

Covid Exit Plan: Shelter Scotland's recommendations for supporting people in housing need out of the pandemic

Summary of recommendations:

1. A non-repayable grant fund for tenants to reduce their rent arrears
2. Discretionary Housing Payments to be used to clear backdated rent arrears
3. Ban on evictions should remain in place
4. The potential need for a new Coronavirus Bill in October
5. Remove the exemptions to the Unsuitable Accommodation Order
6. Remove the power to assess local connection
7. The Pre-Action Requirements for private landlords made permanent
8. All grounds for eviction kept discretionary

It is clear that the Coronavirus pandemic has resulted in loss of income and increased financial pressure for many. Renters are struggling to meet their housing costs and are vulnerable to losing their home as a result. Shelter Scotland has grave concerns that the repercussions of the last year on tenancy sustainment are still to be seen and that the removal of many of the provisions put in place is premature. At the same time, some of the important steps committed to that would strengthen the rights of homeless applicants were delayed because of the pandemic: it is now time that these are taken forward.

The pandemic highlighted the importance of home, throughout it we have been told to “stay home, stay safe”. It is important that people are supported to stay in their homes as we move out of the pandemic and the emergency protections and the job retention scheme comes to an end. Shelter Scotland's recommendations for how this can be done are set out in this briefing.

Evidence that tenants are struggling

The level of **rent arrears in the social sector** is rising month on month, and in February 2021 the figure stood at over **£160 million**. This is an increase of around **£14 million (or 5.8%) since the pandemic began in March 2020**¹. Although there is no specific data available on the level of rent arrears in the private rented sector (PRS), there is plenty of evidence available that indicates that private tenants as well as social tenants are also struggling to meet their housing costs.

The Joseph Rowntree Foundation's most recent report on poverty in Scotland states that renters' have been one of the groups most negatively impacted during the pandemic. Prior to the pandemic around **35% of private renters and 42% of social renters worked in the sectors hardest hit by coronavirus** (such as leisure and hospitality). Alongside this, between April and June 2020, **32% of private-renting employees and 34% of social-renting employees were furloughed by their employers**². Furlough often meant a 20% drop in income, a significant amount particularly for renters who were already on low income or could only just afford their housing costs prior to the pandemic.

¹ [Monthly Covid Dashboard March 2021](#), Scottish Housing Regulator

² [Poverty in Scotland 2020](#), Joseph Rowntree Foundation

We are also seeing increasing numbers of renters turn to the social security system for help meeting their housing costs. The **percentage of all households in the private rented sector in Scotland that are receiving either housing benefit**, or the housing element of Universal Credit, **increased from 26% in February 2020, to 35% in August 2020**³ (last available figures). This increase is even greater for **households with children** in the private rented sector – with the percentage of these households receiving help with their housing costs rising from **52% to 62% in the same time period**.

A Shelter Scotland commissioned YouGov survey illustrates the impact of a loss of income and increasing pressure on household finances as a result of the pandemic⁴. The survey found that **one in four people in Scotland are worried about not meeting their housing costs** in 2021. Alongside this it was also found that in order to meet their housing costs in 2020, one in four people reported that they had cut back on other forms of spending, one in ten said that they had skipped meals and nearly one in five had kept their heating off in cold weather.

The Coronavirus (Scotland) Act introduced emergency protections against evictions in the form of extended notice periods from 3 months to 6 months for most eviction grounds (except for anti-social behaviour, criminal convictions and failure to occupy). The Scottish Government also bought in an eviction ban late in 2020, meaning no evictions could be carried out in areas subject to Level 3 or Level 4 covid restrictions. These have been welcome interventions however; their time is limited with the majority of Scotland moved to level 2 covid restrictions on the 17th May 2021 and the extension to notice periods due to end in September 2021.

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Financial solutions

We believe that there is a need for financial solutions to help tenants clear arrears built up during, and because of, the pandemic. This will help them to avoid eviction and remain in their homes. Our recommendations for these are set out below.

1. A non-repayable grant fund for tenants to reduce their rent arrears

A non-repayable grant for pandemic-related arrears should be available for both private and social tenants who cannot access support for this debt elsewhere. Many tenants have accrued rent arrears because of a drop in income due to the pandemic. Other tenants have been unable to repay previously accrued arrears for the same reason. These tenants are at risk of eviction and potential homelessness, particularly when the emergency protections end.

