



BRIEFING PAPER

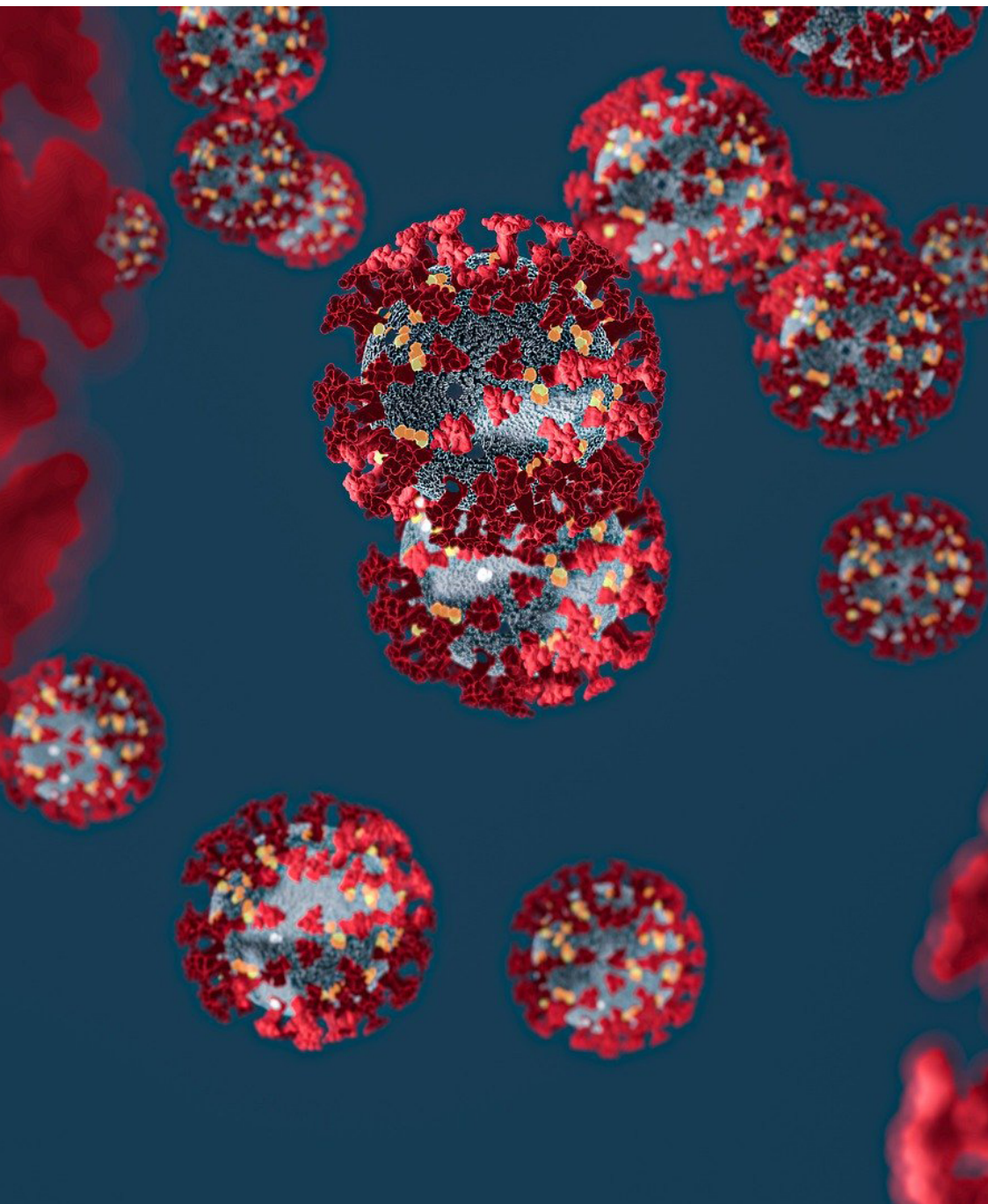
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Coronavirus: Support for landlords and tenants

By Wendy Wilson

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Summary

The coronavirus (Covid-19) outbreak has had significant implications for households' ability to retain their homes. In response, the Government introduced a series of housing support measures, some of which have been amended and extended since March 2020:

- Provisions were included in the *Coronavirus Act 2020* to extend the notice periods that certain tenants in England and Wales are entitled to receive when a landlord is seeking to recover possession of their homes. These notice periods have subsequently been amended. On 21 August the [UK Government said](#) that landlords in England would be required to provide tenants with 6 months' notice, except in cases involving issues such as anti-social behaviour and domestic abuse. In summary:
 - Notices served in England between 26 March and 28 August for tenancies in scope had to give the tenant a minimum of three months' notice to leave. Initially, the three month period applied to notices served in England from 26 March up to 30 September 2020 but [Regulations](#) laid on 28 August changed the notice requirements (see below).
 - [Regulations laid in England on 28 August 2020](#) amended Schedule 29 to the *Coronavirus Act 2020* to introduce notice periods in England which vary depending on the nature of the tenancy and the Ground on which the landlord is seeking possession. In summary, if a landlord is **not** seeking to evict a tenant for anti-social behaviour, serious rent arrears, or where the tenant has no [right to rent](#), a minimum notice period of six months' applies. For example, a section 21 notice served on an assured shorthold tenant on or after 29 August must give the tenant six months' notice. These notice periods are in force until 31 March 2021.
 - Notices served in Wales between 26 March and 23 July 2020 had to give tenants three months' notice. On 23 July 2020 the Welsh Government laid [Regulations](#) to temporarily increase notice periods from three to six months in respect of assured or assured shorthold tenancies (with some exceptions). The six month notice period in Wales initially applied to notices served on or after 24 July up to 30 September 2020, but further [Regulations](#) came into force on 29 September to provide for a default notice period of six months for notices served after that date up to 31 March 2021. Lesser notice periods apply to cases involving anti-social behaviour or domestic violence in respect of assured, assured shorthold, secure and regulated tenants.
- The Master of the Rolls issued a [Practice Direction](#) to suspend all ongoing housing possession action in England and Wales from 27 March 2020 for a period of 90 days. On 5 June 2020, the Secretary of State, Robert Jenrick, [announced](#) an extension of the moratorium on possession actions for a further two months. The [Government confirmed](#) that the courts would start to process repossession cases again from 24 August 2020 but on 21 August a further 4-week suspension to 20 September was [confirmed](#). [The Civil Procedure Rules were amended](#) at short notice to achieve this. **Repossession actions in the courts began again from 21 September 2020.**
- A new Practice Direction ([PD 55C](#)) was due to come into effect on 23 August 2020 in preparation for the lifting of the stay on possessions. The PD subsequently came into effect on 20 September 2020. It places new requirements on claimants seeking a repossession order and is in place until 28 March 2021 (subject to reviews).
- The Government said that work was underway to provide that when the moratorium on evictions was lifted, private landlords in England and Wales would

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be required to adhere to a revised version of [The Pre-Action Protocol for Possession Claims by Social Landlords](#). The most recent version of [Guidance for Landlords and Tenants](#) (January 2021) makes no reference to a new protocol but on 17 September 2020 the National Residential Landlords Association (NRLA) published [Pre-Action Plan: Managing arrears and avoiding possession claims](#).

- On 10 September 2020 the Secretary of State [announced](#) that bailiffs would not enforce evictions where local lockdown measures were in force which restrict access to premises to “prevent tenants being forced out of their home at an unsettling time in areas when the public health risks could be greater.” Following the introduction of new national restrictions in England on 5 November 2020, [The Public Health \(Coronavirus\) \(Protection from Eviction and Taking Control of Goods\) \(England\) Regulations 2020](#) came into force on 17 November 2020. These Regulations prevented the enforcement of repossession orders by bailiffs against tenants other than in the most serious circumstances. The restrictions were due to expire on 11 January 2021 but on 8 January the Government laid [The Public Health \(Coronavirus\) \(Protection from Eviction\) \(England\) Regulations 2021](#) to extend the ban on enforcing evictions to 21 February 2021. The 2021 regulations introduced a new exception (see section 2.4). Similar bans on enforcement action over Christmas 2020 were introduced in Scotland and Wales and are in the process of being extended to 31 March 2021.
- The Chancellor announced an increase in Housing Benefit and Universal Credit “so that the local housing allowance will cover at least 30% of market rents” within a Broad Rental Market Area.

Having welcomed the Government’s commitment to introduce a “complete ban on evictions”, following publication of amendments to the *Coronavirus Bill* several commentators said the changes fell short of the initial commitment. However, the suspension of ongoing housing possession action from 27 March was acknowledged as a significant step in providing security of tenure for most tenants in England and Wales during the Covid-19 outbreak.

The Ministry of Housing, Communities and Local Government (MHCLG) published [COVID-19 and renting: guidance for landlords, tenants and local authorities](#) (updated January 2021) and the Welsh Government has a series of guidance notes under the heading [Renting a home: coronavirus](#).

The **Scottish Government** legislated to strengthen tenants’ security of tenure and a legislation passed by the **NI Assembly** applied a 12-week notice to quit period to all tenancies. The measures in both Scotland and Northern Ireland have been extended, with some changes, and are now due to expire on 31 March 2021. The Scottish Government has published [Coronavirus \(COVID-19\): guidance for private landlords and letting agents](#) (updated December 2020) and in Northern Ireland there is [COVID-19 Guidance for Private Rented Sector Landlords and Tenants](#) (September 2020).

The end of the suspension on eviction action in England and Wales on 20 September 2020 led commentators to ask questions about the implications for landlords and tenants. Homelessness charities and tenant bodies warn of a potential surge in evictions and homelessness when longer notice periods end in March 2021.

There were calls to use the extension on the eviction ban for 4 weeks to 20 September to introduce more protections for those facing financial difficulties. The National Residential Landlords Association (NRLA) [described](#) the extension as “totally unacceptable” and called for “a comprehensive package of financial support to help landlords.”

The Housing, Communities and Local Government Select Committee published the interim report of its [inquiry to assess the impact of the coronavirus crisis on homelessness, rough sleeping and the private rented sector](#) on 22 May 2020. The report urged the Government to take steps to protect renters, including:

- Amend existing housing legislation to give judges more discretion in eviction cases concerning rent arrears accrued as a result of the pandemic.
- Accelerate plans to introduce a Renters' Reform Bill to abolish section 21 'no fault' evictions.
- Maintain the Local Housing Allowance Rate (LHA) rate at the 30th percentile long-term and consider what the impact on renters and the wider rental market would be of raising LHA rates further.

[The Government's response](#) to the Committee was published on 25 June 2020. The Committee [issued a further call for evidence](#) on 16 October 2020 covering the following issues:

- How effective has the support provided by the Government been in addressing the impact of COVID-19 on tenants, landlords, rough sleepers and the homeless?
- What might the impact be of a second wave of coronavirus on homelessness and the private rented sector?
- What estimates or data are available on the number of eviction notices served during the ban on evictions?
- What are the best policy options for helping tenants with rent arrears caused by coronavirus?

Submissions were invited up to 27 November 2020.

Assistance available for homeowners, including mortgage holidays and a moratorium on possession actions, is covered in the Library briefing paper: [Mortgage Arrears and Repossessions \(England\)](#). There is also a paper on assistance for rough sleepers: [Coronavirus: Support for rough sleepers \(England\)](#).

