



## Higher National Unit specification

### General information

**Unit title:** Housing Law for Advisors: Security of Tenure  
(SCQF level 7)

**Unit code:** HC4F 34

**Superclass:** HE

**Publication date:** March 2016

**Source:** Scottish Qualifications Authority

**Version:** 01

### Unit purpose

This Unit is designed for those who provide advice on housing and in particular, on housing law to service users in housing and/or advice setting. Learners may be working, or plan to work, either as volunteers or in paid employment. This Unit is a mandatory Unit within the Professional Development Award in Housing Law Advice at SCQF level 7.

### Outcomes

On successful completion of the Unit the learner should be able to:

- 1 Explain the provisions of different types of tenure.
- 2 Explain the essential elements of a tenancy.
- 3 Explain the processes of eviction and repossession.

### Credit points and level

1 Higher National Unit credit at SCQF level 7: (8 SCQF credit points at SCQF level 7)

### Recommended entry to the Unit

Entry is at the discretion of the centre however, it would be beneficial for the learner to have completed the Unit *Housing Law for Advisors: Introduction to Security of Tenure*. Learners undertaking this Unit would normally be working for, or planning to work for, an organisation or agency which offers housing advice.

## **Higher National Unit specification: Statement of standards (cont)**

**Unit title:** Housing Law for Advisors: Security of Tenure  
(SCQF level 7)

### **Core Skills**

Opportunities to develop aspects of Core Skills are highlighted in the Support Notes for this Unit specification.

There is no automatic certification of Core Skills or Core Skill components in the Unit.

### **Context for delivery**

If this Unit is delivered as part of a Group Award, it is recommended that it should be taught and assessed within the subject area of the Group Award to which it contributes.

This Unit is a mandatory Unit within the Group Award, PDA in Housing Law Advice at SCQF level 7. It is however, a free-standing Unit and may be delivered as such for purposes of continuing professional development.

### **Equality and inclusion**

This Unit specification has been designed to ensure that there are no unnecessary barriers to learning or assessment. The individual needs of learners should be taken into account when planning learning experiences, selecting assessment methods or considering alternative evidence.

Further advice can be found on our website [www.sqa.org.uk/assessmentarrangements](http://www.sqa.org.uk/assessmentarrangements).

## Higher National Unit specification: Statement of standards

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(SCQF level 7)

Acceptable performance in this Unit will be the satisfactory achievement of the standards set out in this part of the Unit specification. All sections of the statement of standards are mandatory and cannot be altered without reference to the SQA.

Where evidence for Outcomes is assessed on a sample basis, the whole of the content listed in the Knowledge and/or Skills section must be taught and available for assessment. Learners should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion.

### Outcome 1

Explain the provisions of different types of tenure.

#### Knowledge and/or Skills

- ◆ Assured tenancies
- ◆ Short Assured tenancies
- ◆ Scottish Secure tenancies
- ◆ Short Scottish Secure tenancies
- ◆ Non secure public sector tenancies
- ◆ Regulated tenancies
- ◆ Part VII tenancies
- ◆ Tied accommodation
- ◆ Occupiers

### Outcome 2

Explain the essential elements of a tenancy.

#### Knowledge and/or Skills

- ◆ Essential elements which make up a tenancy
- ◆ Legislative framework
- ◆ Rights and responsibilities of landlords in the public and private sectors
- ◆ Rights and responsibilities of tenants in the public and private sectors

## Higher National Unit specification: Statement of standards (cont)

**Unit title:** Housing Law for Advisors: Security of Tenure  
(SCQF level 7)

### Outcome 3

Explain the processes of eviction and repossession.

#### Knowledge and/or Skills

- ◆ Legislation relevant to eviction and repossession
- ◆ Owners/tenants' rights/protection
- ◆ Landlords rights/protection
- ◆ Recovery of possession
- ◆ Proceedings for possession
- ◆ Abandonment
- ◆ Legal grounds for eviction/repossession
- ◆ Proceedings for eviction
- ◆ Illegal eviction and harassment including unlawful discrimination

#### Evidence Requirements for this Unit

Learners will need to provide evidence to demonstrate their Knowledge and/or Skills across all Outcomes by showing that they can:

- ◆ explain the main provisions of at least five types of tenure in Scotland.
- ◆ describe the key aspects of legislation relevant to each of the five types of tenure.
- ◆ explain the essential elements of a tenancy.
- ◆ describe the rights and responsibilities of landlords in the public and private sectors.
- ◆ describe the rights and responsibilities of tenants in the public and private sectors.
- ◆ explain the process for eviction.
- ◆ explain the process for repossession.
- ◆ describe the key aspects of legislation relevant to eviction and repossession.



## Higher National Unit Support Notes

**Unit title:** Housing Law for Advisors: Security of Tenure  
(SCQF level 7)

Unit Support Notes are offered as guidance and are not mandatory.

While the exact time allocated to this Unit is at the discretion of the centre, the notional design length is 40 hours.

