbours and, as a result, the threat of eviction has receded.

It is also worth noting that when anti-social behaviour problems exist there may be a case for addressing the individual responsible for the behaviour, or the particular issue, as opposed to threatening the whole family with eviction and moving the problem on rather than finding a response that seeks to address the causes.

3. Crisis intervention

Crisis intervention activities are a last chance to halt an eviction decree or minimise the disruption eviction may cause to a family. These may include a tenant **accessing last minute housing advice** or **lodging a minute for recall** to halt the eviction process and get the case heard again in court with the aim of preventing the eviction. Some social landlords are willing to enter into a repayment plan even after the decree has been granted. These actions act as a final safety net to catch families and tend to be more about tackling the symptoms rather than the problems that lead to eviction.

South Lanarkshire has procedures in place to ensure **housing and social work fulfil their duties towards children who are evicted**. After an eviction when a family contact

housing or social work wanting to make a homeless application a meeting is arranged between housing and social work to discuss the case, to establish if intentionality is relevant, to agree the support services required to support children and the accommodation options.

In some cases local authorities avoid physically evicting a family once an eviction order is granted by ending a tenant's Scottish secure tenancy (SST) and immediately replacing it with a short Scottish secure tenancy (SSST), which is a less secure tenancy. This is commonly called a **technical eviction**. Although it means the family does not have to leave their home, this practice needs to be used with caution for a number of reasons: the family is still put through the stress and uncertainty of the eviction process, it leaves them with a less secure tenancy with fewer rights and it does not reduce the costs related to taking a case through the court system or the number of cases taken to court. When a conversion from a SST to a SSST does occur it is important to recognise that the problems that first got the tenant into difficulties may still remain and appropriate support needs to be provided to ensure the tenant does not fall into rent arrears again. We believe that this area of practice is not well discussed at present and would welcome dialogue on its pros and cons.

Summary of alternatives

Precautionary activity / early intervention

- Early sustained contact with tenants, preferably face to face, from the beginning of the tenancy with a comprehensive tenancy sign up process and 'settling in' officers
- Early identification of vulnerable families, through an assessment process, followed up by tailored support and timely referrals to homelessness, social work, benefits and money advice services
- Tools to identify tenants who become vulnerable at any time during their tenancy
- Intensive practical and emotional support for families with particularly chaotic lifestyles
- Streamlining housing benefit administration, including ways to ensure families do not begin their tenancy in arrears such as aligning rent payments with housing benefit periods
- A change in the attitude and approach of social landlords towards rent recovery, with a shift to a culture that is more focused on tenancy sustainment and early intervention.

Pre-crisis intervention

- Information sharing between local authorities and external advice agencies to deal with rent arrears before debts escalate
- Adequate advice, information and guidance for tenants to navigate the claiming process for benefits, maximise their take-up of benefits and ability to manage multiple debts
- Early face to face contact with tenants as soon as arrears start, to identify the problems and help set up realistic repayment solutions
- Access to quality independent housing advice and advocacy, legal representation and social support, along with partnership working to ensure it is timely and effective
- Comprehensive written information and advice which is made available and is accessible to tenants on the eviction procedure, their rights and where to seek independent advice
- Effective liaison between housing benefit, homelessness, information and advice, housing support and social work before or at the point when a landlord begins legal action
- A corporate approach to recovering multiple debts, owed to different departments within the same council or RSL
- Alternative ways of recovering rent arrears such as debt only action, small claims action, earnings or bank account arrestment, an attachment or deductions from benefits
- Joint working and information sharing protocol between housing, benefit and revenue and social work team to assess families' circumstances and the impact of eviction on the children, prior to a family being subject to eviction
- Intensive family intervention to find effective solutions for families at risk of eviction due to anti-social behaviour.

Crisis point intervention

- Tenants encouraged to access last minute housing advice and legal representation
- A minute for recall is lodged to halt the eviction process so the case can be heard again
- The use of a technical eviction which enables the family to stay in their home but in a less secure tenancy
- Procedures to ensure councils fulfil their duties towards children who are evicted

Section 3: What can be done?

Shelter believes that alternatives to eviction need to be sought so that children are not losing their homes and spending unacceptable periods paying the price for debts which may be the result of lack of appropriate support, housing benefit administration errors or financial mismanagement. Families like Gill's, Lucy's and Sarah's should never have been allowed to get into a situation where they were threatened with eviction or in indeed evicted. There needs to be less reliance on eviction as a rent recovery tool and greater effort to tailor responses that seek to address the problems faced by families.

While some social landlords are working to identify vulnerable families and to support them prior to reaching the stage of court action there are considerable opportunities for social landlords to do more to tackle difficulties related to rent arrears and anti-social behaviour and hence reduce evictions.

Social landlords and the Scottish Government must take action by promoting and adopting the precautionary, pre-crisis and crisis activities summarised above. Alongside these actions, the Scottish Government needs to monitor whether the rights and welfare of children are the primary consideration in all decision-making related to eviction; as well as monitor and analyse the types of households facing eviction and the quality of the prevention activities used to reduce eviction. Increased investment is necessary in tenancy sustainment and prevention of homelessness activities, including more resources for information, advice and support services. We also raise the question about how consistently factors related to reasonableness are considered by the sheriff courts particularly when tenants are unrepresented. Finally, Shelter calls for a Scottish Government working group to be set up to review social landlords' and the courts' approaches to evictions.

For further information please contact Jessie Crawford, Children's Service Policy and Practice Coordinator, on 0344 515 2472 or at Jessie.Crawford@shelter.org.uk

Supported by:



Appendix 1: Information on the cost of an eviction

	Crisis case study 1	Crisis case study 2	SCSH case study 1	SCSH case study 2
Tenancy breakdown cost in £	n/a	3,000	6,141	5,112
Temporary accommodation costs in £	7,000	21,000	10,232	5,038
Support costs in £	2,500	4,500	6,700	2,600
Other costs eg health services, criminal justice costs in £	5,500	54,500	Not quantified	Not quantified
Duration of homelessness	1 year	2 years	1 year	6 months
TOTAL COST in £	15,000	83,000	23,074	12,750

Note: all figures are for a single person made homeless so costs for a family could well be higher

Source: Crisis (2003) *How Many, How Much? Single homelessness and the question of numbers and cost*, London; SCSH (2007) *Tenancy Failure - how much does it cost?*