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COVID-19 Support for tenants and landlords (updated)

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This briefing summarises the measures the Scottish and UK Governments have taken to assist tenants and landlords in Scotland during the Coronavirus pandemic. It covers the temporary changes to eviction law, financial support that has been made available to tenants and landlords and discusses what might happen when the temporary measures end. This briefing updates SPICe Briefing SB 21-26.



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Summary

During the COVID-19 pandemic, both the Scottish and UK Governments have taken action to support tenants and landlords. Measures have been in place since the early days of the pandemic in 2020 and since then some of these measures have been amended and extended, most recently by the Coronavirus (Extension and Expiry) (Scotland) Act 2021 ('the Extension Act').

Temporary changes to legislation

In Scotland, emergency legislation introduces changes that:

- protect tenants from eviction by lengthening the notice periods landlords need to give their tenants to end their tenancy. In many cases, including where eviction is sought for rent arrears, landlords need to give their tenants six months' notice.
- allow the First-tier Tribunal (Housing and Property) Chamber to use its discretion in deciding whether to issue an eviction order for all private rented housing cases.

In June 2021, the Extension Act extended the dates these measures apply to. Therefore, the above changes apply where a landlord has served notice on their tenant between 7 April 2020 and 31 March 2022. Where a landlord served notice on their tenant before 7 April 2020, the changes in law do not apply.

Private landlords must also comply with pre-action requirements when they are seeking to end a tenancy due to rent arrears. These requirements apply where the landlord serves a notice to end a tenancy on, or after, 7 April 2020 and an application is then made to the Tribunal to repossess a property on the grounds of rent arrears from 6 October 2020 (where all or part of the arrears accrued on, or after, 27 May 2020). Again, these requirements have also been extended and will end on 31 March 2022.

In the longer term, the Scottish Government proposes that the pre-action requirements and all private rented eviction grounds being discretionary will become permanent.

A short-term ban on the enforcement of eviction orders started on 11 December 2020 for six weeks and was subsequently extended to all Protection Level 3 and 4 areas. Most areas in Scotland began to move out of Protection Level 3 and 4 from 17 May 2021 meaning eviction orders could be enforced from then.

Support for tenants and landlords

Tenants are still liable to pay their rent and should do so where they can. Financial assistance for tenants to pay their rent has been provided by the Scottish Government through an increase in the Discretionary Housing Payments budget and the establishment of a Tenant Hardship Loan scheme. In June 2021, the Scottish Government announced the establishment of a £10m grant fund later in the year to support tenants who have fallen into rent arrears as a direct result of the pandemic.

In addition to the furlough scheme, the UK Government also made temporary changes to the social security system, including how private tenants are supported with their housing costs.

Individual landlords may also have supported their tenants whose income may have been affected by the pandemic. For example, some private landlords have temporarily reduced rent for their tenants, and social landlords are experienced at offering tenants debt and money advice.

Private landlords with mortgages have been able to take time-limited mortgage payment holidays. The Scottish Government has also established a private landlord loan scheme.

These measures may have protected many tenants and landlords from the worst outcomes as a result of financial pressures caused by the pandemic.

What next?

There is some evidence of increasing rent arrears and landlords are concerned about the impact on their tenants' personal debt and their own business plans. There have also been concerns about whether the end of the eviction ban and the other temporary measures will lead to a spike in evictions and a rise in homelessness. Evictions are likely to increase given the end of the eviction ban, but it is difficult to predict if evictions will increase beyond pre-pandemic levels. This will depend on many factors, including how successful the above measures have been and the wider economic situation.

There was a mixed response to the extension of the provisions in the Coronavirus Acts. Landlord representative groups argued that landlords only take eviction action as a last resort and that extending the notice periods does not solve any problems with rent arrears. However, the new tenant grant to help with Covid-19 related arrears was welcomed.

Introduction

On 18 March 2020, the then Communities Secretary, Aileen Campbell MSP, set out a package of measures to support communities, including people renting their homes, during the pandemic. She stressed the need for landlords to be flexible to their tenants:

“ This is a time for all landlords – whether in social or private sector – to be flexible and adaptable to their tenants at a time of both national crisis and possibly personal crisis. Tenants, if you are experiencing issues paying your rent, please go straight to your landlord and explain them. Because we as a government, and society as a whole, need landlords to help their tenants immediately as part of an overall society response. We cannot have people being made or at risk of being made homeless at this difficult time”

Scottish Government , 2021¹

She also set out plans for changes to tenancy legislation to provide increased security for tenants who accrue rent arrears over a longer period. Two Coronavirus Acts were passed by the Parliament in April and May 2020.

