

TACKLING HOUSING DEBT AND EVICTION:

Enhancing Occupier Engagement Through Improved
Communication and Advice



Final Report

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Abbreviations

AJA 1970	Administration of Justice Act 1970
AST	Assured Shorthold Tenancy
AT	Assured Tenancy
CCA 1974	Consumer Credit Act 1974
DAS	Debt Arrangement Scheme
DHP	Discretionary Housing Payment
DLUHC	Department for Levelling Up, Housing and Communities
DPP	Debt Payment Programme
DWP	Department for Work and Pensions
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
GDPR	General Data Protection Regulation
GP	General Practitioner
HA 1985	Housing Act 1985
HA 1988	Housing Act 1988
HB	Housing Benefit
HLPAS	Housing Loss Prevention Advice Service
HMCTS	Her Majesty's Courts and Tribunals Service
HPC	First Tier Tribunal (Housing and Property Chamber)
HPCDS	Housing Possession Court Duty Scheme
IVA	Individual Voluntary Arrangement
MCOB	Mortgages and Home Finance Conduct of Business Sourcebook
MHCBS	Mental Health Crisis Breathing Space
MOJ	Ministry of Justice
PAP	Pre-Action Protocol
PRPSH	Private Registered Providers of Social Housing
PRS	Private Rented Sector
PRT	Private Residential Tenancy
RMC	Regulated Mortgage Contract
RSL	Registered Social Landlord
SAT	Short Assured Tenancy
SBS	Standard Breathing Space
SMI	Support for Mortgage Interest
SRS	Social Rented Sector
SST	Scottish Secure Tenancy
UC	Universal Credit

Executive Summary

Introduction

Every year tens of thousands of households face the threat of losing their home due to rent or mortgage arrears.¹ The impact this can have on the health and wellbeing of those involved, particularly children, can be significant (Nettleton and Burrows 2001; MIND 2011) not least for the reason that 'home' is often associated with security, safety, community and wellbeing (Fox O'Mahony 2007). Despite this, little is known about the experience of occupiers of the arrears process. What we do know is that a significant number of them do not participate in the arrears and possession process or do so only when it is too late to save their home (see, for example, Bright and Whitehouse 2014; Brookes and Hunter 2016; Whitehouse, Bright and Dhami 2019).

In an effort to understand the reasons for this, this project sought to capture the views and experiences of those with lived experience of housing debt and the threat of home loss. Based on these views, this project offers evidence-based proposals designed to improve engagement in the arrears and possessions process. Given the heightening of the pre-existing 'landscape of precariousness' (Forrest 1999) by the COVID-19 pandemic, and the cost of living crisis, an exploration of ways to improve engagement and reduce evictions seems both important and timely.

About the Project

In addressing the key question of how the level of occupier engagement with arrears and eviction processes can be improved, this research explores the following issues:

- The factors that put occupiers at risk of housing debt
- Occupier experience of housing debt
- Occupier engagement with arrears and eviction processes, including:
 - reasons for non-engagement
 - connections between early engagement and eviction
 - information deficits in the arrears and eviction process.

Methodology

Adopting a mixed methods approach, the research team collected both qualitative and quantitative data relating to the issue of housing debt and home loss. This included:

- An online survey distributed nationally that ran from March – October 2023. We received 104 responses.
- A hard copy survey distributed to venues such as libraries, courts, and advice agencies to encourage responses from those unable to use or access a digital device. We received 35 responses.
- Interviews were conducted between April and November 2023 with housing providers, advice service providers, and occupiers with experience of housing debt. A total of 33 interviews were conducted with housing and advice service providers and 20 with occupiers (17 tenants and three mortgage borrowers).
- While the online survey was distributed nationally, we focused our efforts in three case study areas: Southampton, Birmingham, and Glasgow.
- We did not receive any responses from those located in Wales or Northern Ireland and so our focus rests on England and Scotland.

By combining the collection and analysis of this unique data with existing datasets and research, this project aims to contribute to an improved understanding of how occupiers experience the arrears and possession process.