The Tenant Hardship Loan Fund was set up to help people who have had their finances or employment impacted by the pandemic. However, while it is interest-free, is not appropriate for many of the tenants

³ [Stat Xplore](#), Department for Work and Pensions

⁴ Total sample size was 2226 adults. Fieldwork was undertaken between 23rd - 30th December 2020. The figures have been weighted and are representative of all Scottish adults (aged 18+).

that most require financial support. The most recent statistics show that out of the 702 applications made to the fund since it was set up, over one third (255) were rejected. Many of these applications were rejected for affordability reasons⁵. This means that tenants who are in most need of help with their rent arrears are left without financial support due to poor credit ratings and being considered unable to afford a loan. These tenants may also be unwilling to apply for this loan, as it is essentially taking on another form of debt.

The proposed non-repayable grant fund will offer much needed support for households that are unable or unwilling to access the loan for the reasons above. It will also help those who do not qualify for other financial support with their housing costs such as Universal Credit (UC) or Housing Benefit (HB), including those with no recourse to public funds and students. This is particularly important as we come out of the pandemic when many people will move back into employment and will no longer qualify for UC but may still have rent arrears that they require help to clear.

It is important to highlight that this would be a short-term financial solution, purely to help both social and private tenant's clear pandemic-related rent arrears. It is intended to help tenants to remain in their homes, which in normal times they are able to sustain comfortably.

2. Discretionary Housing Payments to be used to clear backdated rent arrears

We are asking that the Scottish Government encourages local authorities to award Discretionary Housing Payments (DHPs) to help pay off rent arrears for households affected by the pandemic.

This could be achieved through the provision of additional (possibly ringfenced) funds, to enable local authorities to be able to spend their DHP budget in this way. Information should also be shared to raise awareness among local authorities that the guidance allows for DHPs to be used to clear backdated rent arrears.

The guidance around the use of DHPs suggests that these are not usually awarded for the purpose of paying off backdated rent arrears, but that this might be considered an appropriate use in some cases⁶. We are also aware from our advisers that there is some disparity between local authorities, with some regularly awarding DHPs for this use and others not at all.

It is important to note that this financial support would only be accessible for households that are in receipt of Universal Credit. The non-repayable grant fund would provide this financial support for those people who are unable to access Universal Credit.

⁵ [Written question and answer: S5W-35726](#), Scottish Parliament website

⁶ [DHP guidance](#) states: "DHPs are usually made in respect of an immediate need rather than a past period, however, you may consider it appropriate to make a backdated DHP award in some cases. For example, where a claimant is subject to a rent shortfall due to welfare reforms and has accrued rent arrears during the transition period between a reduction in benefit and moving into employment. In this case it may be prudent for you to award a backdated DHP to meet those arrears so as not to undermine the claimant's move into employment." P.12

Emergency legislation

3. Eviction ban should remain in place

The ban on evictions should continue as long as there is a potential risk to public health. Evictions should also not be taking place in areas where the local homeless services are unable to cope with the likely additional demands on them.

Alongside the extension of notice periods from 3 months to 6 months for the majority of eviction grounds, in late 2020 the Scottish Government brought in an eviction ban. This meant that no evictions could be carried out in areas subject to Level 3 or Level 4 covid restrictions. The majority of Scotland moved to level 2 covid restrictions on 17th May and so for tenants whose 6-month notice period has already expired, or whose landlords had already been granted an eviction order, they face the threat of eviction again.

We have serious concerns about the likely surge of evictions and resulting increase in homelessness that the removal of this ban on evictions will have. The pandemic is still ongoing, and the infection rates are volatile and rapidly changing, meaning that areas could move back into the higher levels of restrictions at very short notice. This creates the potential scenario of large numbers of people being evicted from their home and made homeless just before their area moves back into level 3 or 4 covid restrictions, which would be a serious public health concern. It will also lead to confusion among landlords and tenants, who may be unable to keep up with the ever-changing regulations.

Furthermore, we have concerns about the capacity of the homelessness system in some areas to respond to a surge in evictions. Allowing evictions to happen in areas where the homelessness system is unable to provide the services needed and the temporary accommodation required is completely unacceptable.

4. The potential need for another Coronavirus Bill in October

If the pandemic and restrictions are still in place (or likely to be in place) in September when the current Coronavirus Act ends, a new Coronavirus Bill should be introduced to continue the current protections for tenants.

Scotland could potentially be affected by the 3rd wave of coronavirus that is currently being experienced in continental Europe. If this happens tenants whose incomes are being negatively impacted by the pandemic will still be at increased risk of eviction after the Coronavirus Act provisions cease in September 2021.

Shelter Scotland strongly welcomes the announcements in Housing to 2040 that the Pre-Action Requirement (PARs) in the Private Rented Sector (PRS) are going to be made permanent and that the grounds for evictions will be reviewed. However, our understanding is that these won't be introduced until at least 2022 and so these extra important protections for tenants that currently exist would be lost (albeit temporarily) when the Coronavirus (Scotland) Act provisions cease in September.