### Guidance on the content and context for this Unit

This Unit has been designed to reflect the requirements of the Scottish National Standards for Housing Information and Advice Services developed by the Scottish Government for workers engaged in providing advice on a range of housing issues and, in particular, housing law advice in the specific areas of homelessness, security of tenure, repair and disrepair and housing-related financial issues.

This is a mandatory Unit of the PDA in Housing Law Advice at SCQF level 7.

**For all Outcomes**, the following information applies:

There are three sources of law which govern housing rights:

◆ Statute

Statute is the law passed by Parliament. It cannot be ignored or overridden and can be thought of as the bedrock of a client's rights. It will not always be immediately obvious which statute, or piece of legislation, applies to a client. This is why one of the key skills of housing advice is the ability to ask the right questions.

There are many Acts that set out a client's statutory housing rights.

Currently the most important, or most frequently referred to, are as follows:

- Housing (Scotland) Act 2001 and Homelessness, etc (Scotland) Act 2003
- Housing (Scotland) Act 1987
- Housing (Scotland) Act 1988
- Rent (Scotland) Act 1984
- Conveyancing and Feudal Reform (Scotland) Act 1970
- Mortgage Rights (Scotland) Act 2001

## Higher National Unit Support Notes (cont)

**Unit title:** Housing Law for Advisors: Security of Tenure (SCQF level 7)

◆ Contract

Statutory rights can be enhanced by rights given in a contract. For example, a client may have a contract in the form of a tenancy agreement, which allows her/him to keep a pet. A contract cannot weaken a client's statutory rights. For example, if a tenant agrees to sign a tenancy agreement for an assured tenancy which states s/he must leave at a fortnight's notice this should not be legally binding. This is because the law is clear that a tenant should not be required to leave without a Notice to Quit and Notice of Proceedings having been served and a court order obtained.

◆ Common Law

Common law refers to legal opinion and case law from the courts which interprets the legislation. It is often used by advisors and solicitors when arguing for a particular interpretation of the law, and can sometimes lead to the law being redrafted.

### Guidance on approaches to delivery of this Unit

Much of the Unit could be delivered in a classroom/workshop-based situation. Where possible, videos and talks by experienced practitioners should be used to enrich the programme. It would be beneficial for learners to develop knowledge through actual examples, using case studies and scenarios. It is important that any case study/scenario is relevant to the context in which the learner works and learners should be encouraged to relate theory to their practice.

There may also be opportunities to encourage self-study through the use of publications and websites such as:

- ◆ [www.cab.org.uk](http://www.cab.org.uk)
- ◆ [www.scotland.shelter.org.uk](http://www.scotland.shelter.org.uk)
- ◆ [www.leavinghome.info](http://www.leavinghome.info)
- ◆ [www.ageconcernscotland.org.uk](http://www.ageconcernscotland.org.uk)
- ◆ [www.gov.scot](http://www.gov.scot)
- ◆ [www.prhpscotland.gov.uk](http://www.prhpscotland.gov.uk)
- ◆ Renting in Scotland Website: <https://rentingscotland.org/>

It should be noted that the references given above are correct at the time of publication; however centres should ensure that learners have access to the most current and up to date publications and web sites.

The following topics should be covered and explored within the delivery of the Outcomes.

## Higher National Unit Support Notes (cont)

**Unit title:** Housing Law for Advisors: Security of Tenure  
(SCQF level 7)

### Outcome 1

◆ Scottish Secure Tenancy

This is the kind of tenancy issued by local authorities and Registered Social Landlords as of 30 September 2002. As the name implies, it is the most secure of tenancy types. The landlord's solicitor will need to persuade the Sheriff that it is reasonable to evict the tenant.

◆ Short Scottish Secure Tenancy

This is a type of tenancy issued by the same landlords that issue Scottish secure tenancies. It can only be used in very limited circumstances and must last for at least six months. Depending on the circumstances it may revert to a Scottish secure tenancy after a year.

◆ Assured Tenancy

Assured tenancies are now the most common type in the private sector. These kinds of tenancies are not as secure as Scottish secure tenancies, but do guarantee important rights for the tenant.

◆ Short Assured Tenancy

A short assured tenancy is a type of assured tenancy with a specific end date. It must run for at least six months. If the landlord serves the correct legal notices before the tenancy begins and at the correct time as it reaches its end, then the tenant will need to leave the property.

◆ Regulated Tenancy

Regulated tenancies are a type of private sector tenancy beginning before January 2nd 1989. This tenancy type is no longer common, but it is important to be aware of it because of the rights it grants to the tenant.

The following groups of people have limited or no security of tenure and may require expert legal advice if under pressure to leave their accommodation:

- ◆ tenants with resident landlords
- ◆ clients living in hostels
- ◆ clients living in lodgings or bed and breakfast
- ◆ clients living in temporary accommodation
- ◆ clients living in student accommodation provided by an educational institution
- ◆ clients who are staying with friends or family

## Higher National Unit Support Notes (cont)

**Unit title:** Housing Law for Advisors: Security of Tenure  
(SCQF level 7)

### Outcome 2

The essential elements of a tenancy in Scottish Law are:

◆ Parties

This term means that there should be someone acting as landlord, and someone acting as tenant.