1. Measures to protect tenants

1.1 Extended notice periods

On 18 March 2020, the Government announced that emergency legislation would “suspend new evictions from social or private rented accommodation while this national emergency is taking place”.¹

The *Coronavirus Bill 2019-21*, as introduced on 19 March 2020, did not contain emergency housing measures. The Government tabled a raft of amendments to the Bill on 23 March, including housing provisions, which were considered and agreed by a Committee of the whole House. The provisions affecting residential tenancies extended to England and and Wales. Subsequent changes mean that different notice provisions now apply in England and Wales.

Section 81 of the Act, entitled **Residential tenancies: protection from eviction**, together with Schedule 29, extended the notice period that certain tenants were entitled to receive when a landlord was seeking to recover possession of their homes. These provisions have subsequently been amended (see the sections below).

The tenancies covered by the amended notice requirements include:

- Protected/regulated tenancies governed by the *Rent Act 1977*.²
- Assured shorthold tenancies governed by the *Housing Act 1988*.
- Assured tenancies governed by the *Housing Act 1988*.
- Secure tenancies governed by the *Housing Act 1985*.

The amended notice periods also apply to flexible, demoted and introductory tenancies.

For those occupying under a licence agreement which is not covered by the notice changes, the Government guidance said:

Landlords of those on licences to occupy should follow the same guidance and work with renters who may be facing hardship as a result of the response to COVID-19.³

The requirement to give a tenant notice to leave

Broadly, a landlord seeking to evict a tenant must first serve a notice in a prescribed form which gives tenants a certain period within which to vacate the premises. In normal circumstances notice periods vary depending on the status of the tenancy and the ground for possession the landlord is using. For example, a section 21 notice served on an assured shorthold tenant would normally give the tenant a minimum of 2 months’ notice to vacate. In some cases of anti-social behaviour, a council/housing association landlord could proceed to court immediately. In rent arrears cases a secure council tenant would usually

¹ [Ministry of Housing, Communities and Local Government \(MHCLG\) Press Release](#), 18 March 2020

² With some very limited exceptions it has not been possible to create new protected tenancies since 15 January 1989.

³ MHCLG, Coronavirus (COVID-19) Guidance for Landlords and Tenants, Updated August 2020, para 1.13 [link no longer active]

get 4 weeks' notice, while an assured housing association tenant may get 2 weeks' notice.

If a tenant does not vacate on the expiry of the notice period, the landlord must obtain a court order for possession. Service of an invalid notice can prevent a landlord from obtaining a court order.

Three months' notice required between 26 March and 28 August 2020 (England)

Extended notice periods of three months applied to notices served in England the day after the 2020 Act came into force, i.e. 26 March 2020 until 28 August 2020. The three month period initially applied to notices served up to 30 September, but Regulations laid on 28 August changed this position.⁴

Notice periods from 29 August to 31 March 2021 (England)

On 21 August, Secretary of State Robert Jenrick announced:

The government also intends to give tenants greater protection from eviction over the winter by requiring landlords to provide tenants with 6 months' notice in all bar those cases raising other serious issues such as those involving anti-social behaviour and domestic abuse perpetrators, until at least the end of March.⁵

[*The Coronavirus Act 2020 \(Residential Tenancies: Protection from Eviction\) \(Amendment\) \(England\) Regulations 2020*](#) were laid on 28 August and came into force on 29 August. These Regulations fulfil the commitment made on 21 August. Government guidance for landlords and tenants was updated and said "from 29 August 2020 landlords must provide six months' notice in most circumstances. This will be in force from 29 August 2020 until at least 31 March 2021." Required notice periods now vary depending on the type of tenancy and the Ground on which the landlord is seeking repossession. The August guidance summarised the position:

- For notices in relation to anti-social behaviour, domestic abuse, rioting and false statement, the required notice periods have returned to their pre-Coronavirus Act 2020 lengths. In some cases, this means that proceedings for anti-social behaviour can be brought immediately. Notice periods on these grounds otherwise vary, depending on the type of tenancy and ground used, between two weeks and one month.
- Where at least six months of rent is unpaid, a minimum four-week notice period will be required. If less than six months of rent is unpaid, then the notice period is six months.
- Where a tenant has passed away or is in breach of immigration rules and does not have a right to rent a property in the United Kingdom then a minimum 3 month notice period is usually required.

⁴ [*The Coronavirus Act 2020 \(Residential Tenancies: Protection from Eviction\) \(Amendment\) \(England\) Regulations 2020*](#)

⁵ MHCLG, [Jenrick extends ban on evictions and notice periods](#), 21 August 2020

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- Where a social tenant has an Introductory or Demoted Tenancy (used by Local Authorities), for cases concerning anti-social behaviour (including rioting) and domestic abuse, a four-week notice period will be required. Otherwise, notice periods for Introductory and Demoted Tenancies will be 6 months.
- A six-month notice period is required for all other grounds, including Section 21 notices and, as highlighted earlier, where accrued rent arrears are less than the value of six months' rent.⁶

There may be some instances where a landlord might take advantage of the shorter notice periods now allowed for "serious cases" where they had already served an extended notice of three months. The Government guidance said:

If a landlord wishes to serve a new notice in order to take advantage of the new shorter notice periods required for certain serious cases, they should, where they are issuing a new notice of the same type, withdraw the first notice before they serve a new notice.⁷

Three months' notice required between 26 March and 23 July (Wales)

In Wales, notices served on or after 26 March up to 23 July 2020 had to give the tenant a minimum of three months' notice.

Six months' notice required between 24 July and 31 March 2021 (Wales)

On 23 July 2020 the Welsh Government laid [Regulations](#) to temporarily increase notice periods from three to six months in respect of certain tenancies with some exceptions.⁸ Further Regulations came into force on 29 September to provide for a default six month notice period in Wales, with some exceptions, up to 31 March 2021.⁹

Broadly, for notices served after 29 September on assured, assured shorthold, regulated and secure tenants in Wales, six months' notice must be given except in cases involving anti-social behaviour and domestic violence. There is no reduction in the notice period for repossession actions involving rent arrears.

The Regulations also made associated changes to the prescribed forms used in respect of assured and secure tenancies in Wales.

The Welsh Government updated its guidance on [Eviction during the coronavirus pandemic](#) on 22 December 2020.

⁶ MHCLG, Coronavirus (COVID-19) Guidance for Landlords and Tenants, Updated August 2020, para 1.8 [link no longer operational]

⁷ Ibid., para 1.10

⁸ [The Coronavirus Act 2020 \(Assured Tenancies and Assured Shorthold Tenancies Extension of Notice Periods\) \(Amendment\) \(Wales\) Regulations 2020](#)

⁹ [The Coronavirus Act 2020 \(Residential Tenancies: Protection from Eviction\) \(Wales\) Regulations 2020](#)

Time limits on section 21 notices (England)

Section 21 notices served on assured shorthold tenants before 29 August 2020 will expire 6 months after service if possession proceedings have not been commenced.

Section 21 notices served after 29 August 2020

As these notices must now provide the tenant with a minimum of six months' notice, the Government extended the period over which the notices remain valid:

Where a landlord gives a tenant a valid Section 21 notice after 29 August 2020, the notice will now remain valid for an extended period:

- 10 months from the date it is given to the tenant, where Section 21(4D) applies; or
- 4 months from the date specified in the notice as the date after which possession is required, if Section 21(4E) applies.¹⁰

1.2 Suspension of housing possession claims to 20 September (England and Wales)

On 26 March 2020, MHCLG announced that the Master of the Rolls would issue a Practice Direction¹¹ to suspend all ongoing housing possession action in England and Wales:

From tomorrow (27 March 2020) following a decision by the Master of the Rolls with the Lord Chancellor's agreement the court service will suspend all ongoing housing possession action – **this means that neither cases currently in the system or any about to go in to it can progress to the stage where someone could be evicted.**

This suspension of housing possessions action will initially last for 90 days, but this can be extended if needed. This measure will protect all private and social renters, as well as those with mortgages and those with licenses covered by the Protection from Eviction Act 1977. This will apply to both England and Wales.¹²

On 5 June 2020, the Secretary of State, Robert Jenrick, confirmed that the Civil Procedure Rule Committee, on request of the Lord Chancellor, had agreed to extend the ban on eviction proceedings by a further 2 months.¹³ The [statutory instrument](#) to bring the new rule into effect came into force on 25 June 2020.¹⁴

On 1 July 2020, Lord Greenhalgh said that the courts would begin to process repossession cases from 24 August in response to a PQ.¹⁵

However, on 21 August, Robert Jenrick confirmed a further 4-week extension to the ban on eviction hearings to 20 September

¹⁰ MHCLG, [Coronavirus \(COVID-19\) Guidance for Landlords and Tenants](#), Updated August 2020, para 1.9

¹¹ [Practice Direction 51Z at 26 March 2020](#)

¹² MHCLG, [Press Release](#), 26 March 2020

¹³ MHCLG, [Press Release](#), 5 June 2020

¹⁴ [The Civil Procedure \(Amendment No. 2\) \(Coronavirus\) Rules 2020](#)

¹⁵ [Private Rented Housing: Coronavirus: Written question - HL5966](#), 1 July 2020

2020.¹⁶ [The Civil Procedure Rules were amended](#) at short notice to achieve this.¹⁷

The suspension of housing possession actions meant that **landlords in England and Wales could not obtain court orders for possession against tenants until 20 September at the earliest**. Eviction of a tenant without a court order can amount to illegal eviction, which is a criminal offence.

1.3 Scotland and Northern Ireland

Scotland

On 18 March 2020, **the Scottish Communities Secretary, Aileen Campbell**, set out a [support package for renters](#) during the pandemic which included:

- A call for landlords to be flexible and adaptable to tenants' needs.
- Tenants experiencing problems with rent payments should discuss the situation with their landlords – “We cannot have people being made, or at risk of being made, homeless at this difficult time”.¹⁸
- Social landlords had been written to and urged to be flexible and provide support and advice to tenants experiencing financial hardship. They are expected to meet that challenge.
- Amendments to the *Private Housing (Tenancies) (Scotland) Act 2016* to provide increased security for tenants who accrue rent arrears over a longer period:

We do not want private sector landlords to be disadvantaged by a lack of rent. However, the reality of what we face means that, if landlords do not support their tenants, it is not just the tenants who will be negatively impacted; all of society will pay the price.¹⁹

- She commended mortgage lenders for agreeing to a three-month 'holiday' but said she would be writing to UK Finance and the UK Government to urge them to increase the holiday to six months.

The [Coronavirus \(Scotland\) Act](#) received Royal Assent on 6 April 2020. Section 2 and Schedule 1 of the Act provided enhanced security of tenure for tenants on a temporary basis with effect from 7 April 2020. [The briefing prepared by the Scottish Parliament Information Centre](#) provides details of the measures taken.²⁰ Essentially, certain mandatory grounds for eviction were made discretionary for a period and certain notice periods were extended up to 30 September 2020. The measures in the Act were due to expire on 30 September but have been extended to 31 March 2021. In most cases a six month notice period applies, but there are exceptions where a 28 day notice period applies, including where the tenant has:

- A relevant criminal conviction.

¹⁶ MHCLG, [Jenrick extends ban on evictions and notice periods](#), 21 August 2020

¹⁷ [The Civil Procedure \(Amendment No. 5\) \(Coronavirus\) Rules 2020](#)

¹⁸ [SP OR 18 March 2020](#)

¹⁹ Ibid.

