



---

**REPORT TO: COMMUNITIES COMMITTEE ON 5 FEBRUARY 2019**

**SUBJECT: HOUSING (SCOTLAND) ACT 2014, PART 2 – PROGRESS REPORT**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE)**

**1. REASON FOR REPORT**

- 1.1 This report provides the Communities Committee with an update on the commencement of the outstanding provisions of Part 2 of the Housing (Scotland) Act 2014 and identifies the legislative changes required to the Council's Neighbour Nuisance and Antisocial Behaviour Policy, Short Scottish Secure Tenancy (SSST) Policy and Evictions Policy prior to public consultation.
- 1.2 This report is submitted to Committee in terms of Section III (G) (2), (4) and (14) of the Council's Scheme of Administration relating to exercising the functions of the Council as a Housing Authority, dealing with the allocation and letting of houses and homelessness and developing policies in relation to Community Safety and Antisocial Behaviour.

**2. RECOMMENDATION**

**2.1 It is recommended that the Communities Committee:**

- (i) approves the revisions made to the Neighbour Nuisance and Antisocial Behaviour Policy, Short Scottish Secure Tenancy (SSST) Policy and Evictions Policy which reflect the legislative changes required by Part 2 of the Housing (Scotland) Act 2014;**
- (ii) agrees to consult with service users, tenants and other key stakeholders as set out in Section 7; and**
- (iii) notes that a progress report on the consultation feedback with final draft policies will be presented to the next Communities Committee on 2 April 2019 for approval.**

**3. BACKGROUND**

- 3.1 A report was presented to this Committee on 20 November 2018 which provided an update on the implementation of the Housing (Scotland) Act 2014, Part 2 (herein referred to as the 2014 Act). Part 2 makes changes to parts of the Housing (Scotland) Act 2001 in relation to evictions, Short

Scottish Secure Tenancies (SSSTs) and assignments. The November report highlighted the need to review the Council's SSST Policy, Neighbour Nuisance and Antisocial Behaviour Policy and Evictions Policy to ensure compliance with the provisions of the 2014 Act prior to the implementation date of 1 May 2019 (paragraph 6 of the draft Minute refers). One of the principle provisions of the 2014 Act is to grant landlords greater flexibility in relation to the allocation and management of housing stock through the use of SSSTs. The legislative changes also provide a wider toolbox to assist the Council when dealing with cases of antisocial behaviour and/or illegal or immoral activity within Council tenancies.

- 3.2 The 2014 Act also requires some minor changes to the Council's Assignations Policy which will be implemented by 1 November 2019.
- 3.3 All the legislative changes are outlined in **Appendix I**. The changes are all mandatory with the exception of the new ground for 'other antisocial behaviour'. The relevant policies have been revised to reflect these mandatory changes as well as the new discretionary ground for antisocial behaviour. This ensures that the full range of available options can be used by officers when dealing with cases of recurring or persistent antisocial behaviour.

#### **4. NEIGHBOUR NUISANCE AND ANTISOCIAL BEHAVIOUR POLICY REVIEW**

- 4.1 The revisions to the Council's Neighbour Nuisance and Antisocial Behaviour Policy are minimal but include an update to the strategic context as well as the legal definition for antisocial behaviour for clarity when determining a course of conduct.
- 4.2 Existing measures from the Housing (Scotland) Act 2001 include the use of a SSST where an antisocial behaviour order (ASBO) or eviction order for antisocial behaviour has already been granted by a Court. Section 7 of the 2014 Act amends this legislation to include a new ground which allows the use of a SSST for new and existing tenants where the tenant, joint tenant, any member of their household or visitors to their property has carried out a course of antisocial behaviour within the previous three years, in relation to another person residing in or visiting the locality.
- 4.3 The revised Neighbour Nuisance and Antisocial Behaviour Policy are available in the Committee Management Information System (CMIS) and can be found at <https://moray.cmis.uk.com/moray/CouncilandGovernance/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/368/Committee/10/Default.aspx>.

#### **5. SHORT SCOTTISH SECURE TENANCY (SSST) POLICY**

- 5.1 SST and SSST agreements set out the responsibilities of tenants and the behaviour expected from members of their household as well as visitors both within and around the locality of their home. A SSST is a short term or probationary tenancy that can be given to tenants in certain circumstances as defined by Schedule 6 of the Housing (Scotland) Act 2001. Breaches of

tenancy conditions as a result of antisocial behaviour can ultimately result in action being taken to reduce a tenant's rights.

5.2 A full review of the SSST Policy has been required to reflect the extent of the legislative changes which include:

- a new antisocial behaviour ground where a course of antisocial behaviour has taken place in the previous three years;
- changes to the minimum term of a SSST on any of the antisocial behaviour grounds from 6 months to 12 months;
- the power to extend the new 12 month term of a SSST for antisocial behaviour by 6 months, to 18 months, where support services are being provided;
- automatic conversion to a full SST at the end of the 12 month SSST, unless action is taken to repossess the property;
- new provisions for serving statutory notices in relation to SSSTs and the information that is required within the notices;
- new provisions for recovery of possession for SSSTs on any of the grounds; and
- a new internal right of review process for tenants, where action has been taken to recover possession, prior to the case proceeding to court.

5.3 The revised Short Scottish Secure Tenancy (SSST) Policy is available in the CMIS document system and can be found at

<https://moray.cmis.uk.com/moray/CouncilandGovernance/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/368/Committee/10/Default.aspx>.