◆ Subjects

The term 'subjects' means that there should be a physical property or subject that is being let.

◆ Rent

There has to be some form of regular payment for occupying the property. Housing Benefit counts as payment of rent.

◆ Duration

There must be an intention that the tenancy is to last for a reasonable period of time. If the tenancy agreement does not specify, a year will be assumed. The requirement that a tenancy has some duration is to avoid holiday lets and similar arrangements being seen as tenancies.

◆ Exclusive Possession

A tenant needs to be able to show that there is some area that is theirs to exclusively occupy. This aspect is particularly contentious and legal advice will be needed to clarify if this is not obviously met. A tenant with her/his own door to a flat s/he lives in alone will have exclusive occupation. A tenant who lives in the landlord's backroom and shares all facilities probably has exclusive occupation of that room, but has less security of tenure because the landlord is resident. Someone who lives in a hostel with several beds to a room is unlikely to be able to show exclusive possession.

◆ Eviction

In all cases where the client can be shown to be a tenant (even where there is no tenancy agreement) it will be illegal to evict her/him without a court order. It is also illegal to harass a tenant into leaving.

In order to obtain a court order for repossession the landlord must raise proceedings in the Sheriff Court of the district in which the house is situated. The form of action is by way of summary cause.



## Higher National Unit Support Notes (cont)

**Unit title:** Housing Law for Advisors: Security of Tenure  
(SCQF level 7)

◆ Possession

Proceedings for recovery of possession may not be raised unless a notice of intention to take proceedings has been served on the tenant.

The date proceedings can be raised cannot be earlier than four weeks from the date of service of the notice. The notice of proceedings remains in force for six months from the date when proceedings could be raised and if proceedings are not raised within this period the landlord would need to begin the process again. The notice must be served on the tenant and any other qualifying occupiers.

It is important that all the requirements of statute have been met because failure to meet any of the requirements could render the whole action invalid. For example, landlords may fail to serve notice on qualifying occupiers.

The grounds of possession that are available to the landlord are Conduct Grounds or Management Grounds. It is important that 'conduct' is not simply considered as anti-social behaviour, but that conduct refers to the wider definition, meaning that the actions of other parties need to be considered.

Abandonment — tenants and landlords rights.

### Guidance on approaches to assessment of this Unit

Evidence can be generated using different types of assessment. The following are suggestions only. There may be other methods that would be more suitable to learners.

Centres are reminded that prior verification of centre-devised assessments would help to ensure that the national standard is being met. Where learners experience a range of assessment methods, this helps them to develop different skills that should be transferable to work or further and higher education.

Outcomes 1–3 may be assessed by structured questions which could be presented as responses to multiple choice questions relating to case studies. Where possible, case studies should relate to a typical scenario for the specific agency/ organisation that the learner will have to deal with.

### Opportunities for e-assessment

E-assessment may be appropriate for some assessments in this Unit. By e-assessment we mean assessment which is supported by Information and Communication Technology (ICT), such as e-testing or the use of e-portfolios or social software. Centres which wish to use e-assessment must ensure that the national standard is applied to all learner evidence and that conditions of assessment as specified in the Evidence Requirements are met, regardless of the mode of gathering evidence. The most up-to-date guidance on the use of e-assessment to support SQA's qualifications is available at [www.sqa.org.uk/e-assessment](http://www.sqa.org.uk/e-assessment).

## **Higher National Unit Support Notes (cont)**

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(SCQF level 7)

### **Opportunities for developing Core and other essential skills**

There may be opportunities to develop aspects of the Core Skills of *Communication, Working with Others, Information and Communication Technology (ICT)* and *Problem Solving*.

## History of changes to Unit

Version	Description of change	Date

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## General information for learners

**Unit title:** Housing Law for Advisors: Security of Tenure  
(SCQF level 7)

This section will help you decide if this is the Unit for you by explaining what the Unit is about, what you should know or be able to do before you start, what you will need to do during the Unit and, where applicable, opportunities for further learning and employment.

This Unit is suitable for you if you work or wish to work in a role that provides housing advice in Scotland.

This Unit has been designed to develop your knowledge of the main issues relating to security of tenure in Scotland.

The content is drawn from the Scottish National Standards for Housing Information and Advice Services, developed by the Scottish Government.

The Unit forms part of the Professional Development Award (PDA) in Housing Law Advice at SCQF level 7 and can also be taken as a standalone Unit, perhaps for the purposes of continued professional development (CPD).

There are no pre-entry requirements as entry is at the discretion of the centre. However, you will be expected to have good communication skills and it would be beneficial if you have previous experience and/or introductory qualifications relevant to the housing advice sector.

There are three Outcomes to complete in the Unit:

- 1 Explain the provisions of different types of tenure.
- 2 Explain the essential elements of a tenancy.
- 3 Explain the processes of eviction and repossession.

Assessment will typically be short answer or multiple choice questions based on case studies however this may vary by centre.

You will have the opportunity to develop your Core Skills in *Communication, Problem Solving, Information and Communication Technology (ICT)* and *Working with Others*.

Your transferable and employability skills, eg in time management, customer service and personal presentation will also develop throughout this Unit.