²⁰ [The Coronavirus \(Scotland\) Bill – SPICe Briefing](#), 31 March 2020

- Has engaged in relevant antisocial behaviour.
- Someone they chose to spend time with in the rented property has a relevant criminal conviction or has engaged in relevant antisocial behaviour.
- The tenant is no longer living in the rented property.²¹

The [Coronavirus \(Scotland\) \(No.2\) Act 2020](#) gave Scottish Ministers regulation making powers to introduce a pre-action protocol which would apply to private landlords seeking to evict tenants on certain rent arrears grounds where the notice is served after 7 April 2020.²²

The [Housing and Property Chamber \(HPC\) First-Tier Tribunal for Scotland](#) announced that all hearings and case management discussions would be postponed from 19 March to 28 May 2020 at the earliest. This meant that no new eviction orders could be granted until that date. On 22 May the postponement was extended to 9 July 2020.²³ On 26 June the Tribunal announced that Case Management Discussions would resume from 9 July:

We can now report that work has started in re-scheduling the postponed Case Management Discussions (CMDs). The rescheduled CMDs will commence from 9th July onwards by teleconference to allow the parties, representatives of parties, the tribunal judge and the tribunal clerk to participate remotely. Those parties affected will be contacted with an update of the position and this article provides information to the wider public.

All private rented sector, civil proceedings and eviction cases are proceeding to CMDs in the first instance.²⁴

The Scottish Government subsequently introduced [The Health Protection \(Coronavirus\) \(Protection from Eviction\) \(Scotland\) Regulations 2020](#) which, with some exceptions, banned the enforcement of eviction orders between 11 December 2020 and 22 January 2021. New Regulations are due to be introduced to extend the ban until 31 March 2021. This will apply in areas subject to Tier 3 or 4 restrictions. Exemptions apply to cases involving criminal or serious anti-social behaviour.²⁵

On 1 April 2020, the Minister for Local Government, Housing and Planning, Kevin Stewart, told the Scottish Parliament that a fund would be established to help eligible private landlords:

The Scottish Government will establish a fund that eligible private landlords will be able to apply to if they experience difficulty securing rent as a result of the Covid-19 crisis. They will be offered an interest-free loan with deferred payments. The intention is to take the pressure off landlords, in the short-term, if their tenants are having difficulty making rent payments. We

²¹ Mygov.scot, [Renting and your rights during coronavirus if you have a private landlord](#) [accessed on 22 November 2020]

²² Paragraphs 4 and 5 of Schedule 1 to the [Coronavirus \(Scotland\) \(No.2\) Act 2020](#).

²³ [Update#4: Further impact of Covid-19 pandemic, 22 May 2020](#)

²⁴ [Update #6: Resumption of CMDs and Hearings](#), 26 June 2020

²⁵ *Inside Housing*, "Scottish government extends eviction ban until end of March," 7 January 2021 [subscription required]

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expect to have that fund in place by the end of April, at the latest.²⁶

[The Private Rent Sector Landlord \(non-business\) COVID-19 Loan Scheme](#) opened for applications on 5 May 2020.

CIH Scotland, Homes for Good and the Scottish Association of Landlords (SAL) published joint [guidance for the private rented sector](#) on how to support tenants and protect rental income during the coronavirus outbreak.²⁷

Northern Ireland

On 6 April 2020, the **Department for Communities in Northern Ireland** said measures would be introduced to prevent evictions.²⁸ *The Coronavirus (Private Tenancies Modification) Bill 2020* was introduced on 21 April 2020 – the housing measures are described below:

The Private Tenancies (Northern Ireland) Order 2006 is the legislation governing the private rented sector. To begin the eviction process in Northern Ireland the landlord must issue the tenant with a notice to quit. The length of notice to quit varies depending on the length of tenancy. It is 4 weeks, if the tenancy has not been in existence for more than 5 years, 8 weeks, if the tenancy has been in existence for more than 5 years but not for more than 10 years and 12 weeks, if the tenancy has been in existence for more than 10 years. If the tenant refuses to leave the landlord will have to obtain a court order which is subsequently enforceable by the Enforcement of Judgments Office.

The right of a private landlord to bring a tenancy to an end through service of a written notice to quit of a specified period is prescribed by Article 14 of the Order. **The Bill seeks to temporarily modify the provisions of Article 14 during the emergency period to apply a 12 week notice to quit period to all tenancies, irrespective of the duration of the tenancy.** The Bill provides that the emergency period commences on the day after Royal Assent and ends on 30 September 2020. However, this period may be extended up to 2 years from date of Royal Assent or shortened to a period specified by the Department. The Bill allows for the 12 week notice period to be altered to maximum period of six months. The Bill is not intended to have retrospective effect, so will not apply to notice served before Royal Assent.²⁹

The Bill received Royal Assent on 4 May 2020.³⁰ On 19 August, Communities Minister Carál Ní Chuilín announced that measures to protect private renters from eviction during the pandemic would be extended to 31 March 2021.³¹

²⁶ [SP OR, 1 April 2020](#)

²⁷ CIH Scotland, Homes for Good, SAL: [Maintaining tenancies – a guide for the private rented sector](#), 20 April 2020

²⁸ DfC, [Amend notice to quit through the Coronavirus \(Private Tenancies Modification\) Bill 2020](#)

²⁹ [NIA Bill 04/17-22 Explanatory and Financial Memorandum](#), paras 8-9

³⁰ DfC, ["Bill to protect private renters passed by Assembly"](#), 28 April 2020

³¹ DfC, ["Minister Ní Chuilín announces extension of legislation to protect renters"](#), 19 August 2020

The Department for Communities produced a [guidance document](#) aimed at landlords and tenants in the private rented sector.³²

The courts in Northern Ireland started to move towards “full business recovery after the end of the initial lockdown.”³³ Where a court order is issued but the tenant does not vacate on the date stated in the order, enforcement is carried out by the Enforcement of Judgments Office (EJO). Initially, the EJO said that “only urgent matters will be addressed by way of a court hearing until further notice.”³⁴ The EJO website makes no reference to a suspension of activity due to Covid-19.³⁵

2. The resumption of possession cases from 20 September

2.1 Prioritisation of “serious cases”

When announcing the 4-week extension of the stay on eviction hearings on 21 August, Robert Jenrick said that when the courts resume eviction hearings they will prioritise the “most egregious cases.”³⁶ On 10 September he provided the following details:

When possession proceedings resume, it is critical to ensure court time is used effectively. The listing of cases is a judicial function. The judiciary will look to prioritise cases, reflecting those issues highlighted by a broad range of stakeholders represented on the working group as putting the most strain on litigants. We understand this will include claims issued before the stay commenced in March 2020, as well as cases involving antisocial behaviour, extreme rent arrears, domestic abuse, fraud and deception, illegal occupiers and squatters or abandonment of a property. This will provide assurance to landlords, their tenants and neighbours facing the most egregious cases.³⁷

The ‘trigger’ for a serious rent arrears case is at least 12 months’ rent outstanding or 9 months’ rent outstanding where that amounts to more than 25% of a private landlord’s total annual income from any source.³⁸

2.2 Amendments to Civil Procedure Rules

This section describes measures taken by the Government in preparation for lifting the stay on possession actions in the courts. The measures were due to come into effect on 23 August, but were delayed by the 4-week extension to the stay on possessions. The new requirements are in force from 20 September to 28 March 2021.

³² DfC, [COVID-19 Guidance for Private Rented Sector Landlords and Tenants](#), updated 4 September 2020

³³ See [CORONAVIRUS \(COVID-19\) PANDEMIC - Court Business Continuity Arrangements](#) [accessed on 18 August 2020]

³⁴ EJO, [Covid-19 – Guidance for Courts](#), 24 March 2020

³⁵ [Enforcement of Judgments Office](#) [accessed on 10 January 2021]

³⁶ MHCLG, [Jenrick extends ban on evictions and notice periods](#), 21 August 2020

³⁷ [Written Statement: Coronavirus: Renters](#), 10 September 2020

³⁸ HMCTS, [Possession Proceedings - Overall Arrangements](#), 17 September 2020, para 43

New Practice Direction 55C

The Civil Procedure (Amendment No. 4) (Coronavirus) Rules 2020

amended the Civil Procedure Rules to add a new [Practice Direction 55C](#). PD 55C was amended to take effect from 20 September and will remain in force until 28 March 2021, subject to reviews during the period.

[Practice Direction 55C](#) changes the requirements on claimants seeking to repossess properties. The explanatory memorandum to the Regulations provides a brief overview of the provisions:

The arrangements put in place will be temporary until 28 March 2021, with a facility to review in the meantime, and include—

- a requirement for a claimant to inform the court who wishes to resume stayed proceedings to inform the court and defendant in writing of this after the expiry of the stay in a “reactivation notice”;
- requiring the claimant to provide (in the particulars of claim reactivation notice or for the hearing as appropriate) any relevant information about the defendant’s circumstances to include information on the effect of the pandemic on the defendant and his/her dependants, which will enable the court to have regard to vulnerability, disability, and social security position, and those who are “shielding”;
- to allow the court to fix a date either on or after issue (so that hearings may be appropriately spread out and avoiding “bunching”.
- to suspend the standard period between issue of a claim form and hearing which usually would be not more than eight weeks, again to spread out hearings appropriately in particular having regard to court capacity;
- to require a claimant so far as practicable to produce the full arrears history in advance rather than at the hearing.³⁹

The main rationale appears to be associated with case management concerns. The explanatory memorandum states:

This instrument introduces temporary arrangements to protect the public and to ensure that appropriate arrangements are in place to protect all those involved when cases resume and to ensure that the civil justice system is “accessible, fair and efficient”. It addresses so far as practicable matters affecting litigants and the courts when the present stay on possession proceedings is lifted and promotes best practice and consistency in and related to possession proceedings in the continuing context of the pandemic and the economic situation whilst being mindful of the impact of Covid-19 on the courts and court procedures and the economy.⁴⁰

Housing lawyers commenting on PD 55C raised the following questions and concerns:

- Exactly what sort of information the landlord will be expected to supply with reference to the defendant’s circumstances and the

³⁹ [Explanatory Memorandum to *The Civil Procedure \(Amendment No. 4\) \(Coronavirus\) Rules 2020*](#)

⁴⁰ Ibid.

impact of the pandemic. Will a statement saying 'unknown' be adequate?

- What will the implications of an invalid reactivation notice be?
- If a reactivation notice is not filed by 4pm on 29 January 2021 the claim is automatically stayed. Giles Peaker commented:

As far as I can see this leaves the possession claim hanging, with the risk to the tenant that the claim could be restored on application by the landlord at any point thereafter, because there is no 'relief from sanction' test so a simple application should do it.⁴¹

The Housing Minister, Christopher Pincher, referred to the impact of PD 55C on 22 July 2020:

It is right that we normalise proceedings and procedures. To that effect, I have had conversations with the Master of the Rolls and with Sir Robin Knowles. They have been quite clear that they want to ensure that courts act properly to hear landlords' and tenants' concerns. They are also very clear that, should a landlord not provide requisite information to the courts about the effect of covid-19 on a tenant when the landlord brings forward an application, the courts will have power to adjourn the case, which will hit the landlord in the pocket—something that will focus the landlords' minds.