The Coronavirus (Scotland) Act 2020, in force from 7 April 2020, contains provisions to amend the law on evictions to protect those renting their homes during the coronavirus outbreak. The aim of the measures was:

“ ... providing certainty for tenants who are concerned about paying their rent and supporting efforts to reduce the spread of the disease by keeping people in their homes, it will also ensure that tenants have time to apply for and benefit from the interventions available to support them to pay their bills before a landlord can take eviction action.”

Scottish Government , 2020²

The Coronavirus (Scotland) (No. 2) Act 2020, in force from 26 May 2020, amends private tenancy law to provide for the temporary introduction of pre-action requirements that will apply where a landlord pursues an eviction for rent arrears.

The temporary ban on the enforcement of eviction orders was implemented by regulations made under emergency UK legislation, the Coronavirus Act 2020.

The Scottish Coronavirus Acts also require the Scottish Government to review and report to the Scottish Parliament on the measures every two months. The most recent report, the eighth report, was published on 13 August 2021. ³

In terms of developing policy and guidance related to the temporary changes, the Scottish Government works with both the [Social Sector](#) and [Private Rented Sector Resilience Groups](#). ⁴

The Coronavirus (Extension and Expiry) (Scotland) Bill

The Coronavirus (Extension and Expiry) (Scotland) Bill ('the Extension bill') was introduced in the Scottish Parliament on 18 June 2021 and extended some provisions in the Coronavirus Acts. All the existing measures relating to evictions were extended to 31 March 2022. In the Policy Memorandum, the Scottish Government stated that its reason

for extending the provisions was to protect tenants who may only now be experiencing the negative effects of the pandemic, or who are made redundant following the end of the furlough scheme. There is also evidence that tenants in the private rented sector are experiencing financial difficulty due to the pandemic and are finding themselves unable to meet obligations under their tenancy agreement.⁵

In response to the Scottish Government's informal consultation on the provisions with stakeholders, the Policy Memorandum noted a mixed reaction:

- Tenant representative groups, including Shelter Scotland and Citizens Advice Scotland, broadly welcomed the move, highlighting that the full impact of restrictions easing would not be felt until later in the summer and safeguards were needed to protect renters and provide certainty.
- The Scottish Association of Landlords had serious concerns about extending the provisions. They commented that such action would not solve the problem and could result in a tenant building up further rent arrears which would then impact their ability to find alternative housing.
- Social landlord representatives expressed their understanding of why the Scottish Government wished to continue the provisions and thought this was sensible, given the ongoing public health uncertainty.⁵

As part of its plans to support Scotland's recovery from COVID-19, the Scottish Government is consulting on making the rent arrears pre-action requirements, and all private rented eviction grounds being discretionary, permanent.⁶

Summary of eviction process

Before explaining in more detail the temporary changes to legislation this section provides a short overview of the eviction process.

To end a tenancy, landlords need to follow specific procedures including giving the correct notice period. The specific procedures will depend on the particular tenancy agreement in place and what the relevant legislation says about how those agreements should be ended.

If a landlord ends a tenancy without following the correct procedures or has harassed the tenant into leaving their home early this may be an illegal eviction which is a criminal offence.