¹ [The most recent statistics at the time of writing show that, during 2023, 16,599 possession claims were issued by mortgage lenders and 94,211 by landlords: Mortgage and Landlord Possession statistics: January to March 2024.](#)

A Summary of Key Findings

Based on the research methods described above, we found that:

Barriers to seeking advice and support in resolving housing debt

- A majority of respondents (45 of 81) did not or were unable to access advice from a range of providers including charities, local councils and on line providers.
- Respondents were deterred from accessing support by the lack of opportunity for face-to-face discussion of their issues, the difficulty of getting through on the telephone, and their awareness that advice services are overwhelmed.

“I think the problem is when you get into debt you start being scared to speak to anybody.”

(Mortgage borrower)

- Respondents reported feeling overwhelmed by the challenges of getting help, and frustrated that system solutions to complex problems, notably payment plans, do not help to resolve underlying causes of debt (for example, insufficient income to meet bills).

“They wanted me to do an income and expenditure, but when you’re in negative budget...I don’t see the point.”

(Mortgage borrower)

- Local authority housing officers reported that changes to working practices, accelerated during COVID, have led to a depersonalised approach to resolving arrears, with fewer frontline staff and more reliance on remote engagement practices. These changes have undermined their relationship with tenants and the level of trust and confidence that tenants have in them as sources of help and advice.

Engagement with the legal process

- Court observations by the research team indicated that where advice and representation were provided, this tended to result in better outcomes for occupiers.

“... if people are seen to engage, and they turn up, there’s a fair chance that they will not be evicted.”

(Advice Service Provider)

- Occupiers in England at threat of losing their home have access to free legal advice and representation on the day of their hearing in most County Courts. This is not the case in Scotland where access to free emergency legal advice is available in only a limited number of sheriff courts.
- Asked whether they would attend any future court hearing, nearly two thirds of respondents said they would not, some indicating that they would find attending court ‘too stressful’. This finding is of concern given the apparent positive association between attendance at court and avoidance of an outright possession order.

Mental health issues

- A significant number of our respondents reported that health issues, particularly mental health issues, were a contributory factor in the accumulation of debt.
- Around half of respondents (53 of 99) reported a health condition or disability and of those, 8 in 10 reported having a mental health issue (conditions most mentioned were anxiety and depression).
- Respondents reported being worn down by the effort of trying to access help and effectively giving up, sometimes for the sake of their health.

Broader factors contributing to arrears included:

Service charges

- Service charges, particularly communal heating costs, impacted adversely on the ability of social tenants to afford their rent. These costs were due to factors beyond their control and welfare benefits are simply not capable of covering those costs.

“You’ve got people paying £160 a month on council-controlled heating bills so they can’t even opt out of it. They can’t even turn their heating off and put a jumper on, they have to pay it.”
(Housing Officer)

- The inclusion of communal heating charges in the tenant’s ‘rent’ means that a failure to pay the charge can lead to a possession claim. This seems to introduce eviction for non-payment of utility bills ‘through the backdoor’.

The Universal Credit system and arrears

- The Universal Credit system emerged as a contributor to housing debt and a barrier to its effective resolution.
- The direct payment of the housing element to tenants, the wait for the first payment, advance payments, and sanctions and deductions, were signalled as major causes of sometimes inescapable debt.

“On Universal Credit, if you get even slightly behind you’re never coming back. You’re done, that’s it. Until you get a job, that is it, you are in debt now... It’s a really easy slippery slope.”
(Engagement Officer)

- There was some indication that those in debt may not be aware of sources of additional financial support such as Discretionary Housing Payments.

The Relationship Between Engagement and Outcomes

It was clear from the testimony of our respondents that early engagement can lead to better outcomes for those in debt.

- Given the problems encountered by our respondents with the Universal Credit system and an apparent lack of awareness of benefit entitlement and the financial support available from the state, early advice could lead to the alleviation or resolution of some of the financial difficulties encountered by occupiers.
- It was made clear by our respondents that being in debt and at threat of losing their home had an adverse impact on their mental health which then exacerbated their inability to manage their debt. Accessing advice at an early stage in this cycle could assist in arresting its development.

