

**BRIEFING TO THE SOCIAL DEVELOPMENT COMMITTEE ON**

**The Preventing Possession Initiative**

**10 June 2010**

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## **The Preventing Possession Initiative**

Through the experience of clients, Housing Rights Service is aware that financial crisis and debt is an important trigger to homelessness. We therefore provide a specialist housing debt service to people with mortgage or rent arrears. In recent years Housing Rights Service has experienced a sustained rise in demand for this service and in 2009/10, 897 households availed of this service.

In 2008 there were 3628 mortgage possession actions taken in the Chancery Division of the NI High Court. This reflects a 64% increase in the number received during 2007. This trend continued upwards and in 2009 there were 3905 mortgage possession actions taken.

In February 2009 Housing Rights Service launched the Preventing Possession Initiative. The aim of this three year project is to tackle the growing issue of homelessness as a consequence of debt in Northern Ireland. The initiative adopts a twin track approach:

- 1. A Court Representation Service providing access to advice, support and representation to people facing the imminent threat of repossession.**

This element of the project seeks to ensure that homeowners and tenants who are threatened with debt related possession have access to free independent advice, support and representation on the day of their hearing

- 2. Engaging in preventative policy work with social housing providers and lenders to avoid possession action**

Policy staff are engaging with government, lenders and social landlords seeking to influence changes in policy and practice to reduce the likelihood of possession actions being initiated in the first instance.



## Access to High Quality and Effective Court Representation

Key Achievements	Issues
<p>Central to the Preventing Possession Initiative is the Court Representation Service, the only one of its kind in Northern Ireland, for people facing the imminent threat of possession. Housing Rights Service has been aware for many years that a significant proportion of people attend possession proceedings without representation, often having received no legal advice prior to appearing in court. To address this Housing Rights Service, in liaison with the Northern Ireland Court Service, set up the Court Representation Service with one full time member of staff. This service seeks to ensure that homeowners and tenants who are threatened with debt related possession have access to free independent advice, support and representation on the day of their hearing. The Court Representation Officer is available at the Chancery Division of the High Court two days per week and at the County Court one day every fortnight. The pilot is being facilitated by the Royal Courts of Justice and Laganside Court in Belfast.</p>	<p>In England and Wales, legal aid is available for similar schemes (often referred to as "Help at Court") where the client is a defendant to possession proceedings when rent and mortgages are not in dispute. This is currently not available in Northern Ireland.</p> <p>The Northern Ireland Legal Services commission sought views on a Funding Code for civil legal aid in Northern Ireland. Housing Rights Service highlighted in its response the pressing need for legal aid funding of arrears possession proceedings in Northern Ireland to be placed on a par with that in England and Wales.</p>
<p>The Court Representation Service has been operational since January 2009. Since the date of launch and up until 31 March 2010 the Court Representation Officer has provided assistance to 180 households. In 2009/10 alone the Court Representation Officer was able to prevent homelessness in 77% of cases. Many clients have taken the time to contact Housing Rights Service to express their appreciation and to provide positive feedback on the service.</p>	<p>The operation of the Court Representation Service since January 2009 has provided the following insights:</p> <ul style="list-style-type: none"> <li>• There is a sustained demand for this service</li> <li>• A significant amount of people attending the hearing have not previously sought advice on their problem</li> <li>• Limitations of a small pilot – unmet need</li> <li>• Incidence of non attendance at court</li> </ul>

<p>provided by our Court Representation Officer.  <i>"she walked me through an intimidating and nerve wrecking process and her help was invaluable in providing an outcome which was favourable to me"</i> (Aisling, Nov 2009)</p>	<ul style="list-style-type: none"> <li>• Appropriate advice &amp; representation can make a real difference to the outcome of the court hearing.</li> </ul>
<p>To assist in developing and increasing access to quality advice across Northern Ireland Housing Rights Service developed a Specialist Course on "Defending Possession Proceedings". The course was delivered in December 2008 to 27 participants from 11 different advice agencies across NI and the course is now incorporated into NI Wiser Adviser Money Advice Training Programme which is available to all money advisers in NI.</p>	

## Influencing Policy and Practice of Housing Providers

Key Achievements	Issues
<p>In July 2009, Housing Rights Service established partnership arrangements with 6 social housing providers in NI. These organisations agreed to work in partnership with HRS to help prevent possession as a consequence of housing debt. The partnership approach has been formalised by way of a Service Level Agreement. As part of the service provided under the agreement HRS has:</p> <ul style="list-style-type: none"> <li>• Helped to review the current rent arrears management policies and procedures of 4 of our current partners and as a result 3 have subsequently revisited their policy and procedures;</li> <li>• Trained key members of staff from the partner housing providers in the management of housing debt to enable them to provide a basic level of assistance to tenants falling into arrears and</li> </ul>	<p>We are currently in the process of recruiting an additional 6 housing providers to be involved in the second year of the project.</p>