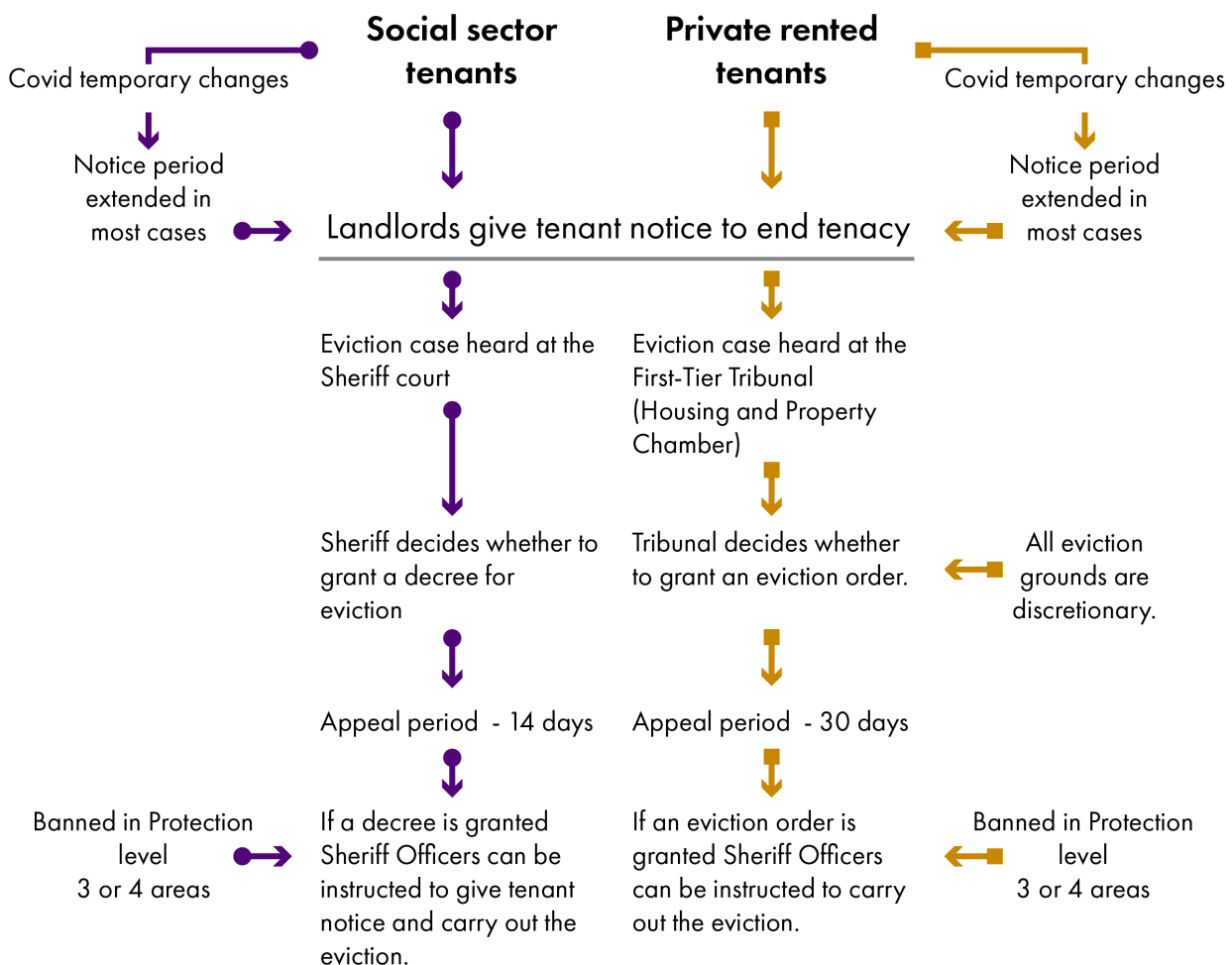
Figure 1 provides an overview of the main tenancy arrangements. [Shelter Scotland has a useful tenancy checker](#) to help tenants work out which tenancy they are likely to have if they are unsure.

Table 1: Main tenancy agreements in Scotland

	Tenancy agreement	Governing legislation
Social housing	Scottish Secure Tenancy (SST) Less commonly, a short SST	Housing (Scotland) Act 2001
Private rented housing	Private Residential Tenancy (PRT) Since 1 December 2017, most new tenancies will be a SST. Short assured tenancy. These were the most common tenancies prior to 1 December 2017. Less commonly, an assured tenancy.	Private Housing (Tenancies) (Scotland) Act 2016 Housing (Scotland) Act 1988

Temporary changes in response to Covid-19

The temporary changes to legislation are explained in more detail in the rest of the briefing while Figure 1 illustrates how the changes fit with the current process for landlords to end a tenancy. Social sector landlords need to get approval from the sheriff courts to evict a tenant. In private rented cases, if a tenant does not leave at the end of the notice period the landlord would need to get an eviction order from the First-tier Tribunal (Housing and Property Chamber) ('the Tribunal').



Longer notice periods

How much notice a landlord needs to give their tenant to end the tenancy depends on the reason ('the ground') the landlord wants to end the tenancy. The specific grounds on which a tenant can be evicted are set out in the relevant legislation.