Policy Recommendations

Drawing on the data generously provided by those who participated in this research, we have identified seven key areas for change within the arrears and possession process. A summary of the recommendations is provided below, with a more detailed account offered in Chapter 7.

Improving Communication and Engagement

- **Landlords and lenders** should continually review their communication practices to ensure a supportive and consistent tone. Attempts to compel occupiers to repay their arrears through shaming or threatening legal action are likely to prove counterproductive and should be avoided.
- Face-to-face, familiar and personalised communication methods (e.g. Whatsapp messages, regular meetings with the same officer, etc.) are more likely to result in engagement by the tenant.

Landlords and Lenders as Sources of Advice

- **Landlords and mortgage lenders** should recognise that occupiers often contact them for informed and fair advice about dealing with their arrears. Staff should therefore receive the training necessary to address the complex range of issues experienced by occupiers in debt.
- The use of a ‘one size fits all’ or rote response should be avoided. Instead, service provision should be underpinned by a compassionate approach that allows people time to explain their situation and to feel heard and understood.
- **Landlords and lenders** should ensure their staff are aware of the propensity for occupiers in debt to agree to unrealistic and unaffordable repayment plans. To avoid this, staff should signpost customers in debt to independent sources of advice.
- **Landlords and lenders** should ensure that they adopt systems which deliver consistent advice, and which do not require people to repeat their circumstances.

Encouraging attendance at court

Early intervention in the arrears process has the potential to prevent the escalation of problems that lead to home loss.

- The introduction of the Housing Loss Prevention Advice Service is a welcome addition to the advice sector so we call on **central Government and the Legal Aid Agency** to ensure that this service is adequately funded.
- The performance and outcomes of the scheme should be monitored and reported to allow for an assessment of its effectiveness.
- We call on the **Scottish Government** to introduce a similar scheme throughout all areas of Scotland to make legal advice and representation free at the point of use for those who have received a notice of possession.
- **Central Government** should consider whether to include debt advisers, as well as legal practitioners, as part of the scheme.

Address data and information deficits

- We would ask **HM Courts and Tribunals Service, the Ministry of Justice, and the Scottish Courts and Tribunals Service** to publish data similar to that published by the First-tier Tribunal (Housing and Property Chamber) in Scotland. The publication of such data could assist in evaluating the relationship between engagement, attendance and representation in affecting the outcome of possession cases.
- **HM Courts and Tribunals Service, the Ministry of Justice, and the Scottish Courts and Tribunals Service** should ensure that data relating to possession hearings held in the County Courts in England and sheriff courts in Scotland is presented in a clear and accessible manner, avoiding the use of overly legalistic language.

Communal Service Charges

In response to evidence that service charges (particularly communal heating charges) are impacting the ability of tenants to afford their rent we recommend that:

- The **Department for Work and Pensions** issues clear guidance about which service charges are covered by Universal Credit.
- Consideration should be given to the feasibility of installing smart meters to ensure equitable charges for heating in social housing.
- **Central Government** should ensure that people are not evicted because of the financial pressures imposed by global energy markets.

Reform of the Universal Credit System

- We support those calling on **central Government** for a review of the design and operation of Universal Credit, joining the voices of our research participants to others with lived experience of debt (see, for example, <https://www.turn2us.org.uk/about-us/news-and-media/latest-news/turn2us-hosts-all-party-parliamentary-group-on-universal-credit-and-gender>).
- **The DWP** should consider the reintroduction of direct payments by default of the housing element of UC or housing benefit to landlords. In the meantime, the need for Alternative Payment Arrangements should be identified at an earlier stage.
- **The DWP** should ensure that individuals are able to easily report changes to their income in their journal that are not employment related, for example, pension changes.
- Steps should be taken by **the DWP** to ensure a better working relationship between Universal Credit administrators and social housing providers in relation to resolving benefit issues.