If needed, a new Coronavirus Bill should be introduced that would continue to provide strong housing rights for tenants during the pandemic. This should include the provision for all grounds for evictions to be kept discretionary, notice periods to remain at 6 months for the majority of grounds across both social and private rented sectors, and the PARs for the PRS to be kept in place. This would provide crucial protection for tenants until the proposed Housing Bill announced in Housing to 2040 is introduced and until the pandemic is clearly over.

Strengthening homelessness rights

5. Remove the exemptions to the Unsuitable Accommodation Order

The Scottish Government must commit to removing the Unsuitable Accommodation Order (UAO) exemptions in June 2021, ensuring that everyone's right to suitable temporary accommodation is upheld.

A short-term temporary accommodation task force should be set up to examine the lack of suitable temporary accommodation problem and to strategically and urgently address it, including ensuring that local authorities have appropriate support to deliver their duty.

The UAO gives pregnant women and families with children the right to not be housed in temporary accommodation that is deemed to be unsuitable for a period of more than 7 days. In May 2020, the Scottish Government announced it would extend this right to all homeless applicants, but with exemptions delaying this extended right for all until September 2020. The Scottish Government has since delayed this further until the end of June 2021.

This delay has meant people have continued to be forced to stay in accommodation for long periods of time that is by definition deemed to be unsuitable, a situation made even worse given the heightened importance of home during the pandemic.

Furthermore, the most recent homelessness statistics show that **twice as many households are now being housed in B&B style accommodation**, when compared with the same date the year before⁷. While the use of hotel accommodation to house rough sleepers during the pandemic was a welcome emergency intervention, we should not be using this unsuitable temporary accommodation indefinitely and people must be moved into suitable homes. We know that unsuitable temporary accommodation has a profoundly negative impact on people's physical and mental health.

The rights of people experiencing homelessness should not be compromised or forgotten, especially during a public health emergency.

6. Remove the power to assess local connection

The Scottish Government proposes to suspend local connection referrals between Scottish local authorities, in order to remove this barrier to people accessing the support they need. Again, steps to take this forward were delayed because of covid. Shelter Scotland welcomes the Scottish Government's proposal, and we urge them to take action on this without further delay, however **we also consider that the Scottish Government needs to go further and remove the power to assess local connection entirely.**

Underpinning this change to homelessness legislation is the right to live in a decent, affordable home in the best place for the household. In our experience, when someone chooses to apply as homeless in another local authority there is very good reason for that, so much so that people will often opt to move to another area even if that means not having a settled home to go to. It is well documented that giving a household experiencing homelessness increased choice and control over their housing leads to improved housing outcomes in the long run. Households experiencing homelessness should have the right and be empowered to make informed decisions on where they would like to apply as homeless.

⁷ [Homelessness in Scotland: update to 30 September 2020](#), Scottish Government

Longer term asks

The social and economic impact of the pandemic will be long lasting. As the furlough scheme ends and job losses occur, there is a need to permanently strengthen the rights that tenants have, to offer them greater protection from eviction in the long term after the emergency legislation ends and to build on the positive steps taken during the pandemic to strengthen the housing rights framework in Scotland.

7. The Pre-Action Requirements for private landlords made permanent

The Pre-Action Requirements (PARS) which were put into emergency coronavirus legislation for the private rented sector **should be written into permanent housing legislation**. PARs introduce an important preventative measure, ensuring that private tenants are offered support and advice on rent arrears management before any eviction action is taken, thus helping them to remain in their home.

However, **the Pre-Action Requirements (PARs) first need to be evaluated**, to determine how effective they are at preventing eviction, and enable us to identify any potential areas for improvement.

It is important to establish how the PARs are being considered by the First-tier Tribunal. We are asking that the Tribunal ensures that the PARs have been complied with at the sifting stage of the process, before allowing the case to proceed to a hearing. This would bring the PARs in the PRS in line with those in the social sector, where if a social landlord has not complied, the court case is required to be dropped. There is currently no publicly available data on how the PARs are being used in the PRS, which makes monitoring their use very difficult. However, we believe that they offer crucial protection for private tenants from eviction and take an important step towards parity of support for private and social tenants.

8. All grounds for eviction to be kept discretionary

All the grounds for eviction in the Private Residential Tenancy should remain discretionary once the emergency legislation is lifted, rather than reverting back to mandatory. This means that each tenant is given an opportunity to have their case heard by the First-tier Tribunal, and the First-tier Tribunal can use discretion when considering all of the tenants' circumstances in each eviction case post pandemic. This is of particular importance for the rent arrears grounds, which should be considered within the context of the use of pre-action requirements and of the tenant's circumstances.

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