

Covid-19 Committee

Shelter Scotland response: Emergency Powers extension consultation, February 2021

Shelter Scotland helps over half a million people every year struggling with bad housing or homelessness through our advice, support and legal teams. We also campaign to make sure that, one day, no one will ever have to turn to us for help.

It is in that context that we would like to respond to the Covid-19 Committee's consultation on the proposed further extension of the Emergency Coronavirus powers. Our response will refer specifically to the elements of the Coronavirus Acts that impact on people's ability to keep and maintain a safe, warm and secure home.

Should Part 1 of the Coronavirus (Scotland) Acts be extended to September 2021?

While there is still uncertainty over the impact of the vaccine on suppressing the virus, the impact of any forthcoming reopening of the economy and society, and the impact of the economic crisis that will hit renters hard, we believe to allow evictions to proceed as normal after the end of March 2021 would be wholly inappropriate.

Renters' have been one of the groups most negatively impacted during the pandemic. The Joseph Rowntree Foundation states that 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 employers¹.

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, has increased from 26% in Feb 2020, to 35% in August 2020 (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.²

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 pandemic. 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, 1 in 4 people reported that they had cut back on other forms of spending, 1 in 10 said that they had skipped meals and nearly 1 in 5 had kept their heating off in cold weather.

It is clear that coronavirus has resulted in loss of income and increased financial pressure. Renters are struggling to meet their housing costs and are vulnerable to losing their home as a result. We are far from out of the woods in terms of the impact of this virus, and we must continue to protect and support those most in need. It would be inhumane to begin forcing people out of their homes and into the already under-strain homelessness services across Scotland, putting them at risk while a deadly virus continues to spread. The Scottish Government should continue taking every effort to prevent this from happening.

We therefore agree that the Part 1 of the Coronavirus (Scotland) Acts should be extended until September 2021, in order to continue to avoid making people homeless, thereby minimising the demand on homelessness services, as well as reducing the spread of the virus by keeping people in a safe home.

¹ [Poverty in Scotland 2020 | JRF](#)

² [Stat-Xplore - Log in \(dwp.gov.uk\)](#)

A close watching brief must also be kept on the situation, particularly if we continue to struggle to get the virus under control, and as we better understand the long-term impact of the virus on people's health and the economy. We will no doubt continue to see people struggle to find or keep their jobs and to be able to afford their homes, and **we may need further protections in the form of a new Act when the Coronavirus (Scotland) Acts can no longer be extended past September 2021.**

Student accommodation

Students must continue to be protected by allowing them to terminate their leases with 28-days notice if necessary. We should not see a return to the confusion students have faced over the past 12 months or so – extending these provisions in the Coronavirus (Scotland) (No.2) Act would provide the clarity needed for the student population.

What priorities should inform the Scottish Government's strategy and response to Covid-19 in 2021?

The Scottish Government's overriding priority, as it has been throughout the pandemic, must be on protecting life and ensuring people have a safe home to live in. Since March last year, the importance of home has been made abundantly clear – without it, it is nigh on impossible to stay safe. We have been told time and again to 'stay at home' throughout this pandemic, so ensuring everyone has a home is a vital step in tackling Covid-19 and must play a key part in the Scottish Government's ongoing response to the pandemic.

It is in that context that we are calling for all emergency measures to protect people from eviction from their homes to be extended to September 2021, as well as non-repayable financial support to be made available to those who need it for rent arrears, in order to manage rent arrears and be able to stay in their homes beyond the pandemic period.

The emergency measures did not protect all classes of occupier from eviction, and we would want these groups to be included. For example, people who had been given their notice before 7 April, or whose cases which were already live in court or tribunal system, people who do not qualify for succession, and people who could still be evicted from hostel type accommodation.

Suitable Temporary Accommodation

We are also calling on the Scottish Government to ensure that people who are homeless and require temporary accommodation are supported into suitable and safe temporary accommodation that meets their needs.

The use of unsuitable accommodation, such as hotels and B&Bs is not a new issue, as some local authorities have used this type of harmful unsuitable accommodation for a long time. We welcomed the early emergency response to provide hotels for homeless people who could not be accommodated elsewhere. However, as we are nearly one year on from the start of the pandemic, we believe that more should have been done to prioritise the provision of suitable temporary accommodation.

We have therefore called for the Unsuitable Accommodation Order (UAO) emergency related exemptions to be removed, to ensure every household has access to suitable temporary accommodation. We believe that now more than ever, everyone needs to be in a secure, safe environment with facilities and support that meet their needs, while they wait for a permanent home to become available. Hotels cannot become the norm.

We have also called for a short-term temporary accommodation task force to be set up to examine the lack of suitable temporary accommodation problem and to strategically and urgently address it.

Supporting tenants with their rent arrears

We are calling for a non-repayable grant for tenants who have built up rent arrears and cannot access support anywhere else with this debt, which leaves them at risk of eviction once emergency eviction measures are lifted.

For people who cannot access Universal Credit, they will not be able to get Housing Benefit or Discretionary Housing Payments (DHP) to help with their rent, if they have lost some or all of their income. They require additional support to manage their rent arrears or risk eviction.

For those that can claim Universal Credit there is the additional impact of the Local Housing Allowance and the benefit cap to consider, as for many it will mean they will not get a full housing benefit award to cover all of their rent. DHPs can be applied for to bridge the on-going gap between their housing benefit award and their rent, **but DHPs cannot be used for rent arrears that tenants have already built up.**

We already know that the Loan Fund set up by the Government has been refused to many people who applied, as they do not meet the criteria on affordability or do not have a good enough credit rating and therefore will not be able to access this loan fund. Our view is this Loan Fund will help a small number of tenants, but for many people taking on another form of debt is not possible or the right option for them.