In many cases the notice period has been extended to six months. However, from 3 October 2020, the notice period for eviction cases involving antisocial and criminal behaviour reverted back to the original notice period. This change followed concerns by landlords about the impact of antisocial behaviour in the wider community.⁴

Tables 2 and 3 summarise changes to notice periods for the most common eviction grounds for the Private Residential Tenancy (PRT) and Scottish Secure Tenancy (SST). These temporary changes end on 31 March 2022, although the Scottish Government also has powers to amend the notice periods before this date.

Information published by Shelter Scotland provides a summary of the notice periods for all grounds for eviction from a PRT and a SST. Landlords can end a short assured tenancy at the end of its term without having to state a relevant ground. However, in these cases the notice period has also been extended to six months.

Table 2: Private Residential Tenancy: temporary changes to notice periods for selected grounds for eviction

Ground	Notice served before 7 April 2020		Notice served on, or after, 7 April 2020
	Tenancy in place for less than six months	Tenancy started more than six months ago	
Landlord intends to sell	28 days	84 days	6 months
Landlord intends to live in property	28 days	84 days	3 months
Family member intends to live in property			
Breach of tenancy agreement	28 days	28 days	6 months
Rent arrears	28 days	28 days	6 months
Tenant has a relevant conviction	28 days	28 days	3 months. From 3 Oct 2020, the notice period was reduced back to 28 days
Antisocial behaviour			
Association with person for conviction with antisocial behaviour			

Source: Shelter Scotland, 2020⁷

Table 3: Scottish Secure Tenancy : temporary changes to notice periods for selected grounds for eviction

Ground	Notice served before 7 April 2020	Notice served on, or after, 7 April 2020
Rent arrears or other breach of tenancy	4 weeks	6 months
Criminal conviction using property for immoral or illegal purposes	4 weeks	3 months. From 3 Oct 2020 the notice period was reduced back to 4 weeks.
Antisocial behaviour or conduct amounting to harassment		
Nuisance, annoyance or conduct amounting to harassment		

Source: Shelter Scotland, 2021⁸

Eviction grounds in private rented cases are discretionary

If a private rented tenant has not moved out of their home at the end of the notice period,

the landlord will need to get an eviction order from the [First-Tier Tribunal \(Housing and Property Chamber\)](#) ('the Tribunal').

Previously, some eviction grounds were mandatory, i.e. the Tribunal had to grant an eviction order if the grounds were established.

Now, the Tribunal can use its discretion in all eviction cases (where the notice was served between 7 April 2020 and 31 March 2022) and decide if it is reasonable for an eviction to take place. This will allow the Tribunal to consider all the circumstances of the case.

All social housing eviction cases in the Sheriff Court, with the exception of streamlined cases for criminal conviction, are already subject to a reasonableness test.

Rent arrears and pre-action requirements

The temporary changes to legislation do not affect a tenant's liability to pay rent. If a landlord wants to end the tenancy for rent arrears, they can also pursue the tenant for payment of any outstanding rent arrears, so it's important for tenants to try and pay as much of their rent as they can. [Support may be available where tenants are finding it hard to pay their rent.](#)

Private landlord pre-action requirements

The [Rent Arrears Pre-Action Requirements \(Coronavirus\) \(Scotland\) Regulations 2020](#) introduced a new requirement for private landlords to make reasonable efforts to help tenants manage arrears before starting eviction proceedings against a tenant for rent arrears. Pre-action requirements already apply in social housing.

These requirements apply where the landlord serves a notice to end a tenancy on, or after, 7 April 2020 and an application is then made to the Tribunal to repossess a property on the grounds of rent arrears from 6 October 2020 (where all or part of the arrears accrued on, or after, 27 May 2020). The requirements will end on 31 March 2022.

Scottish Government guidance provides more detail about the requirements, for example, private landlords must:

- provide tenants with information about their rights
- provide details of free and independent sources of debt help and advice.

The guidance states that the measures:

“... are intended to help landlords and tenants to work together to sustain tenancies, helping to make sure that tenants can stay in their homes and landlords benefit from long term, successful tenancies.”

Scottish Government , 2020⁹

The Tribunal will consider the extent to which the requirements have been complied with when they consider any eviction cases for rent arrears that fall within the relevant timescales described above.

In the longer term, the Scottish Government plans to make these pre-action requirements

permanent.

Ban on enforcement of eviction orders

The temporary ban on evictions has now ended. Eviction orders can be enforced.