<p>refer them if appropriate for holistic debt counselling.</p>	
<p>A social housing policy and practice sub group has been established. Representation on the group has been drawn from 5 of our partner housing providers and other key stakeholders, including the Department for Social Development. The focus of the sub group's work has been to inform the development of Good Practice Guidance in rent arrears management and recovery for the social housing sector in Northern Ireland. The document is at final draft stage with the Department for Social Development. The Department for Social Development has agreed, in principle, to incorporate input from the Group and issue it, on completion, as formal guidance for all NI housing associations. In doing so the Department will be helping to address issues of concerns flagged up by the Northern Ireland Audit Report May 2009 "The Management of Social Housing Rent Collection and Arrears."</p>	<p>It is our view that the principles of Good Practice contained in the Manual should be adopted by all social housing providers in NI. As the largest social landlord it is important that the Housing Executive is encouraged to undertake a review of their policies and practices to ensure they are also adhering to the principles contained in the document.</p> <p>In the interests of effective implementation of the Good Practice principles it is important that those involved in regulation and inspection of housing providers are made fully aware of the content of the Good Practice Guidance.</p>
<p>A number of our partners requested HRS to provide independent debt advice to tenants with debt problems. Consequently the Tenants Debt Advice Service has been established, on a pilot basis, for a one year period. Formal referral arrangements have been put in place between HRS and the housing associations involved and the service began on 1<sup>st</sup> March 2010.</p>	<p>The experience to date has proven that it is possible to secure positive resolutions of tenants housing debt situations. Apparent at this stage is the emergence of a common theme whereby there are opportunities for maximising tenant's income through benefit uptake.</p>

## Influencing the Policy and Practice of Lenders

Key Achievements	Issues
<p>The project team has actively engaged in consultation processes with policy makers. Most of this is controlled at a UK level however there have been opportunities to influence at a Northern Ireland level. Housing Rights Service has helped to secure the following changes which are specific to NI:</p> <ul style="list-style-type: none"> <li>• Pre action protocols for mortgage arrears were introduced in NI with effect October 2009;</li> <li>• Debt Relief Order Scheme for Northern Ireland – DETI agreed to (1) tailor the financial statement approach to the Northern Ireland context. Also, in terms of the fee payable for availing of the scheme DETI have now agreed that a proportion of this fee should not be paid to an intermediary.</li> </ul> <p>Sale and Rent Back (SRB)</p> <p>The Financial Services Authority (FSA) initially published an interim regime and has now published the full regulatory regime, whereby all firms undertaking this type of work will have to be fully authorised by the FSA. Unauthorised firms face potential fines or imprisonment. This will come into full effect on the 30 June 2010.</p> <p>On the basis of Housing Rights Service input. FSA made the following amendments to their original proposals:</p> <ul style="list-style-type: none"> <li>• Clarity was provided that any tenancy arrangement entered into in NI following the sale must be for a minimum period of 5 years;</li> </ul>	<p>Northern Ireland Court Service judicial statistics for the second quarter of 2010 indicate a 24% decrease compared to the same period for the previous year. While it is too early to make a comprehensive review of the pre action protocol this potential impact has been noted.</p> <p>Housing Rights Service advisers are actually utilising the mortgage pre action protocol whilst advocating on behalf of tenants.</p> <p>There are currently no Northern Ireland firms with FSA interim authorisation to undertake sale and rent back transactions. The FSA has advised that it is proactively monitoring the SRB market for unauthorised activity, and will take action if necessary.</p>

<ul style="list-style-type: none"> <li>• Potential customers must be informed of the availability of independent advice;</li> <li>• Potential customers must seek advice on the potential impact of the sale on their entitlement to state benefits, prior to proceeding with the sale.</li> </ul>	
<p>Progress has been made in developing an Affordable Credit Service for tenants in rent arrears. It is well documented that social housing providers house a concentration of people on low incomes. Often these people pay crippling rates of interest to borrow money from doorstep lenders and loan sharks as they are denied access to financial services. Such practices can both trigger and exacerbate debt problems which, if unchecked, can lead to eviction and homelessness. Housing Rights Service in recognition of the need for more affordable credit options has been working tirelessly to put in place a pilot scheme to enable tenants in rent arrears to obtain loans from a local credit union. HRS has secured commitment from a number of credit unions and housing associations to be involved in the scheme and work is ongoing developing detailed arrangements. It is anticipated the scheme will be operational from July 2010.</p>	<p>The impetus for participation in affordable credit pilots amongst credit unions in NI is not on a par with what is happening in other jurisdictions. The Department for Trade and Investment in conjunction with the Treasury is currently consulting on proposals for reforms of credit unions in Northern Ireland. Housing Rights Service is supportive of change that will enhance the ability of credit unions in NI to contribute to tackling financial exclusion. We believe this would be complemented by the development of an NI specific, Executive led, financial inclusion strategy.</p>

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## For further information contact

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