Understanding and upholding rights

A comprehensive raising awareness campaign ensuring people know and understand their rights is crucial, as without this knowledge it is very hard for tenants to be able to uphold their rights. We have for example supported tenants where they were at risk of illegal evictions during the pandemic, as the tenants weren't aware of their rights, and the landlords either did not understand the changes brought in with this legislation or had chosen to ignore it.

If a similar emergency happens again, what powers should be re-used? What powers should be modified?

We believe that in the event of a similar emergency, which requires us to stay at home in order to stay safe, emergency measures should once again be put in place to **prevent evictions taking place** and ensure people are able to stay in their homes, and to **provide the support they require to manage rent arrears.**

However, defining exactly what the measures should be is difficult to do at this point, as we need to see an evaluation of the impact of emergency legislation used during this pandemic. This will take time and we would need to consider the outcomes and evidence before coming to a definite position.

We would also like to see some of the emergency measures be included in permanent housing legislation after the emergency measures are lifted, to build on the progress made during this pandemic in strengthening people's rights.

Please see below for our initial thoughts on the powers we would wish to see **re-used and/or modified or included in housing legislation.**

1. All eviction emergency measures should once again be put in place to prevent evictions taking place and ensure people are able to stay in their homes, and to provide the support they require to manage rent arrears.
2. For the emergency eviction legislation we would want to ensure in the future that tenants who had been given their notice before 7 April, or whose cases which were already live in court or tribunal system would be included, so they could not be evicted and made homeless during the pandemic.
3. As evictions proceedings could still be raised during the pandemic, for example once the tenant's 6-month notice period had expired, we believe a ban on enforcing all evictions from the start of the pandemic would have been advisable, except in the most serious Anti-Social Behaviour cases.
4. The emergency measures did not protect all classes of occupier from eviction, and we would want them included for future emergencies. For example, people who do not qualify for succession, people who are *alleged* of carrying out anti-social behaviour, and people who could still be evicted from hostel type accommodation.

5. Students should continue to be protected by allowing them to terminate their university accommodation leases with 28-days' notice if necessary.
6. We would like to see the Pre-Action Requirements (PARs) which were put into emergency legislation for the private rented sector (PRS) to be evaluated and then put into housing legislation. This would align the private rented sector more closely with the Social Sector. The PARs must be actively upheld by the First Tier Tribunal and enforced.
7. We would also like to see all the grounds for eviction in the Private Rented Tenancy remain discretionary once the emergency legislation is lifted, so that moving forward the First Tier Tribunal can use discretion when considering each case.

Any other issues you wish to raise?

Addressing the underlying factors of the housing emergency

While not strictly within the remit of this consultation, we believe it is vital that the structural causes of the housing emergency, which has been exacerbated by the pandemic, are fully examined and urgently addressed. The broken housing system has led to more people struggling to keep or find a home during this pandemic.

The scale of the housing emergency

- Every 17 minutes a household becomes homeless in Scotland
- Nearly 14,000 households now in temporary accommodation
- Over 130,000 households on waiting lists
- 15,711 children in households assessed as homeless in 2019-20
- 53,000 households are overcrowded

We must build enough social homes to reduce housing need

The key solution to the housing emergency is building **enough affordable social homes**, which are urgently required **to reduce housing need**. We have called for at least **37,100 social homes** to be built over the next 5 years, as independent academic research has shown the scale of the emergency requires another ambitious building programme. These quality, social and environmentally friendly homes must be built in the right places to ensure people can access a secure, safe, affordable home that meets their needs, as well as be able to remain secure during a pandemic and beyond.

We now have nearly 14,000 households in temporary accommodation – the pandemic has caused an increase in homelessness, but this is **not** a new issue. We have seen homelessness increase over the last few years. Those who are homeless are waiting on average 6 months (with people often waiting for years) in temporary accommodation, until a suitable home becomes available.

Housing allocation system

We need to better understand why it has taken so long for housing allocation systems to get back on track and learn from this pandemic how this could have been speeded up. For example, do we require better processes, more resources and different emergency legislation to be in place to enable the homes available to be let more quickly to those in housing need?

Improve number of allocations going to homeless households

We also need to understand why we still have a relatively low percentage of social housing lets going to homeless households. This needs to be examined in light of the housing emergency, and the fact we are having to ration out housing, as it is such a scarce resource in some areas. Tensions of course arise within the allocations system when local authorities have to decide who gets the few homes that are available. Many families on waiting lists are desperate for a home that meets their needs, and many unfortunately will tip into homelessness due to their precarious housing situation.

Housing safety net needs improved

We also have a social security system that is not fit for purpose. Even with the Local Housing Allowance (LHA) being increased to 30 percentile during the pandemic - that still means that only the lowest 3 out of 10 rents are covered. The devastating impact of this inadequate safety net system has been very clearly highlighted during the pandemic, as more and more people struggle to support themselves and their families on Universal Credit. The impact of the following issues means many will be at risk of building up debt which will put them at risk of eviction:

- Local Housing Allowance
- Benefit cap
- 5 – 6 weeks wait for first payment,
- Discretionarily Housing Payments (DHPs) - households in some areas struggling to access DHPs

We need to ensure that the benefit system is improved to provide an adequate safety net. This means lobbying the UK Government to:

- remove the 5-week wait
- remove the benefit cap
- raise the LHA to cover the cost of average rents – so to be raised to the 50 percentile. If this is not possible, we need to ensure that the current 30% LHA rate is not frozen at its current rate over the next five years.

For the Scottish Government to:

- ensure DHP payments are easily accessible and continue to be available as required
- provide another fund (non-repayable) for tenants who cannot access UC/HB/DHPs