In September 2020, the Scottish Green Party launched a campaign to end winter evictions arguing that the measures introduced did not solve the challenges faced by private renters during the pandemic.¹⁰

On 3 December 2020, the First Minister acknowledged opposition members' concerns that the temporary measures did not apply to eviction actions that were raised before the pandemic and that further changes were needed. She committed to introduce regulations to ban the enforcement of eviction actions.¹¹

The effect of the [regulations](#) was to stop Sheriff Officers removing a household from a property after a court or Tribunal order was been made except where the eviction was taking place in the most serious of circumstances relating to antisocial or criminal behaviour or domestic abuse.

Other parts of the eviction process could still go ahead:

- landlords could still serve a notice to end a tenancy on tenants
- the Tribunal or courts could decide on eviction cases
- eviction orders could still be granted.

The ban was initially introduced from 11 December 2020 for a six week period. The aim was to reduce the burden on councils, who have a duty to rehouse people made homeless through evictions, and to make it easier for people to self-isolate if they chose to form extended bubbles during the relaxation of COVID-19 restrictions on Christmas Day.¹²

Given the ongoing pandemic and restrictions on movement, the ban was extended twice but only in Protection Level 3 or Level 4 areas.

From 17 May 2021, areas in Scotland began to move out of Protection Levels 3 and 4 meaning eviction orders could be enforced again.¹³

Support for tenants and landlords

The Scottish and UK Governments have both taken action to help [support tenants](#) and [landlords](#) during the pandemic.

Support for tenants

Measures to support tenants include:

- **Increase in the Discretionary Housing Payment (DHP) budget**

DHPs are funded by the Scottish Government and are available to people eligible for housing benefit/housing costs element of Universal Credit to help pay their rent. Councils are responsible for administering DHPs in their areas and decide how much to award an applicant and for how long.

The Scottish Government allocated an additional £5 million in May 2020 followed by a further £3 million in September 2020 bringing the total DHP budget (for non-bedroom tax support) to £19 million in 20/21.

In 2020/2021, 128,770 applications for a DHP were made to councils, an increase of 16% from the previous year. In 2020/21, councils made 139,835 awards totalling £76.5m, an increase of 9% and 26% respectively from the previous year.^{14 15}

In 2021/22, the DHP budget for non-bedroom tax mitigation is £11 million.¹⁶

- **[Tenant Hardship Loan Fund](#)**

In September 2020, the Scottish Government announced a new £10 million Tenant Hardship Loan fund which launched in December 2020.¹⁷

It provides a zero interest rate loan to allow tenants to pay rent arrears that have arisen since 1 January 2020 and/or pay up to three months of future rent payments. The loan is intended to provide support where other forms of financial support are unavailable to the tenant. Where a tenant is eligible for other forms of support, such as a DHP, they would be expected to take these up rather than apply for this loan.

A Scottish Government response to an FOI request indicates that, at 3 August 2021, 207 applications had been approved at a value of just over £550,000:

“ As of 3 August 2021 there have been 1,009 applications to the Tenant Hardship Loan Fund. Within this total there were 207 approved applications. Within approved applications there were 159 private rented sector tenants and 48 social rented sector tenants. The total value of approved loans is £558,295.63, giving an average loan of £2697.08. There have been 458 rejected or refused applications. In addition there have been 234 withdrawn applications, by either the applicants themselves or by our loan administrators following no response to information requests. These applications can be restarted upon contact from the applicant. There are 110 applications currently in process”

Source: Scottish Government , 2021¹⁸

- **Forthcoming grant for tenant coronavirus related arrears**

During the Stage 1 debate on the Extension bill, John Swinney MSP, the Deputy First Minister and Cabinet Secretary for Covid Recovery, announced the Scottish Government's plans to introduce a new £10 million grant fund to support tenants who have fallen into arrears as a result of the pandemic. The Scottish Government will work with stakeholders to develop the details of the grant that will be available later in the year.¹⁹

Opposition parties and stakeholder groups who had suggested such a grant fund welcomed this announcement.^{20 19}

- **Changes to welfare benefits and increase in Local Housing Allowance**

In addition to the furlough scheme, the UK Government made a number of changes to the social security system which may help tenants with their living costs. For example, in April 2020, the standard allowance in Universal Credit (UC) was increased by £20 per week (this temporary change is due to end in September 2021).²¹

Changes were also made to the Local Housing Allowance (LHA) rate, the maximum housing benefit / housing costs element of Universal Credit that can be paid to tenants living in private rented housing. LHA rates had been frozen for the four years prior to April 2020. This meant that in some areas, particularly where rents had increased markedly over the four years, there was an increasing gap between rental costs and benefit support for housing costs. In April 2020, the UK Government set the [LHA rates at the 30th percentile of local rents](#). In many cases, this will have increased the amount of benefit support for housing costs, although this still only covers the full cost of housing at the lower end of the market.