I have been told by many stakeholders and representatives, including the National Residential Landlords Association, that this will definitely be a wake-up call to landlords. It will also be of definite support to tenants, so I am convinced that we have struck the right balance between tenants' needs and the landlords' rights. I am convinced that we are supporting people to the best of our ability. I am pleased that we are now moving out of the epidemic and we are supporting people appropriately.⁴²

This interpretation of the impact of PD 55C has been questioned. Where a landlord is seeking to evict a tenant using a mandatory ground, such as section 21 of the *Housing Act 1988* or a ground 8 rent arrears claim, it was suggested that the provision of information on a tenant's circumstances could have no impact on the court's decision to grant the order.⁴³ Shelter said:

- Although the rules allow judges to adjourn where a landlord hasn't supplied certain information, the law dictates that a judge must grant a possession order in mandatory eviction cases (Section 21 and ground 8 claims). Judges have no choice but to follow the law and evict the tenant, or adjourn following guidelines. There is also the likelihood that a landlord will be able to challenge any decision where a judge adjourns a mandatory claim.
- A judge can adjourn the case if a landlord doesn't supply the information – but not if the information they provide shows that the tenant is vulnerable, in arrears because of COVID etc. It's a question of the landlord following a procedure, not building in protections for tenants. There is no detail available for how this would work in practice.

⁴¹ [Nearly Legal: Housing Law News and Comment, Reactivation!](#), 21 July 2020

⁴² [HC Deb 22 July 2020 cc2170-71](#)

⁴³ [Nearly Legal: Housing Law News and Comment, Reactivation!](#), 21 July 2020

- Putting the onus on landlords to find out about their tenants' vulnerabilities is a real concern; vulnerable tenants should not be obligated to divulge personal information about their health and financial circumstances to a landlord. The scheme relies heavily on the landlord advising the court of the tenant's personal circumstances – with the disincentive that not providing the info will cause their mandatory claim to fail, it is inevitable that the system will be open to abuse.
- Adjourning cases risks adding further to the backlog in the court and would only serve to prolong the inevitable. Even if proceedings are delayed, ultimately the mandatory claim will succeed, and the person will be evicted. There's no scheme to support tenants with their arrears or issues of affordability to accompany the scheme.⁴⁴

MHCLG published [Understanding the possession action process: guidance for landlords and tenants](#) (updated on 21 December 2020). A series of information documents and notices were published in September 2020, including reactivation notices which must be used where a possession claim was brought before 3 August 2020.⁴⁵

A cross-sector working group set up at the request of the Master of the Rolls developed [guidance on the prioritisation of cases](#) which judges have regard to when listing possession cases in the county court, and an [Overall Arrangements document](#) which provides a summary of those areas of the process the working group considered.⁴⁶

2.3 A pre-action protocol for private sector possession claims

On 18 March 2020 the Government said: "No new possession proceedings through applications to the court to start during the crisis" and went on:

To support this announcement the government has worked with the Master of the Rolls to widen the 'pre-action protocol' on possession proceedings, to include private renters and to strengthen its remit. This will support the necessary engagement between landlords and tenants to resolve disputes and landlords will have to reach out to tenants to understand the financial position they are in.⁴⁷

[The Pre-Action Protocol for Possession Claims by Social Landlords](#) sets out a series of steps that a social landlord is expected to take regarding possession claims against tenants. The courts take account of whether the protocol has been adhered to when considering what orders to make.

The August 2020 version of the MHCLG guidance made no reference to publication of a new protocol, but on 17 September 2020 the NRLA

⁴⁴ [Shelter Briefing: UQ - The implications of the end of the evictions ban for people renting their home](#) [undated]

⁴⁵ MHCLG, [Property possession: information for claimants and defendants](#), 17 September 2020

⁴⁶ HMCTS, [Resumption of Possession Cases](#), 17 September 2020

⁴⁷ [Ministry of Housing, Communities and Local Government \(MHCLG\) Press Release](#), 18 March 2020

published a [Pre-Action Plan: Managing arrears and avoiding possession claims](#) saying:

The rules, drafted by the NRLA, form a central part of measures announced by the Government to ensure courts can start to process possession cases following a six-month ban. If landlords fail to follow the rules, they run the risk of cases being adjourned by the courts for a potentially lengthy period of time, in some cases with no rent being paid.⁴⁸

2.4 Limits on enforcement of eviction orders

England

If a tenant does not move out on the date specified in an eviction order the next step is for the landlord to apply to the court for a warrant for possession. Where a warrant is issued the tenants are sent an eviction notice specifying the date on which they must vacate. Court appointed bailiffs can evict the tenants if they do not leave on that date.

On 10 September Robert Jenrick announced that bailiffs would not enforce possession orders where local lockdown measures were in force.⁴⁹ He also said that guidance would be issued to bailiffs to ensure that the enforcement of most possession orders would be stopped over the Christmas period.⁵⁰ Subsequently, the Lord Chancellor wrote to the representative bodies of bailiffs on 21 October requesting that evictions not be enforced where the Local Alert Level was at 2 (high) or 3 (very high) and in the period between 11 December and 11 January 2021.⁵¹

Following the introduction of new national restrictions in England on 5 November 2020⁵² the Lord Chancellor sent a [further letter](#) on this matter.⁵³ This was followed by [The Public Health \(Coronavirus\) \(Protection from Eviction and Taking Control of Goods\) \(England\) Regulations 2020](#) which came into force on 17 November 2020.⁵⁴ These Regulations prevented the enforcement of repossession orders by bailiffs against residents other than in certain circumstances, which included:

- Trespassers.
- Anti-social behaviour.
- Death of an assured tenant.
- Domestic violence.
- Substantial rent arrears (9 months' arrears at the date on which the order for possession was granted) which **pre-dated** 23 March 2020.

The restrictions on enforcement were due to expire on 11 January 2021 but on 8 January the Government laid [The Public Health \(Coronavirus\)](#)

⁴⁸ NRLA, [New 'golden rules' to sustain tenancies](#), 17 September 2020

⁴⁹ [Written Statement: Coronavirus: Renters](#), 10 September 2020

⁵⁰ Ibid.

⁵¹ [Nearly Legal website](#), 22 October 2020

⁵² [The Health Protection \(Coronavirus, Restrictions\) \(England\) \(No.4\) Regulations 2020](#)

⁵³ [Nearly Legal website](#), 5 November 2020

⁵⁴ The regulations

[\(Protection from Eviction\) \(England\) Regulations 2021](#) to extend the ban on enforcing eviction orders until 21 February 2021. **The Regulations also made a change to the exceptions** such that “substantial rent arrears” is now defined as:

a case involves substantial rent arrears if the amount of unpaid rent arrears outstanding is at least an amount equivalent to **6 months’ rent**.⁵⁵

The requirement to disregard arrears accrued since 23 March 2020 has been removed and there is no requirement that there must be 6 months’ arrears at the date on which the possession order was granted.

Wales

The Welsh Government [introduced measures](#) to suspend the enforcement of eviction orders in respect of social and private rented accommodation between December 11 and 11 January 2021.⁵⁶

Legislation introduced in the Senedd on 8 January 2021 will, subject to approval, extend this ban to 31 March 2021.⁵⁷ Exceptions apply in cases of serious anti-social behaviour or domestic violence. The ban will be kept under review.

⁵⁵ Regulation 2(4) of [The Public Health \(Coronavirus\) \(Protection from Eviction\) \(England\) Regulations 2021](#)

⁵⁶ [New regulations to suspend evictions this Christmas](#), 14 December 2020

⁵⁷ [Legislation to further suspend evictions comes into force](#), 8 January 2021

3. Help with rent payments

[Government guidance](#) has consistently made it clear that tenants should continue to pay their rent where possible:

Tenants should continue to pay rent and abide by all other terms of their tenancy agreement to the best of their ability. The government has made a strong package of financial support available to tenants, and where they can pay the rent as normal, they should do. Tenants who are unable to do so should speak to their landlord at the earliest opportunity.

In many if not most cases, the COVID-19 outbreak will not affect tenants' ability to pay rent. If your ability to pay will be affected, it's important to have an early conversation with your landlord. Rent levels agreed in your tenancy agreement remain legally due and you should discuss with your landlord if you are in difficulty.⁵⁸

The Guidance urges tenants who experience difficulties to have early conversations with their landlords.

3.1 A mortgage payment holiday for landlords

To support landlords who may suffer an interruption to their rental stream where tenants lose their jobs or are unable to work, the Government announced that a **3 month mortgage payment holiday would apply to buy-to-let landlords:**

Recognising the additional pressures the virus may put on landlords, we have confirmed that the 3 month mortgage payment holiday announced yesterday will be extended to landlords whose tenants are experiencing financial difficulties due to coronavirus. This will alleviate the pressure on landlords, who will be concerned about meeting mortgage payments themselves, **and will mean no unnecessary pressure is put on their tenants as a result.**

At the end of this period, landlords and tenants will be expected to work together to establish an affordable repayment plan, taking into account tenants' individual circumstances.⁵⁹

On 22 May 2020 the Financial Conduct Authority (FCA) announced that the mortgage holiday period may be extended for a further three months – this extension was confirmed on 2 June. The FCA further extended the date by which a mortgage deferral can be requested to 31 March 2021.

3.2 Financial support for tenants

The Government announced a package of support for workers and changes to the welfare benefits system which may assist tenants in meeting their rent commitments. The measures are explained in several Library briefings. The situation is fast moving, and the

⁵⁸ MHCLG, [Guidance for Landlords and Tenants](#), Updated January 2021, para 1.1

⁵⁹ [Ministry of Housing, Communities and Local Government \(MHCLG\) Press Release](#), 18 March 2020

briefings are updated regularly – as lockdown arrangements change some of the assistance available has changed/been withdrawn:

[Coronavirus: Employment rights and sick pay \(update\)](#)

[Coronavirus: Increases to benefits payments](#)

[FAQs: Coronavirus Job Retention Scheme](#)

[Coronavirus: Self-Employment Income Support Scheme](#)

[Coronavirus: Support for household finances \(includes benefits information\)](#)

[Coronavirus: Withdrawing crisis social security measures](#)

Local Housing Allowance

On 20 March 2020, the Chancellor announced a further package of assistance which included **an increase in support through Local Housing Allowance (LHA)**:

As well as keeping people in work, and supporting those who lose their jobs or work for themselves, our plan for jobs and incomes will help keep a roof over your head.

I'm announcing today nearly £1bn pounds of support for renters by increasing the generosity of housing benefit and Universal Credit, so that the local housing allowance will cover at least 30% of market rents in your area.⁶⁰

LHA is a flat-rate allowance for different sizes of properties within a Broad Rental Market Area (BRMA) – it represents the maximum assistance a claimant might receive towards their rent. It provides help, subject to a means test, for low-income households living in private rented housing. Since April 2011 LHA rates within BRMAs have been based on the 30th percentile of local market rents.⁶¹ In addition, LHA rates for different sizes of properties are subject to national caps. LHA rates were frozen in April 2016 for four years – the Government had announced that the freeze would end in April 2020 with an uprating of 1.7% in line with the Consumer Price Index.

Housing organisations, particularly those working with the homeless, have long linked the freeze in LHA rates with an increase in homelessness. The end of the freeze was welcomed but the point was made that LHA rates remained well below the 30th percentile of market rents in areas of high housing demand.⁶²

The 20 March announcement that LHA rates “will cover at least 30% of market rents” was described as reversing the four years of the freeze. [Revised LHA rates for 2020/21](#) were published by the Department for Work and Pensions.