## **6. EVICTIONS POLICY**

6.1 The 2014 Act introduces a new process to streamline eviction action where there has been a criminal conviction within the previous 12 months, for serious antisocial or criminal behaviour that is punishable by imprisonment. Such a breach of tenancy conditions will allow the Council to follow a more simple process for eviction.

6.2 The revisions to the Evictions Policy provide a more robust policy statement in relation to eviction action under these circumstances. The revised policy includes:

- detail of the legal framework necessary for carrying out streamlined eviction actions under this ground, which strengthens the legal process for court action;
- a clearer explanation of tenant's responsibilities in relation to illegal activity and criminal behaviour under their tenancy agreement;
- detail of the required and preventative actions that should be taken prior to considering eviction action for antisocial or criminal behaviour; and
- an explanation that there is no longer a requirement for the Council to prove the action is reasonable when using this ground. The Council will however need to show that the action taken is proportionate in balancing the tenant's rights against those of the household and neighbouring community.

- 6.3 The revised Evictions Policy is available in the CMIS document system and can be found at <https://moray.cmis.uk.com/moray/CouncilandGovernance/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/368/Committee/10/Default.aspx>.

## **7. CONSULTATION PROCESS**

- 7.1 Due to the majority of the legal changes being mandatory, and the significant correlation across the three policy areas, it is proposed that one consultation exercise on the revised draft policies is carried out from 8 February until 15 March 2019. Within this one process, three separate surveys will be available for each of the three policies. This will allow respondents to choose which policy areas they would like to give feedback on. Alternatively they can choose to answer all three. The surveys in relation to the Short Scottish Secure Tenancy Policy and the Neighbour Nuisance and Antisocial Behaviour Policy will specifically ask for feedback regarding whether the Council should use the new discretionary ground to monitor and tackle ongoing antisocial behaviour.

- 7.2 The consultation process will involve:

- publication of the three draft policies, along with easy to read versions of each policy, on the Council website;
- providing a link and online survey on the home page of the Council's website and publicising it across the Council's social media platforms;
- providing relevant stakeholders the opportunity to feedback such as:
  - a random sample of housing list applicants;
  - Moray Council tenants;
  - Register of Interested Tenants;
  - Moray Tenant's Forum;
  - Moray Equalities Forum;
  - current service users for example, homelessness and housing support;
  - Community Councils; and
  - any other relevant stakeholders.

- 7.3 Following an analysis of the feedback received, a further report will be presented to this Committee on 2 April 2019 for final approval prior to implementation on 1 May 2019.

## **8. FUTURE IMPLEMENTATION**

- 8.1 To ensure the Council meets the implementation dates required by the 2014 Act, officers will undertake the following actions between February and May:

- review all associated operational staff procedures, templates and letters;
- identify and implement any recording/system changes required as a result of the changes;
- provide staff training on the changes; and
- continue to keep tenants updated through the tenant's newsletter (the Tenants' Voice), leaflets and the Council website.

- 8.2 The changes required to the Council's Assignations Policy will be progressed during summer of 2019 to meet the 1 November 2019 implementation date.

## **9. SUMMARY OF IMPLICATIONS**

### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The Corporate Plan and Moray 10 Year Plan prioritises building a better future for our children and young people while empowering and connecting communities to become stronger and more resilient. The Neighbour Nuisance and Antisocial Behaviour Policy, Short Scottish Secure Tenancy (SSST) Policy and Evictions Policy allow the Council to use measures to tackle antisocial behaviour and criminal activity within these communities, specifically within council housing.

### **(b) Policy and Legal**

The Housing (Scotland) Act 2014 received Royal Assent on 1 April 2014. Legislative changes in Part 2 of the Act, in relation to social housing allocations and housing management, will come into force on 1 May 2019. The Council is required to review its Neighbour Nuisance and Antisocial Behaviour Policy, Short Scottish Secure Tenancy (SSST) Policy, Evictions Policy and Assignations Policy in order to comply with the legislative changes.

### **(c) Financial implications**

There are no financial implications arising from this report.

### **(d) Risk Implications**

There are no risk implications arising from this report.

### **(e) Staffing Implications**

The Housing Service will consider the staffing implications arising from the implementation of the 2014 Act and the changes to housing policies.

### **(f) Property**

There are no property implications arising directly from this report.

### **(g) Equalities/Socio Economic Impact**

An Equalities Impact Assessment (EIA) will be undertaken as part of the consultation process.

### **(h) Consultations**

Consultation on this report has taken place with the Head of Housing and Property, Housing Needs Manager, Housing Services Manager and Officers within the Housing Service, Housing Strategy and Development Manager, Sgt. Chris Page (Partnership Development Officer, Police Scotland), Deborah O'Shea (Principal Accountant), Aileen Scott (Legal Services Manager), Morag Smith (Senior Solicitor), Don Toonen (Equal Opportunities Officer), Caroline Howie (Committee Services Officer) and any comments have been incorporated into the report.

## 10. **CONCLUSION**

**10.1 This report provides the Communities Committee with an overview of the legislative changes required to the Council's Neighbour Nuisance and Antisocial Behaviour Policy, Short Scottish Secure Tenancy (SSST) Policy and Evictions Policy as required under Part 2 of the Housing (Scotland) Act 2014. A further progress report, including the outcome of the consultation process and final draft policies will be presented to this Committee in April 2019.**

Author of Report: Emma Armit, Senior Housing Officer (Policy)

Background Papers: The Housing (Scotland) Act 2014 (1 March 2016)  
The Housing (Scotland) Act 2014, Part 2 and Appendix I (26 June 2018)  
The Housing (Scotland) Act 2014, Part 2 – Progress Report (20 November 2018)

Ref: