



Higher National Unit specification

General information

Unit title: Housing Law Advice: Introduction to Security of Tenure (SCQF level 6)

Unit code: completed by SQA

Superclass: HE

Publication date: November 2015

Source: Scottish Qualifications Authority

Version: 01

Unit purpose

This is an introductory Unit which has been designed for learners who work or wish to work (in a paid or voluntary capacity) in a setting which provides housing advice. Learners will develop their knowledge of the different types of tenure, the elements of a tenancy and the process of eviction and repossession.

The Unit forms part of the Professional Development Award in Housing Law Advice at SCQF level 6 and can also be taken as a standalone Unit, perhaps for the purposes of continued professional development (CPD).

Outcomes

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

- 1 Identify the main provisions surrounding different types of tenure in Scotland.
- 2 Describe the key elements of tenancy in Scotland.
- 3 Outline the processes of eviction and repossession.

Credit points and level

1 Higher National Unit credit at SCQF level 6: (8 SCQF credit points at SCQF level 6)

Higher National Unit specification: General information (cont)

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Recommended entry to the Unit

Entry is at the discretion of the centre; however learners should have good communication skills. Although no prior knowledge of housing advice is required for this Unit, it would be beneficial for learners to have some experience of working or volunteering in an agency or organisation which offers housing advice.

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 this 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 has been designed with the training needs of first contact housing advisors or 'Type 1' staff in mind, to enable them to effectively meet the needs of service users.

This Unit is mandatory within the Group Award, PDA in Housing Law for Advisors: An Introduction at level 6. 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.

Higher National Unit specification: Statement of standards

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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 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

Identify the main provisions surrounding different types of tenure in Scotland.

Knowledge and/or Skills

- ◆ Range of tenure types in Scotland
- ◆ Current legislation relevant to different tenure types in Scotland

Outcome 2

Describe the key elements of tenancy in Scotland.

Knowledge and/or Skills

- ◆ Key elements of tenancy in Scotland
- ◆ Current legislation relating to tenancy in Scotland
- ◆ Rights and responsibilities of landlords in the public and private sectors
- ◆ Rights and responsibilities of tenants in the public and private sectors

Outcome 3

Outline the processes of eviction and repossession.

Knowledge and/or Skills

- ◆ Current legislation relating 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

Higher National Unit specification: Statement of standards (cont)

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(SCQF level 6)

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:

- ◆ identify the key aspects of current legislation in Scotland:
 - surrounding three types of tenure
 - relating to tenancy
 - relating to eviction and repossession.
- ◆ describe the main provisions of at least three types of tenure in Scotland.
- ◆ state four key elements of a lease.
- ◆ identify the rights and responsibilities of landlords in the public and private sectors.
- ◆ identify the rights and responsibilities of tenants in the public and private sectors.
- ◆ outline the process for eviction.
- ◆ outline the process for repossession.



Higher National Unit Support Notes

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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.

The Scottish National Standards for Housing Information and Advice Services were first published by ScotGov in 1985, 2000, 2003 principally for housing advice service. The final version was published in 2009.

The Unit has been designed with the training needs of first contact advisors or 'Type 1' staff in mind to enable them to effectively meet the needs of service users.

The definition of the role a staff member (paid or voluntary) fulfils at this level is as follows:

Active Information, Sign-posting and Explanation

This work refers to activities such as signposting for example, referring the service user to other available resources or services, appropriate to their needs, and helping service users by explaining technical terms or clarifying official documents, for example a tenancy agreement or possession order.

Such assistance and information may be provided in an appropriate format to meet the needs of the service user. The distinction is made between the 'passive' provision of information through the availability of leaflets etc. in public places, libraries and 'active' provision of information through providing assistance to the individual seeking assistance. The role of housing advisor at this level is a facilitative role.

'Service users' may also be referred to as 'clients' or 'customers'. This refers to the person or people who have requested advice and/or support to deal with a range of housing issues.

Learners will be introduced to the range of information that service users require to deal with housing issues, ie social and financial issues and unlawful discrimination. Learners will also develop their knowledge of the key legislation relating to housing in Scotland.

Higher National Unit Support Notes (cont)

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This Unit forms part of the PDA in Housing Law for Advisors: an Introduction at SCQF level 6 and can also be delivered as a standalone Unit perhaps for the purpose of CPD.

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 could 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
www.scotland.shelter.org.uk
www.leavinghome.info
www.ageconcernscotland.org.uk
www.gov.scot
www.prhpscotland.gov.uk
Renting in Scotland Website: <https://rentingscotland.org/>

It should be noted that references to legislation and guidance documentation given in this Unit are current at the time of publication; however teachers/lecturers should ensure that learners are given access to the most up to date versions.

For all Outcomes, the following information applies and should be covered within delivery:

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)

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◆ 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 interpret 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.

The following types of tenure should be covered within the delivery of Outcome 1.

◆ Scottish Secure Tenancy

This is the kind of tenancy issued by local authorities and Registered Social Landlords as of 30th 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.

Higher National Unit Support Notes (cont)

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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

Outcome 2

The eight key elements of a tenancy in Scottish Law are outlined below. Delivery should expand upon each of the categories for teaching and learning purposes.

- ◆ 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.

Higher National Unit Support Notes (cont)

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◆ 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.

◆ Possession

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

◆ Abandonment — the rights of tenants and landlords.

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 a series of structured/multiple-choice short answer questions.

Where possible, questions should be set in a context that is familiar to the learner and if applicable the agency/organisation they work for.

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.

Higher National Unit Support Notes (cont)

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Opportunities for developing Core and other essential skills

There are opportunities to develop aspects of the Core Skills in *Communication* at SCQF level 6, and *Numeracy, Information and Communication Technology (ICT), Working with Others* and *Problem Solving* at SCQF level 5 throughout this Unit.

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

History of changes to Unit

Version	Description of change	Date

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General information for learners

Unit title: Housing Law Advice: Introduction to Security of Tenure (SCQF level 6)

This section will help you decide whether 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 opportunities for further learning and employment.

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This Unit is suitable for you if you work or wish to work (paid or unpaid) as a first contact advisor (Type 1 advisor) in a role that provides housing advice in Scotland.

This Unit has been designed to introduce you to security of tenure in Scotland. You will learn about the key aspects of legislation in Scotland that underpins tenancy, eviction and repossession 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 6 and can also be taken as a standalone Unit, perhaps for the purposes of continued professional development (CPD). You may have the opportunity to progress to other qualifications at a higher level upon successful completion of this PDA, eg PDA in Housing Law Advice at SCQF level 7.

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 of the housing advice sector.

There are three Outcomes to complete in the Unit:

- 1 Identify the main provisions of different types of tenure in Scotland.
- 2 Describe the key elements of tenancy in Scotland.
- 3 Outline the processes of eviction and repossession.

Assessment will typically be short answer or multiple-choice questions under exam conditions however this may vary by centre.

You will have the opportunity to develop your Core Skills in *Communication, Problem Solving, Numeracy, 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.