

# *Gebbie & Wilson Newsletter*

MARCH 2009

## **LANDLORDS DUTY TO ADVISE LOCAL AUTHORITY OF EVICTION**

Section 11 of the Homelessness etc (Scotland) Act 2003 places a duty on landlords and creditors (other than local authority landlords) to inform the relevant local authority when they raise proceedings for possession or serve certain other notices. This comes into force on 1<sup>st</sup> April 2009.

Local authorities have statutory duties to people who are homeless or threatened with homelessness. The purpose of introducing the duty to notify for landlords and creditors is to give local authorities early notice of households at risk of homelessness as a result of eviction, giving them the opportunity to act in individual cases to prevent homelessness occurring, and/or use the information received to inform their strategic approach to planning and delivery of homelessness services. The policy is consistent with broader principles of early intervention, however, the council are not actually obliged to do anything.

Section 11 is a provision which ought to help vulnerable people access services more speedily, thus preventing evictions. However, if the requirement to inform the local authority is not met, the subsequent court action is still lawful.

In 2007-2008 social landlords raised more than 20,000 court actions in Scotland. With advice and representation, many tenants avoided actual decree and eviction, but still more than 3500 lost their homes. In the current economic climate these figures are likely to get worse, and that is equally true for homeowners.

Many housing advisers think that already the law needs to be reformed to further protect those threatened by homelessness. They would like to see Section 11 amended so that the judge can throw out any action raised where the landlord cannot prove that the relevant notice was indeed sent to the council. Campaigners have also called for good practice to be enshrined in statute so that local authorities would be required to take action on receiving the notice, rather than being merely encouraged to do so.

If you are a social landlord then it is advisable to follow the guidelines and inform the local authority when you are issuing your Notice to Quit.