When questioned on assistance available for renters in meeting their rent commitments through the crisis, the Government has pointed towards benefit assistance and [Discretionary Housing Payments](#):

⁶⁰ [HM Treasury Press Release](#), 20 March 2020

⁶¹ Prior to this they were set at median rent levels.

⁶² See for example, Chartered Institute of Housing (CIH), [Ok for 2020 – but what about four years of freeze?](#) 21 January 2020

Support for rented housing costs are available through Universal Credit and Housing Benefit. Discretionary Housing Payments are also available, these payments are very flexible and can be considered where, in the local authority's opinion, further financial assistance towards housing costs is required.⁶³

Spending Review 2020 (November 2020) announced that in 2021/22 LHA rates will be frozen in cash terms.⁶⁴

Government guidance also referred to potential support for tenants from **a new funding stream**:

Local authorities can provide support for tenants to stay in their homes. If you are experiencing financial hardship, you may be able to access new funding; we have already made £500m available to fund households experiencing financial hardship and are determined to take action to support people in need.⁶⁵

The Government confirmed that this funding could be used to reduce the 2020/21 council tax bills of working age people receiving Local Council Tax Support.⁶⁶

Additional support for tenants in Scotland and Wales

The Welsh Government announced [Tenancy Saver Loans](#) for private tenants whose income has fallen due to the pandemic, meaning they cannot afford their rent. The scheme was launched on 7 October and will be in place up to 31 March 2021.⁶⁷ Loans are paid to the landlord or agent.

In September the Scottish Government announced the creation of a £10 million [Tenant Hardship Loan Fund](#) to offer interest-free loans to those unable to access other forms of support for their housing costs.⁶⁸ The fund is now [open for applications](#). Scotland opened applications for [The Private Rent Sector Landlord \(non-business\) COVID-19 Loan Scheme](#) on 5 May 2020. This is a £5 million fund offering interest-free loans to landlords whose tenants are having difficulty paying rent during the crisis.

Scotland has also increased funding for Discretionary Housing Payments:

To provide direct financial support to those struggling with housing costs we have already made £5 million additional funding available for local authorities to provide Discretionary Housing Payments to those needing help with their housing costs, and we will now increase the Discretionary Housing Payments funding by a further £3 million, bringing total funding for DHPs to over £80 million. We will work with local authorities to help ensure this

⁶³ [Rents: Coronavirus: Written question – 30723](#), 25 March 2020

⁶⁴ [CP 330, November 2020](#), p13. For an analysis of the implications of this measure see Shelter, [First indication of Local Housing Allowance rates out last week](#), 18 December 2020

⁶⁵ MHCLG, Coronavirus (COVID-19) Guidance for Landlords and Tenants, Updated August 2020, para 1.2 [link no longer operational]

⁶⁶ MHCLG, [Government confirms £500 million hardship fund will provide council tax relief for vulnerable households](#), 24 March 2020

⁶⁷ Welsh Government, [FAQs – What you need to know about Tenancy Saver Loans](#), August 2020 and [Scheme to help tenants affected by coronavirus launches in Wales](#), 7 October 2020

⁶⁸ [Protecting Scotland, Renewing Scotland](#), September 2020, p105

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supports as many households as possible in a way that responds to local pressures resulting from COVID-19, and that tenants in arrears are aware of where they can get impartial advice on best options for their circumstances.⁶⁹

⁶⁹ Ibid.

4. Social landlords

The notice extensions and restrictions on possession cases apply to social landlords (councils and housing associations). At the start of the initial lockdown period Kate Henderson, CEO of the National Housing Federation, the representative body of housing associations in England, said:

No one should be evicted because of the coronavirus. We are confident that no housing association will do this, and want anyone affected by the outbreak to be reassured they will not be evicted.

As charitable organisations housing associations recognize that a number of people living in social housing work for low or irregular wages in insecure employment and may be placed in serious difficulties as a result of the COVID-19 pandemic.

We urge anyone living in a housing association home who is worried about financial difficulties to get in touch with their housing association. Housing associations offer extensive financial help and support for people, including help claiming benefits. They are putting in extra support measures during this challenging time and will be doing everything they can to support residents.

We welcome the steps taken so far by government and its commitment to do whatever it takes to support jobs and incomes. However, we urge that the government goes even further to strengthen the welfare system to ensure that everyone who needs it can quickly get help if their income drops.⁷⁰

The NHF published a briefing on how associations are supporting tenancy sustainment and income collection through the pandemic.⁷¹

The Local Government Association also referred to councils' commitment to work with tenants in difficulty:

Councils are leading local efforts to support communities as they try and cope with the coronavirus outbreak. They will be working with tenants who are experiencing financial challenges as a result to support them to stay in their homes. Many are already suspending debt recovery and will try and use discretionary funding to support struggling household as quickly and effectively as possible.

Councils need the flexibility to ensure hardship funding announced by the Government is best-used to support economically vulnerable people and households and are also seeking clarity on how it can be integrated with other financial hardship support that is being provided locally and through the benefits system.

We are pleased the Government has committed to bringing forward measures to protect tenants from eviction and look forward to seeing the details. This needs to include

⁷⁰ NHF, [No one should lose their home because of coronavirus](#), 19 March 2020

⁷¹ NHF, [How housing associations are supporting tenancy sustainment and income collection through the coronavirus crisis](#), August 2020

urgently addressing the growing shortfall before housing benefit and private sector rents that has opened up.⁷²

In May 2020 it was reported that the financial impacts of rent arrears in the longer term was emerging as a key concern for social landlords' business plans. Data shared with *Inside Housing* by HouseMark reportedly estimated the level of social housing rent arrears at that time as £100 million higher than at the same time in previous years – this was attributed to the impact of Covid-19.⁷³ In December 2020 *Inside Housing* reported on rent arrears levels experienced by several large housing association landlords:

- Notting Hill Genesis (66,000 homes in London and the South East) told *Inside Housing* that its rent arrears had increased from 7.7% in the six months to 30 September 2019 to 9% in the same period of 2020.
- Platform Housing Group (45,000 homes in the Midlands) reported an increase in arrears from 2.9% in the first half of 2019/20 to 3.31% in 2020.
- Peabody (London) also said that arrears on current rents were higher than usual having increased in line with Universal Credit applications. A trend of reducing arrears as UC entitlement is received was noted.⁷⁴

Robert Jenrick told the Housing, Communities and Local Government (HCLG) Select Committee that the Government would not compensate social landlords for rent arrears:

Robert Jenrick: It would be a matter for the councils or housing associations themselves to come to a conclusion on whether they can recover unpaid rent. We have encouraged them to work with tenants to come to sensible solutions and put in place reasonable repayment plans that meet the financial circumstances of the tenants. There is no plan for central Government to compensate housing associations for those costs. That is the normal course of business for a housing association.

Ben Everitt: If the unrecoverable rent was due to Government policies, would that still be the case?

Robert Jenrick: I am not sure exactly what you mean by that. If you mean as a result of the lockdown, then there is no plan for the Government to compensate housing associations or local councils if they choose to relieve tenants of their rent during that time, but we are in conversation with the National Housing Federation. Responsible housing associations are doing what they should be doing and ensuring that they protect tenants who are in financial distress and work out sensible payment plans when their circumstances allow.⁷⁵

A group of housing associations in Scotland wrote to the Scottish Communities Secretary asking for an “in principle commitment” from the Scottish Government to “explore a mechanism for compensating

⁷² [Coronavirus: LAG responds to renters' support pledge](#), 18 March 2020

⁷³ *Inside Housing*, “Social housing rent arrears up £100m since coronavirus outbreak”, 28 May 2020 [subscription required]

⁷⁴ *Inside Housing*, “Housing association rent arrears rise as COVID-19 economic impact bites,” 1 December 2020 [subscription required]

⁷⁵ Oral evidence taken on 4 May 2020, HC (2019–21) 302, [Q106 and 107](#)

social landlords for income lost as a result of protecting tenants during the crisis and which cannot realistically be recovered.”⁷⁶

Following the First Minister’s announcement on 12 August 2020 that protections put in place for tenants would be extended to the end of March 2021⁷⁷, it was reported that the Glasgow and West of Scotland Forum of Housing Associations asked for a “rethink” on the basis of “emerging evidence” that some tenants no longer feel obliged to pay rent.⁷⁸ On 1 September, Housing Minister Kevin Stewart said:

I can confirm today that emergency legislation will be extended to ensure no evictions can take place until March 2021. However, since the initial legislation was introduced we have listened carefully to tenants and housing authorities concerned that a three month notice period is too long where tenants have behaved in an anti-social or criminal way. We are therefore reverting back to a one month period for repossession for such cases to ensure we can protect other tenants, neighbours and landlords who should not have to tolerate such behaviour.⁷⁹

On 31 March, the previous Northern Ireland Communities Minister, Deirdre Hargey,⁸⁰ announced that the Northern Ireland Housing Executive (NIHE) and the region’s housing associations had reached agreement with the Department for Communities (DfC) not to evict tenants struggling to pay their rent during the crisis.⁸¹

⁷⁶ [Glasgow and West of Scotland Forum of Housing Associations: Letter to Aileen Campbell MSP](#), 24 March 2020

⁷⁷ [SR OR 12 August 2020](#)

⁷⁸ HQN, [Housing associations write to minister to call for end to evictions ban](#), 17 August 2020

⁷⁹ [Scottish Government Press Release. Supporting tenants](#), 1 September 2020

⁸⁰ Deirdre Hargey temporarily stepped aside as Communities Minister on 15 June 2020.

⁸¹ DfC: [Covid-19: Housing](#) [accessed on 10 January 2021]

5. Comment on help for the rental sector

The sector welcomed the Government's commitment to introduce a "complete ban on evictions".⁸² Following publication of amendments to the *Coronavirus Bill*, **several commentators said that the changes fell short of the initial commitment**. For example, Rt Hon John Healey, Labour's Shadow Housing Secretary at the time, responded to the amendments saying they did not amount to a ban on evictions.⁸³

MHCLG turned to [twitter](#) to defend the action taken.

However, the subsequent announcement of a suspension of housing possession cases for a period of 90 days from 27 March 2020 was acknowledged as a significant step in protecting most tenants from eviction during the Covid-19 outbreak. As the initial date on which the suspension was due to end moved closer (25 June 2020), questions were asked about the implications for landlords and tenants of the removal of protections. As previously noted, the immediate pressure was resolved by the extension of the moratorium on repossession actions until late August. The extension was welcomed, but confirmation that the courts would consider repossession cases from 24 August led commentators to call for more action to prevent a spike in evictions. Citizens Advice described the extension to 23 August as "a sticking plaster not a cure".⁸⁴

The further stay on repossession hearings until 20 September was widely welcomed by tenant bodies and advice agencies subject to the additional time being used to put more protections in place for tenants with arrears. For example, Citizens Advice said:

During this extended pause on new eviction proceedings, we hope the government will work with Citizens Advice and others to put in place a series of protections which will help those who've built up rent arrears get back on their feet.

We'd like to see funding for a dedicated set of protections, including measures such as grants for those in arrears due to coronavirus.⁸⁵

Giles Peaker, a partner with Anthony Gold Solicitors, commented:

It has to be hoped – fervently hoped – that this four week extension is to buy time for there to be a proper, long term solution to the issues presented by the end of the stay on possession claims. Parliament returns on 1 September and any serious address to the issues would require some form of legislation.