In [2021/22](#), [LHA rates](#) have been maintained at the same level as 2020/21 which is effectively a freeze in real terms.

Support for landlords

Measures to support landlords include:

- **Mortgage payment holidays**

Landlords with mortgages, including buy to let mortgages, have been able to apply to their lender for a mortgage payment deferral, commonly known as 'mortgage payment holiday.' These were initially available from March 2020 for a three month period. However, as the pandemic progressed, the UK Government announced in May 2020 that payment holidays could be extended to six months.²² The deadline for applying was also extended to 31 March 2021.

At the end of December 2020, 130,000 mortgage payment deferrals were in place across the UK, down from a peak of 1.8 million in June 2020. Approximately 8 in 10 had returned to making their mortgage payments.²³

All mortgage payment deferrals ended on 31 July 2021. For borrowers who have already taken a total of six months of payment deferrals and continue to need additional

assistance, lenders will offer tailored support.²⁴

Mortgage lenders (who are members of UK Finance and the Building Societies Association) also agreed to a moratorium on possessions to 1 April 2021. This means that lenders will not seek, or enforce, a warrant for possession before 1 April 2021, unless there are exceptional circumstances such as a customer requesting proceedings to continue or when the property is vacant.²⁴

- **Scottish Government landlord Covid-19 loan support scheme**

On 5 May 2020, the Scottish Government launched a landlord [Covid-19 loan support scheme](#) aimed at assisting landlords whose tenants are having difficulty paying rent during the pandemic and where other forms of financial support are unavailable to the landlord. It supports landlords who are not registered as businesses and have five or fewer let properties. The maximum loan an applicant can apply for is nine months agreed rent which can include up to three months of future rent.²⁵

In response to a parliamentary question answered on 16 March 2021, the Scottish Government provided the following information about applications to the loan scheme:

“ By 8 March 2021, there had been a total of 107 applications made to the loan scheme. Of these applications, 47 have been approved, 28 rejected and 1 is yet to be processed. In addition, 26 applications are in progress. However, this includes 21 applications where the applicants have not responded to requests for information. A further 5 applications have been withdrawn. The amount paid out in total to date is £164,934.64, a further £5,070 has been offered but has yet to be paid. The average award, based on total awards including loans that have been fully paid and those that have been offered, is £3,617.12.”

Source: Scottish Parliament , 2021²⁶

What next?

As the COVID-19 restrictions ease and the temporary support measures come to an end a key question is what happens next. There is some evidence of [increasing rent arrears](#) leading to concerns about how households can manage their debt, the impact on landlords' businesses and a [potential spike in evictions](#) resulting in increased homelessness applications being made to councils. These concerns are shared across Great Britain where other nations have also implemented measures to protect tenants and landlords. ²⁷

Rent arrears

Social landlord representative groups supported the measures protecting tenants from eviction when they were first introduced, although the Scottish Federation of Housing Associations (SFHA) highlighted the need for financial support for housing associations that experience income loss due to a reduction in rent payments. ²⁸

At the outset of the pandemic, the Scottish Housing Regulator started an additional data collection to help monitor the impact of the pandemic on social landlords. Its quarterly report for Quarter 1 2020-21 (April to June 2021) shows that social landlords' rent arrears were £157.5 million, almost £11 million higher than at the end of March 2020. This equates to around 5.9% of total rental income due, however there are wide variations between landlords ranging from a high of 14% to a low of 0.1%. ²⁹

Social landlords have been concerned about the impact of increasing rent arrears on their tenants' personal debt and on their own business plans. Rather than extending the six month notice period for arrears cases until September 2021, SFHA and Glasgow West of Scotland Forum of Housing Associations (GWSF), both lobbied for the notice periods for arrears cases to be reduced to three months to support a phased return to the original position of one month. Both organisations have argued that increased support to those who are struggling to pay their rent rather than extended notice periods will help keep tenants in their homes. ³⁰ As GWSF has said:

“... extending notice periods helps only those tenants who aren't engaging with their landlord or who could pay the rent but are deliberately taking advantage of what they see as the lack of sanctions.”