⁸² [Ministry of Housing, Communities and Local Government \(MHCLG\) Press Release](#), 18 March 2020

⁸³ Labour: [Healey responds to government amendment to the Coronavirus Bill](#), 23 March 2020

⁸⁴ [Citizens Advice Press Release](#), 5 June 2020

⁸⁵ [Citizens Advice Press Release](#), 21 August 2020

A four week blanket extension of the stay on all possession claims (save against trespassers) is in itself, virtually pointless, unless that time is used for *something*.⁸⁶

The National Residential Landlords Association (NRLA) described the extension as “totally unacceptable” and called for “a comprehensive package of financial support to help landlords.”⁸⁷

5.1 Preventing a spike in eviction activity

Commentators argued that when the suspension of housing possession cases was eventually lifted, there could be a wave of eviction cases proceeding to court with implications for levels of homelessness. Extended notice periods and prioritisation of cases by the courts (see sections 1 and 2) are limiting the number of eviction orders issued up to March 2021, but there are remaining concerns about whether the measures are simply delaying the threat of homelessness.⁸⁸

The changes to the Civil Procedure Rules (CPR) outlined in section 2.2 gave the courts more flexibility over the management of possession cases. As previously noted, doubts were expressed over the potential impact of the CPR changes in terms of protection offered to tenants:

What this is absolutely not is a means to address the impact of the pandemic, the lockdown and the economic consequences on renters. At best, it will mean delay in possession claims for court management reasons, and hopefully access to housing possession duty scheme assistance for tenants.⁸⁹

And:

These new rules will not protect renters from Covid evictions.⁹⁰

When asked about a potential spike in evictions the Government previously referred to work to extend the [The Pre-Action Protocol for Possession Claims by Social Landlords](#) to apply to the private rented sector (see section 2.3) as providing additional protection to tenants. Robert Jenrick told the Housing, Communities and Local Government (HCLG) Select Committee that extending the protocol would put “a duty on the landlord to work in good faith with their tenant to see if there is a sensible way in which you can manage the situation before embarking upon eviction proceedings.”⁹¹

Doubts were cast on the effectiveness of this approach where possession of a property is sought under a mandatory ground for eviction following the service of a section 21 notice or section 8 notice citing a Ground 8 rent arrears claim under the *Housing Act 1988*. Evidence provided to the HCLG Select Committee’s inquiry into the

⁸⁶ Nearly Legal: Housing Law News and Comment, [From March to September – possession stay extended](#), 21 August 2020

⁸⁷ NRLA, [Fury as evictions ban extended and new six month notice rule brought in](#), 21 August 2020

⁸⁸ [Shelter responds to government announcement on support for renters over winter](#), 10 September 2020

⁸⁹ [Nearly Legal: Housing Law News and Comment, Reactivation!](#), 21 July 2020

⁹⁰ [Shelter Briefing: UQ - The implications of the end of the evictions ban for people renting their home](#) [undated]

⁹¹ Oral evidence taken on 4 May 2020, HC (2019–21) 302, [Q103](#)

impact of Covid-19 on homelessness and the private rented sector by Giles Peaker explained that in those circumstances:

...failure to comply with a PAP simply cannot prevent a possession order being made, or indeed result in a delay to a possession order being made to any significant degree.⁹²

Similarly, Citizens Advice told the Committee:

In theory, Courts should take into account whether this protocol has been followed when considering what orders to make in social housing. However, this only applies to discretionary grounds in practice. Private landlords rarely use only discretionary grounds—they may use either ground 8, section 8 of the Housing Act 1988 (a mandatory ground), or section 21, or both.⁹³

As previously noted, the August 2020 version of Government Guidance for Landlords and Tenants made no reference to publication of a new protocol. However, the NRLA published a [Pre-Action Plan: Managing arrears and avoiding possession claims](#) on 17 September 2020.

The HCLG Committee recommended urgent legislation to prevent eviction due to rent arrears where those arrears have arisen due to the coronavirus pandemic:

We recommend the Government bring forward legislation to amend the 1985 and 1988 Housing Acts to allow judges to use discretion where a tenant is in rent arrears due to the coronavirus crisis for the next 12 months at a minimum. Discretion could include consideration of whether a pre-action protocol has been complied with. These amendments should be delivered through a short Bill—such as we have proposed—which must be introduced to Parliament as soon as possible.⁹⁴

Landlords of assured shorthold tenants whose fixed-term has expired can seek an eviction order without having to prove fault on the part of the tenant – the requirement on the courts to issue a possession order is mandatory if the correct procedure has been followed. The Government committed to introduce a *Renters' Reform Bill* to abolish “no fault” evictions in England in the December 2019 Queen’s Speech.⁹⁵

Commentators have called for the *Renters' Reform Bill* to be fast-tracked – these calls were supported by the HCLG Select Committee:

The Government must accelerate its plans to introduce the Renters’ Reform Bill to Parliament and abolish ‘no fault evictions’ under section 21 of the Housing Act 1988 within the next 12 months.⁹⁶

The Government response published on 25 June said:

The Government remains committed to bringing forward legislation to deliver its planned reforms to enhance renters'

The HCLG Committee called for urgent legislation to prevent eviction for rent arrears due to the coronavirus pandemic.

The HCLG Select Committee called for the abolition of no fault evictions to be fast-tracked.

⁹² [HC 309, Protecting rough sleepers and renters: Interim Report, Housing, Communities and Local Government Select Committee First Report of Session 2019-21](#), 22 May 2020, para 21

⁹³ Ibid.

⁹⁴ Ibid., para 24

⁹⁵ [Queen's Speech December 2019 - background briefing notes](#), p10

⁹⁶ [HC 309, Protecting rough sleepers and renters: Interim Report, Housing, Communities and Local Government Select Committee First Report of Session 2019-21](#), 22 May 2020, para 28

security, including by abolishing so-called 'no-fault' evictions. However, the proposals for tenancy reform would represent the largest change to renting in 30 years and it is only right that these reforms are taken forward in a considered manner.⁹⁷

The response did not address calls for additional interim legislation but said: "We expect to respond fully to the consultation on tenancy reform and set out planned next steps once the urgent concerns of this emergency have passed."⁹⁸

Professor Christine Whitehead and Dr Nancy Holman of the London School of Economics suggested a moratorium on section 21 evictions until after the Renters' Reform Bill has progressed through Parliament, alongside an offer of support for tenants with rent arrears:

A strong case can be made for mediating agreement between landlord and tenant, where tenants have fallen into arrears, but a long-term solution can be envisaged. The Government could incentivise such mediation, via a low-interest, government backed loan to landlords which has already been put in place in Wales.⁹⁹

On 9 May 2020 the Labour Party set out a [five-point emergency action plan](#) to protect renters which included a call to extend the temporary ban on evictions to allow time for legislation to abolish "no fault" evictions and "outlaw evictions on the grounds of rent arrears if the arrears were accrued because of hardship caused by the coronavirus crisis."¹⁰⁰ The Shadow Secretary of State, Thangam Debbonaire, [wrote to Robert Jenrick](#) on 8 June calling for several measures to be introduced to protect tenants and homeless people.¹⁰¹

The NRLA had previously welcomed confirmation that repossession cases would be considered from 24 August on the basis that this would provide more certainty for the rental market, and went on:

It is vital however that swift action can be taken against those tenants committing anti-social behaviour or domestic violence. We are calling also for priority to be given to cases where possession orders were granted prior to lockdown or where rent arrears have nothing to do with the COVID pandemic.¹⁰²

5.2 Rent arrears

The lack of specific measures to address the potential accrual of rent arrears due to income loss/disruption has been criticised. Giles Peaker has said:

The huge issue, of coronavirus-caused rent arrears, remains to be resolved. Unless that is somehow dealt with, there will be a flood of evictions awaiting the lifting of suspensions. Landlords – quite rightly – get a 3 month (and maybe more) mortgage suspension,

⁹⁷ [Protecting rough sleepers and renters: government response to the Select Committee report](#), CP 248, 25 June 2020, p8

⁹⁸ *Ibid.*, p9

⁹⁹ Christine Whitehead and Nancy Holman LSE, [Evictions: where are we now? What needs to change?](#) 27 August 2020

¹⁰⁰ Labour Party Press Release, [Emergency action needed to protect renters](#), 9 May 2020

¹⁰¹ [Thangam Debbonaire letter to Secretary of State for Housing, Communities and Local Government](#), 8 June 2020

¹⁰² NRLA, [Courts WILL hear possession cases from 24th August](#), 1 July 2020

and can't then face possession or receivers from the lender at the end of that three months if they don't pay up immediately. Why is there no equivalent provision on coronavirus-related rent arrears?¹⁰³

Evidence of rent arrears

If rent arrears accrue during extended notice periods it is possible that affected tenants may face possession claims once it ends. Some scepticism was expressed over whether private landlords would heed the Government's plea to behave compassionately towards affected tenants. **On 6 July 2020, Shelter issued a press release** containing the results of a survey conducted for the charity by YouGov, saying:

An estimated 227,000 adult private renters (3%) have fallen into arrears since the start of the pandemic, meaning they could lose their homes when the evictions ban ends on 23 August, new Shelter research shows.

[...]

What is worse, the polling, which was carried out by YouGov for Shelter, reveals that 174,000 private tenants have already been threatened with eviction by their landlord or letting agent (accounting for 6% who've had some contact or 2% of private tenants overall).

The total number of private renters in arrears reached 442,000 adults (5%) – double what it was in the same period last year. This demonstrates the terrifying impact of the pandemic on private renter's finances. This is only likely to get worse for many renters as the furlough scheme draws to a close, and millions could lose their jobs.¹⁰⁴

The National Residential Landlords Association (NRLA) refuted Shelter's findings in a press release issued on the same day:

...research commissioned by the NRLA suggested nine in 10 have been paying their rent as usual during the pandemic, with landlords working hard to support tenants.

Chris Norris, Policy Director for the National Residential Landlords Association said: "Throughout the lockdown, our surveys show that the vast majority of landlords have been doing all they can to keep people in their homes."¹⁰⁵

In May 2020 the NRLA reported on findings from a survey of over 4,500 private landlords which found that 90% of landlords who had received a request for support from a tenant had responded positively.¹⁰⁶ Further research for the NRLA conducted by Dynata between 20 and 25 May recorded that, of the 2,027 tenants surveyed:

¹⁰³ [Nearly Legal: Housing Law News and Comment: All housing possession claims suspended from 27 March – Coronavirus update](#), 27 March 2020. For example, the Financial Conduct Authority has advised that mortgage holidays granted in the current circumstances should **not** be recorded as arrears, nor should they have any negative impact on the customer's credit score.

¹⁰⁴ Shelter, [230,000 renters at risk of 'Covid-eviction' when government ban lifts](#), 6 July 2020

¹⁰⁵ NRLA, [Landlords Refute Evictions Claims by Shelter](#), 6 July 2020

¹⁰⁶ NRLA Research Observatory, [Coronavirus and Landlords: a follow up survey](#), May 2020

- 59% said their income had not been affected during the crisis.
- 84% had not needed to ask their landlord or letting agent for any support. Of those that did, three quarters received a positive response.
- Overall, 4% of tenants said that they had made a request for support which resulted in either no response from their landlord or letting agent, or had the request refused.¹⁰⁷

On 12 August 2020 the NRLA reported on new survey evidence

showing that over 95% of tenants were paying their rent or had reached an arrangement with their landlord:

Independent polling for the National Residential Landlords Association finds that 87 per cent of private tenants have paid their rent as normal throughout the pandemic. An additional eight per cent said that they had agreed a reduced rent, a rent-free period or made some other agreement with their landlord or letting agent.

Ahead of the courts beginning to hear possession cases from 24th August, the survey shows that just over three per cent of tenants are building arrears and are unable or unwilling to repay these. Less than a third of all those with arrears (two per cent of the entire survey sample) have been served with a possession notice.

Further evidence that landlords are working to keep tenants in their homes comes from a survey which shows that 55 per cent of landlords who have granted at least one tenant a deferred rent or rent free period plan to absorb the losses from their own savings.¹⁰⁸

However, on 10 September 2020 the **NRLA reported on survey research by YouGov which found that almost a quarter of private landlords surveyed had lost rental income** due to Covid-19:

An analysis of the results by the NRLA suggests that among those landlords surveyed saying that they have faced a loss of rent, the average (median) loss was between £751 and £1,000. Applied across the sector as a whole, this suggests that the total rental income lost by private landlords with properties in England as a result of COVID has been between £328m and £437m.¹⁰⁹

According to a survey carried out by YouGov on behalf of Shelter between 17 August and 19 August 2020, Shelter calculated that at least 322,000 private renters had fallen into arrears who were not in arrears in March 2020.¹¹⁰

The Resolution Foundation gathered [survey evidence](#) on how UK working-age adults in different housing tenures were coping with housing costs during the pandemic.¹¹¹ This research, published in May 2020, showed that while the earnings shock had been widely experienced across all tenures, the ability of individuals to cover their

¹⁰⁷ NRLA, [Impact of coronavirus on private sector tenants and landlords](#), June 2020

¹⁰⁸ NRLA, [Tenant survey dispels fears of eviction surge](#), 12 August 2020

¹⁰⁹ NRLA, [Almost a quarter of landlords surveyed lose rent due to Covid-19](#), 10 September 2020

¹¹⁰ [Shelter Press Release](#), 28 August 2020

¹¹¹ Resolution Foundation, Judge L: [Coping with housing costs during the coronavirus crisis](#), 30 May 2020

housing costs was “differentiated by tenure”. The survey findings showed:

...while less than one-in-twelve (8 per cent) of home owners with a mortgage have failed to cover their housing costs in recent weeks, the rate rises to one-in-eight for private renters (13 per cent). Most strikingly, one-in-six (17 per cent) of social renters have fallen into (or further into) rent arrears, twice the rate of mortgaged home owners (with a worrying 3 per cent reporting failing to meet housing payments in their entirety).¹¹²

The Resolution Foundation revisited its work on housing related Covid-19 costs and [published new findings](#) in October 2020.¹¹³ Again, renters were found to have taken “the biggest earnings hit to date” and “are more precariously positioned for the future than home owners”.¹¹⁴ The strategies used over the previous six months such as cutting spending, borrowing, and rent reductions appeared “to be wearing thin”. The authors estimated that, based on the percentage of surveyed private tenants who expect to be asked to leave their tenancy due to an inability to pay the rent (2%), and 4% who planned to move to cheaper accommodation before they are “pushed”, **around 200,000 private renters in England could face eviction over the next year.**¹¹⁵

The Joseph Rowntree Foundation (JRF) published further research on 16 November 2020 based on polling of 2,989 private and social renters between 20 and 27 October. The JRF concluded:

Around 2.5 million households are worried about how they will pay their rent over the winter months, 700,000 households are already in rental arrears, and households are being put in impossible situations, having to make trade-offs on essentials like food and electricity for their families.¹¹⁶

On 22 December 2020 the NRLA commented on a further survey of 2,077 tenants carried out on their behalf by Dynata between 17 November and 9 December 2020:

A survey of tenants for the National Residential Landlords Association by the research consultancy Dynata suggests that 7 per cent of private renters have built arrears due to Covid. Applied across the sector that would amount to 840,000 tenants. Whilst the average arrears were between £251 and £500, the survey finds that of those in arrears, 18% now have rent debts of more than £1,000. This would equate to over 150,000 renters.

The survey finds that younger people are most likely to have been affected with 14 per cent of renters aged 18 to 24 and 10 per cent of those aged 25 to 34 having built arrears since March.

The self-employed who rent were also most likely to be in arrears, with 17 per cent saying they had developed rent debts since March.

¹¹² Ibid.

¹¹³ The Resolution Foundation, [Coping with housing costs, six months on...](#), 30 October 2020

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ JRF, [Struggling renters need a lifeline this winter](#), 16 November 2020

Regionally, 11 per cent of renters in the West Midlands had built arrears since March the largest proportion of any region in England and Wales. This was followed by London where 9% of renters had accrued arrears.¹¹⁷

Calls for more support

There are calls for more financial support for tenants' rent payments. Research commissioned by Shelter (reported in April 2020) found that an estimated 1.7 million adults in private rented housing (almost one in five) expected to become unemployed as a result of the pandemic.¹¹⁸

When asked about the rental debt that was likely to accumulate over the three months between 26 March and 25 June (the initial date for the end of the moratorium on repossession action), and the possibility of a 'rent holiday' along the lines of that applied to mortgages, the Housing Minister, Christopher Pincher said:

No such estimate has been made at this time.

Those tenants who can afford to pay should continue to do so. By legislating to prevent landlords starting proceedings to evict tenants for at least a three-month period, we are removing the risk of people losing their homes because they are unable to pay rent – without creating a system where landlords must shoulder the financial responsibility and risk.

At the end of this period, landlords and tenants who had struggled financially will be expected to work together to establish an affordable repayment plan, taking into account the tenants' individual circumstances.¹¹⁹

On 30 March, the Government said they did not believe a rent holiday "is necessary at this stage".¹²⁰

The increase in LHA rates was widely welcomed, with some caveats. For example, **Shelter and others** pointed out that covering only the 30th percentile of market rents leaves a majority of those potentially facing a drop in income with a shortfall in assistance:

It will make a huge difference to private renters claiming housing benefit, or those who will need support from the system in the coming months. As we [recently set out](#), after a decade of cuts and freezes, previous LHA rates in most areas are nowhere near the cost of renting a typical home. In fact, 97% of England is unaffordable to families on LHA. This broken system has led to spiralling homelessness and hardship for those who are reliant on it. And it would not meet the essential role needed in the fight against Covid19.

However, these are extraordinary times. Though many who are employed but cannot work are having most of their salaries paid by the government, many have already lost their jobs. Others, like the five million self-employed people, are likely to have substantially less or no income during this period. As a result, over

¹¹⁷ NRLA, [More than 800,000 renters in arrears due to Covid](#), 22 December 2020

¹¹⁸ *Inside Housing*, "One in five private renters expect to lose their job in the next three months, says Shelter", 16 April 2020 [subscription required]

¹¹⁹ [Private Rented Housing: Coronavirus – 32719](#), 25 March 2020

¹²⁰ [Rents: Coronavirus: Written question – HL2766](#), 30 March 2020

[half a million people have applied for Universal Credit](#) in the last nine days alone.

And even with these changes, the majority of renters will not have their full rent covered by LHA, with 70% of private rented homes above the LHA rate. This will limit the power of housing benefit to prevent hardship and homelessness. It will place huge pressure on renters, most of whom will have no option to increase their income during this time. And remember, services are shutting down and everyone is being told to stay put, so people are very unlikely to be able to move to somewhere cheaper during this period.¹²¹

There have been several calls for at least a temporary increase in LHA rates to cover median rents and for the national cap on LHA rates to be lifted so that high cost areas are not penalised.¹²²

These calls were reflected in evidence submitted to the HCLG Select Committee's inquiry into measures to protect rough sleepers and renters from bodies representing both landlords and tenants. When giving evidence to the Committee, the Minister for Rough Sleeping and Housing, Luke Hall, rejected a lift in LHA rates to the 50th percentile and referred to shortfalls being met by the Government's hardship fund and Discretionary Housing Payments.¹²³ The Committee recommended:

The Government must ensure that the Local Housing Allowance (LHA) rate is set at a level that reflects real market rents and ensures those in need are able to afford properties in their areas. We call on the Government to guarantee that the LHA rate will be maintained at the 30th percentile long-term. We also ask the Government to conduct work on what the impact on renters and the wider rental market would be of raising LHA rates further.¹²⁴

The Government response published on 25 June said:

The increase in the Local Housing Allowance rate to the 30th percentile is not a temporary measure, it will remain in place for the duration of the year until March 2021. There are currently no plans to reverse the increase and decisions on Local Housing Allowance levels from April 2021 will be made through future fiscal events and DWP Rent Officers Orders in the normal way.

For those in receipt of Universal Credit or Housing Benefit who may require additional support in meeting rent payments, Discretionary Housing Payments are available. We have provided £180 million in Discretionary Housing Payment funding to Local Authorities to support vulnerable claimants with housing costs in the private and social rented sector in England and Wales for 2020/21. This includes an extra £40 million as announced last year at the spending round.

¹²¹ Shelter, [New LHA rates: what do they mean?](#) 26 March 2020

¹²² See for example: JRF, [Coronavirus – it's unthinkable that anyone should be made homeless now](#), 27 March 2020

¹²³ [HC 309, Protecting rough sleepers and renters: Interim Report, Housing, Communities and Local Government Select Committee First Report of Session 2019-21](#), 22 May 2020, para 30

¹²⁴ *Ibid.*, para 31

The Government will continue to consider the next steps on how best to support private renters through the recovery period following COVID-19.¹²⁵

As previously noted, Spending Review 2020 (November 2020) announced that in 2021/22 LHA rates will be frozen in cash terms.¹²⁶ Shelter has analysed the implications of this measure.¹²⁷

Generation Rent called for a freeze on rent increases in addition to benefit changes to provide more support for renters during the Covid-19 outbreak:

- **A benefits system that protects renters from debt and homelessness.** The five-week wait for Housing Benefit must be scrapped, and Housing Benefit must actually pay the rent, so the government should raise it from the levels frozen since 2016 to the median local rent. This would prevent increasing numbers of renters claiming Housing Benefit from falling into arrears, or choosing between rent and other essential bills or food, protecting their health in a crucial period.
- **A freeze on rent hikes.** Renters already hand over almost half of their income to their landlords. Unaffordable rent hikes force tenants to move, often losing their community and support networks in the process. Freezing rent increases would protect renters whilst ensuring landlords can't exploit a new, higher housing benefit rate.¹²⁸

The Government rejected calls for a ban on rent increases:

The Government have no plans to ban rent increases during the COVID-19 outbreak as we have already announced extensive measures to protect renters affected by coronavirus.¹²⁹

On the five-week waiting period before Universal Credit is paid, the Government has emphasised that advance payments are available – these payments are recoverable. **Evidence submitted by Shelter** to the Treasury Committee's inquiry into the Government's coronavirus financial package called for the removal of the five-week wait and for advance payments to be paid as a grant rather than a loan.¹³⁰

¹²⁵ [Protecting rough sleepers and renters: government response to the Select Committee report](#), CP 248, 25 June 2020, p10

¹²⁶ [CP 330, November 2020](#), p13

¹²⁷ Shelter, [First indication of Local Housing Allowance rates out last week](#), 18 December 2020

¹²⁸ [Generation Rent: How to protect renters affected by coronavirus](#), 17 March 2020

¹²⁹ [Rents: Coronavirus: Written question -33423](#), 21 April 2020

¹³⁰ [Submission: Treasury Committee inquiry into government's coronavirus financial package](#), Shelter, 20 March 2020

The Labour Party's [five-point emergency action plan](#) to protect renters included the following proposals in respect of rent arrears:

- Give residential tenants the same protections as commercial tenants, by protecting them from being made bankrupt by their landlords for non-payment of rent.
- Once evictions are prevented, grant renters at least two years to pay back any arrears accrued during this period.
- Speed up and improve the provision of Universal Credit, as Labour recently called for, and consider a temporary increase to the Local Housing Allowance to help prevent risk of homelessness.¹³¹

The point has been made that even if landlords face restrictions on their ability to evict for rent arrears due to Covid-19, this will not prevent them from pursuing debts through the courts.

On publication of the plan, the Labour Party faced criticism for not proposing a cancellation of rent arrears. The HCLG Committee considered the implications of such a move:

For social landlords, cancelling arrears would undermine the Housing Revenue Accounts of local authorities, which could cause repairs and new builds to stop. Housing associations also make business decisions predicated on rental income, and would face similar difficulties. For the private rented sector, the Government would almost certainly face a legal challenge based on the right to property under Protocol No. 1, Article 1 of the European Convention of Human Rights. The other more practical point is that the current structure of the private rented sector—whether or not one believes reform is necessary—means a majority of landlords own just one property, and would struggle to deal without rental income over a significant period of time.¹³²

The Committee urged the Government to consider other approaches, including the potential for long-term no-interest loans to cover rent arrears, replicating a policy adopted in Spain.¹³³

As noted in section 3.2, both Scotland and Wales have announced loan funds to assist tenants who have accrued rent arrears due to the pandemic.¹³⁴ Grahame Morris [tabled a PQ](#) on 24 September 2020 asking whether the Government intended to introduce a similar loan scheme in England. The Minister responded on 29 September:

This Government has provided an unprecedented package of financial support to protect renters whose income has been affected throughout the COVID-19 pandemic.

Notably, to help prevent people getting into financial hardship, we have increased the local housing allowance rate to the 30th percentile of local market rents in each area. This will remain in place throughout the Winter period until at least the end of March 2021. The increase will mean nearly £1 billion of additional support for private renters claiming Universal Credit or Housing Benefit in 2020/21 and benefits over 1 million households,

¹³¹ Labour Party Press Release, [Emergency action needed to protect renters](#), 9 May 2020

¹³² [HC 309, Protecting rough sleepers and renters: Interim Report, Housing, Communities and Local Government Select Committee First Report of Session 2019-21](#), 22 May 2020, para 33

¹³³ *Ibid.*, para 34

¹³⁴ See, Welsh Government, [FAQs – What you need to know about Tenancy Saver Loans](#), August 2020, and Scottish Government, [Tenant Hardship Loan Fund](#), 1 September 2020

including those in work. Claimants will gain on average an additional £600 this year in increased housing support.

The Coronavirus Job Retention Scheme has offered support for business to pay staff salaries, and the Chancellors recent announcement of the Government's Winter Economy Plan now sets out further measures to support jobs and businesses. Finally, for those renters who require additional support, there is an existing £180 million of Government funding for Discretionary Housing Payments made available this year, an increase of £40 million from last year, which is for councils to distribute to support renters with housing costs.

These measures enable renters to continue paying their rent and we will closely monitor the ongoing impact of the pandemic on renters.¹³⁵

In [Struggling renters need a lifeline this winter](#) (November 2020) the Joseph Rowntree Foundation called on the Government to:

1. Fully reinstate the pause on courts hearing repossession and eviction cases until lockdowns, and the risk of further lockdowns, are lifted. This will help to prevent a wave of homelessness this winter and hold renters who have fallen into arrears steady.
2. Direct immediate financial support for renters in arrears through boosting the funding for Discretionary Housing Payments (DHPs), and tweaking the way they are set up and administered.
3. Put the rental market on a more sustainable footing by ensuring that renters can cover their housing costs and stay in their homes by making the £20 a week uplift to Universal Credit permanent, extending the uplift to legacy benefits, build more housing for social rent, and continue to increase Local Housing Allowance (LHA) rates in line with local rents.¹³⁶

The Resolution Foundation's research questions the sustainability of private sector rent levels while wages are under pressure and with a benefits system that does not always cover claimants' rent commitments:

Losing one's home because of financial pressure is never a good outcome, first and foremost for the individuals concerned but also for the state: think homelessness, for example, or even macroeconomic instability in the event of a large number of foreclosures. As we enter a period when wage subsidies are being reduced and higher benefit levels are not yet secured (with huge cuts currently scheduled for April), and the early strategies adopted by lenders, landlords and individuals wear thin, robust action on housing costs is crucial if large numbers of families are not to be put under acute strain. A clear commitment from Government to maintain the current level of housing costs support (at the 30th percentile of local rents) would be a big step in the right direction, as would a prolonged suspension of the benefit cap and extension of the evictions ban. But in the final analysis, the benefit system and the courts cannot resolve the fundamentals: that private rents in particular are now set too high, and need to be encouraged to move to a 'new normal' (we

¹³⁵ [Written question: Tenants: Loans – 95062](#), 29 September 2020

¹³⁶ JRF, [Struggling renters need a lifeline this winter](#), 16 November 2020

see no evidence to date of movement towards a new equilibrium in the market). The key question is, how can policy makers encourage that to happen?¹³⁷

From the landlord point of view, the NRLA drew together survey evidence from landlords conducted during the Covid-19 outbreak and the MHCLG's Private Landlord Survey for England (January 2019), to outline the impact on the private rented sector.¹³⁸ Their April 2020 briefing made the point that many landlords rely on their rental income for their livelihood and that assistance via mortgage deferrals does not help those without a mortgage, of which there are a significant number. The NRLA estimated that 48% of landlords expected to face some sort of hardship with a number having to sell some or all their properties.¹³⁹ Landlords were concerned about tenants vacating and leaving an empty property behind with the result that they face Council Tax and utility costs with no rental income.¹⁴⁰ Other challenges included carrying out routine maintenance and fulfilling statutory obligations, such as the annual gas safety check. Further falls in landlord confidence were reported by the NRLA in October 2020.¹⁴¹

Some of the initiatives the NRLA is calling for are in line with those supported by tenant bodies, e.g. a temporary suspension of the five-week wait for the first payment of UC; the conversion of advance payments into grants; and an increase in LHA rates to the 50th percentile. Indeed, a coalition of bodies including Shelter, the NRLA, the Association of Residential Landlords (ARLA), Propertymark, Crisis, Citizens Advice and Generation Rent, issued a press notice on 28 August in which they called for:

...a short-term package of emergency grants and loans worth £270 million to help renters who have lost out on income or been furloughed as a result of the pandemic. £270 million is just 0.013% of UK GDP.

The emergency fund would be limited to helping tenants pay off any unexpected rent arrears built up since the start of the pandemic in March. The coalition argues this would help both tenants to keep their homes, and landlords who rely on rental income for their livelihoods. It would also prevent rising homelessness adding to the current economic crisis.¹⁴²

A further joint statement was issued by the NRLA, The Big Issue and Ride Out Recession Alliance, Shelter, ARLA Propertymark, the Nationwide Building Society, and StepChange the Debt Charity, on the reintroduction of the national lockdown::

Many thousands of private renters and landlords across the country now face rent arrears due to the impact of the pandemic.

¹³⁷ The Resolution Foundation, [Coping with housing costs, six months on...](#), 30 October 2020

¹³⁸ NRLA, Supporting tenants and landlords through the Covid crisis, April 2020

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ NRLA, [Landlord confidence falls amidst Covid pandemic](#), 12 October 2020

¹⁴² Joint press release, [Landlords, letting agents and charities urge the government to help renters clear Coronavirus \(COVID-19\) rent debts and stay in their homes](#), 28 August 2020

Ministers have failed to address the core problem of debts which have built despite the financial package put in place so far. Indeed, the Chancellor confirmed that housing benefit will not be linked to the cost of renting for future years.

Renters, landlords and letting agents cannot be expected simply to muddle through indefinitely where they face these financial difficulties. The Government needs to develop an urgent package to help renters in paying off arrears built since March last year.

Without further action, debts will continue to mount, making it far more difficult to sustain tenancies and keep renters in their homes after the pandemic.¹⁴³

In addition to the measures referred to above, the NRLA has said it would like to see:

- At least a temporary period where the housing element of UC is automatically paid direct to the landlord.¹⁴⁴
- A commitment that landlords will not be liable for Council Tax on empty properties.
- Consideration of an interest free loan scheme for landlords who are struggling along the lines of the Scottish scheme.¹⁴⁵
- A tenant loan scheme to help pay off arrears due to the coronavirus.¹⁴⁶

Having expressed dismay following Robert Jenrick's announcement on 21 August 2020 of a 4-week extension to the ban on evictions,¹⁴⁷ the NRLA welcomed the shorter notice arrangements announced on 28 August which apply to serious cases of rent arrears and anti-social behaviour, but emphasised that the stay on possession proceedings must end. The lack of an additional financial package to assist with rent arrears was noted:

Whilst the NRLA is welcoming today's announcements, it is warning that it will be mean nothing without a cast iron guarantee that the courts will begin to hear cases on 20th September. It is further disappointed that the six-month notice period will remain in cases where landlords need to regain possession of a property in order to live in it. This will continue to penalise those, such as service men and women in the military, renting their homes out whilst working away.

Today's announcement fails also to provide the financial package of hardship loans needed to cover COVID-related rent arrears which are vital to sustaining tenancies.¹⁴⁸

On 10 September the NRLA said:

The Government needs to step in and ensure tenants and landlords in England have the same level of support being

¹⁴³ [Ministers need to get a grip of the rent debt crisis](#), 7 January 2021

¹⁴⁴ The default position is that it is paid to the tenant.

¹⁴⁵ NRLA, [Supporting tenants and landlords through the Covid crisis](#), April 2020

¹⁴⁶ NRLA, [Tenant survey dispels fears of eviction surge](#), 12 August 2020

¹⁴⁷ NRLA, [Fury as evictions ban extended and new six month notice rule brought in](#), 21 August 2020

¹⁴⁸ NRLA, [BREAKING: Landlords welcome clarity on possession cases- but the courts must open](#), 28 August 2020

provided in Scotland and Wales to pay off rent arrears and sustain tenancies.¹⁴⁹

On 2 July the NRLA published [Arrears Guidance and Coronavirus – working together to sustain tenancies](#) which was developed in partnership with the Chartered Institute of Housing, The Property Redress Scheme, My Deposits, the Tenancy Deposit Scheme and ARLA PropertyMark. The guide “reiterates the need for both parties to flag up any problems that might be arising early on, along with advice about measures that can be taken such as agreeing rent deferrals, reductions and suspensions.”

5.3 HCLG Committee: a further call for evidence

The Committee [issued a further call for evidence](#) on 16 October 2020 covering the following issues:

- How effective has the support provided by the Government been in addressing the impact of COVID-19 on tenants, landlords, rough sleepers and the homeless?
- What might the impact be of a second wave of coronavirus on homelessness and the private rented sector?
- What estimates or data are available on the number of eviction notices served during the ban on evictions?
- What are the best policy options for helping tenants with rent arrears caused by coronavirus?

Submissions were invited up to 27 November 2020. Information can be found on the [Committee’s webpages](#).

¹⁴⁹ NRLA, [Almost a quarter of landlords surveyed lose rent due to Covid-19](#), 10 September 2020

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