Glasgow and West of Scotland Forum of Housing Associations, 2021³¹

The situation in the private rented sector is less clear as there is no consistent data on rent arrears in private rented housing. In September 2020, the Scottish Association of Landlords reported, from a survey of its members, that arrears were continuing to rise despite some landlords offering their tenants discounts on rents. Key findings from the survey included ³² :

- 66% of landlords have reported losing income, with an average of almost £5,000 each
- 44% of landlord and agent respondents have provided a discount for tenants
- the most common reduction percentage given by those reducing rents was 20%

- 96% of agents responding have had rental properties void as a result of the pandemic.

The Scottish Government's eighth report on the Coronavirus Acts cites data from an analysis carried out by PayProp on the data it holds from the processing of rent payments from tenants in Scotland. It shows that:

“ ... the percentage of tenants in arrears increased at the start of the pandemic period from 5% in the quarter January to March 2020 up to 9% in April to June. Since then this proportion has remained relatively steady, although it has increased slightly in the latest quarter from 9% in October to December 2020 up to 10% in January to March 2021.”

Scottish Government , 2021³³

Research by the Resolution Foundation and Joseph Rowntree Foundation has identified that people who rent their homes have been disproportionately affected by the pandemic. Renters have fewer savings and are more likely to have lost their job and been on furlough compared to those with mortgages^{34 35} Despite renters employing strategies to prioritise paying their rent arrears and debts are increasing.^{36 37}

Evidence from Citizens Advice Scotland points to increasing demand for advice from private tenants and advice on arrears. Advice regarding private sector arrears as a proportion of all housing arrears advice has increased significantly from 6% in the period April to December 2019 to 14% in the period April to December 2020.⁴

The recent announcement of a new grant fund to help tenants with Covid-19 related arrears has been welcomed by opposition parties and organisations that had called for such a grant.³⁸

The House of Commons Housing, Communities and Local Government Committee is undertaking an [inquiry into the impact of COVID-19 on homelessness and the private rented sector](#). The [written evidence to the inquiry](#) suggests further policies that could be pursued to prevent homelessness. In its report, the Committee made recommendations to the UK Government, which included that the UK Government should review its decision to freeze Local Housing Allowance rates and instead keep rates indexed at the 30th percentile long-term (such changes would also apply to Scotland).³⁹ Responding to the report, the UK Government outlined the financial support it has put in place, but did not make any commitment to change LHA rates. Instead, it committed to continue to monitor the effectiveness of its financial support in protecting tenants.⁴⁰

A rise in evictions?

It is likely that the number of evictions will increase as the eviction ban and longer notice periods end. It is difficult to predict whether there will be a spike in evictions above pre-pandemic levels once the temporary protection from eviction measures end. This will depend on a number of factors including how successful measures aimed at preventing rent arrears have been, landlords' strategies for dealing with those arrears and the wider economic environment.

With longer notice periods in place, it may be that, in some cases (particularly in private

rented housing where rents are higher), tenants who were finding it difficult to afford their rent have already moved, or plan to move, to cheaper accommodation thus preventing the need for a landlord to end the tenancy. The further extension of the longer notice periods to 31 March 2022 might also help tenants in this regard.

At the end of June 2021, [social landlord](#) and [private landlord](#) representative groups signed shared statements with the Scottish Government, reaffirming their commitment only to take eviction action against their tenants as a last resort.

Some groups are concerned about the potential increase in evictions. For example, Homeless Action Scotland recognises that social landlords have a right to evict tenants when they do not pay their rent. However, it has concerns that when the “eviction ban” is lifted that there will be a significant number of households taken to court and legally evicted at a time when furlough ends. It called on the Scottish Government to 'extend the eviction ban until they can convene a short life action group on eviction protocols while we exit the COVID pandemic and return to normality'.⁴¹

Living Rent argued for a number of measures including the extension of eviction ban in line with furlough and changes to damages for unlawful evictions.⁴²

Shelter Scotland argued that the eviction ban should be extended given the ongoing health crisis.⁴³

Private rented sector evictions

Eviction applications to the Tribunal are lower than in pre-pandemic period.⁴⁴ The Scottish Government's eighth report on the coronavirus legislation provides some information on applications to the Tribunal and eviction orders made:

- As of 7 July 2021, the Tribunal had received 454 applications that fall within the scope of the emergency legislation³³ To give some idea of a comparison, in 2019/20, the Tribunal received just over 1,700 applications for an eviction order.⁴⁵
- Between 8 July 2020 to 22 June 2021, the Tribunal issued 168 eviction orders relating to private residential tenancies (PRTs) where rent arrears were cited. It is not clear how many other eviction orders for rent arrears for different tenancies or for other reasons have been granted as these statistics are not collated in the Scottish Government report (although [individual case decisions are also published on the Tribunal website](#)). By way of comparison, in 2019/20 the Tribunal granted 827 eviction orders, most of which were for rent arrears.^{45 33}

Over the next few months, applications to the Tribunal for eviction orders are likely to increase given the extended notice periods in place. However, this assumes that private landlords follow the correct procedures and that tenants are aware of their rights. Research has established that there is a relatively low awareness of tenants' legal rights.

⁴⁶ Furthermore, the Joseph Rowntree Foundation's poll in February 2021 identified that renters had a very low awareness of the specific protections for renters in place. For example, just 29% of renters were aware that notice periods had been extended to six months in most cases.³⁷

This low awareness of rights may result in an increase in illegal evictions. Citizens Advice Scotland data indicates a potential increase in issues relating to private rented sector harassment / illegal evictions, with the number of instances of advice provided in this category increasing by 72% from between April to December 2019 to April to December 2020.⁴

During the Stage 1 debate on the Extension Bill, John Swinney stated that the Scottish Government would deliver a new national awareness-raising campaign to ensure that all tenants are aware of their rights.¹⁹

How the Tribunal uses its discretion in eviction cases may also be an important factor in determining how many eviction orders are actually approved. However, a Scottish Association of Landlords analysis of Tribunal cases, over the period 1 October 2020 to 18 March 2021, suggests that this discretion is not resulting in applications for eviction orders being refused - their analysis indicates that no eviction applications over this period were refused by the Tribunal on the grounds of reasonableness.⁴⁴

Social sector evictions

The SFHA published a report in June 2021 which details the process for evictions in the social housing sector and highlights that housing associations and co-operatives only take eviction action for rent arrears as a last resort action after other avenues have been exhausted.⁴⁷

The number of court actions for eviction initiated by social landlords dropped considerably from 2019/20 (10,431) to 2020/21 (667) as did the total number of properties recovered from 1,866 to 108 (see Table 4).²⁹

Table 4: Social landlord court actions

	2019/20	2020/21
Total number of court actions initiated	10,431	667
Number of properties recovered having obtained decree for non-payment of rent	1,759	62
Number of properties recovered, having obtained decree for anti-social behaviour	79	39
Number of properties recovered, having obtained decree for other reasons	28	7
Total number of properties recovered	1,866	108

Source: Scottish Housing Regulator, 2021²⁹ Scottish Housing Regulator, 2021⁴⁸

The Scottish Housing Regulator's latest quarterly data, for April to June 2021, shows that there has been an increase in court actions initiated (of 103 from the previous quarter).⁴⁸ The SFHA's report indicated that an increase in court actions is likely although actual evictions are only a small proportion of total tenancies.

“ As the ban is lifted, we are likely to see an increase in court actions as social landlords grapple with cases where tenants refuse to engage with efforts they have made to offer support. In some cases, this will be the trigger for tenants to deal with their tenancy issues, and, in a handful of others, failure to comply will mean losing their housing association or co-operative homes and being housed elsewhere. However, this is a tiny proportion of tenancies. The option to evict does remain an important means for housing associations and co-operatives to protect other tenants and the local community, and to enable social landlords to manage financial and reputational risks.”

SFHA, 2021⁴⁷

Sources of further information

MSPs dealing with constituency cases may wish to direct their constituents to the online advice and guidance available or seek specialist housing or legal advice. Online advice includes:

Scottish Government: *Coronavirus (COVID-19): guidance for private landlords and letting agents.* <https://www.gov.scot/publications/coronavirus-covid-19-landlord-and-letting-agent-faqs/>

Mygov.scot: *Renting a property* - <https://www.mygov.scot/browse/housing-local-services/renting-property>. *Being a landlord* - <https://www.mygov.scot/browse/housing-local-services/landlords-letting/being-a-landlord>

Shelter Scotland: *Eviction from your home.* https://scotland.shelter.org.uk/housing_advice/eviction

Citizens Advice Scotland: *Renting a home: your'e facing eviction* <https://www.citizensadvice.org.uk/scotland/housing/renting-a-home-s/youre-facing-eviction/>

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