Chapter 1 – Introduction

The aim of this project was to learn more about the barriers that prevent or dissuade people in housing debt from accessing help or engaging with the arrears and possessions process. As the following review of the existing literature demonstrates, little is known about the lived experience of occupiers of the arrears and possession process. It is the aim of this research to fill some of the gaps we identify below.

Literature and Existing Data Review

Historically, research in this area has been hampered by deficiencies in the collection of data across the Civil Justice system (Byrom 2019) and although possession cases are, with certain exceptions, open to the public, they are seldom observed or reported, leading Loveland to refer to such cases as ‘invisible law’ (Loveland 2017).²

Data protection laws and ethical considerations mean that it is not easy for researchers to identify individual occupiers at risk of eviction, or to recruit them as research participants. Instead, research in this area has tended to rely on data gathered by national surveys (Ford, Kempson and Wilson 1995; Balmer et al. 2010) or court records (Nixon and Hunter 1996). More recently, there are examples of studies adopting innovative approaches to uncovering the stories of people in housing debt: for example, accessing people through food banks (Desmond 2016; Robins and Newman 2021) or as part of investigative journalism (Spratt 2022).

Participatory real-time research has been conducted by Generation Rent with its ‘rent vent’ project which allowed renters to share their rental experience.³ Similarly, the ‘Covid Realities’ project, a collaboration between researchers at the universities of Birmingham and York, has documented life on a low income during the pandemic and cost of living crisis (Patrick et al. 2022).

Research in related areas also throws light on the difficulties people with legal or social welfare problems have accessing legal advice (Buck et al. 2010; Burton 2018; Smith et al. 2013), the use of telephone-based legal advice (Balmer et al. 2012), the impact of debt on advice-seeking behaviour (Turley and White 2007), and ‘legal needs’ more generally (Pleasence and Balmer 2014).

As regards quantitative data, some datasets are accessible, but they remain somewhat limited. The Ministry of Justice (MOJ) and the Department for Levelling Up, Housing and Communities (DLUHC) publish some relevant quantitative data, including demographic and economic characteristics of households in each tenure and the reasons for mortgage arrears (see, for example, Department for Levelling Up Housing and Communities 2021),⁴ and the number and type of possession claims initiated in County Courts.⁵ Other important data, however, are not recorded, including how many occupiers attend court hearings and how many of them are represented.

Given the difficulties of recruiting occupiers experiencing housing debt some studies have canvassed the views of those involved in the provision of housing and those services providing advice to occupiers to understand the reasons for non-engagement. Responses are varied and include suggestions of lack of awareness of sources of help and advice, poor levels of digital and financial literacy, and mental health issues in addition to feelings of shame, embarrassment, and problem avoidance (see, for example, Round, Nanda and Rankin 2020). Despite such important contributions to understanding, the perspectives of those who experience rent or mortgage arrears are, for the reasons explained, often absent or underrepresented.

² Moves to make this process more ‘visible’ are starting to emerge with, for example, the Bureau of Investigative Journalism (BIJ), reporting on the legal process of housing possession. During the summer of 2021, the BIJ sent reporters in to 30 County Courts across England and Wales to observe 115 mortgage possession hearings and 555 rental eviction hearings. [The Bureau of Investigative Journalism \(en-GB\) | Evicted in less than... \(thebureauinvestigates.com\)](https://www.bureauinvestigates.com/)

³ <https://www.generationrent.org/webinar/vent-your-rent-2023/>

⁴ The English Housing Survey presents respondents with the following options for arrears: spouse or partner leaving home, spouse or partner death, contributor leaving home, contributor becoming pregnant or having a baby, lost earnings from sickness or injury, self-employed income reduced, redundancy or unemployment, lost overtime or working hours reduced, less pay for same hours, mortgage payments increased, other payments increased and other reasons.

⁵ <https://www.gov.uk/government/statistics/mortgage-and-landlord-possession-statistics-january-to-march-2024>.

Accordingly, this research draws on the accounts of those who are, or have been, in rent or mortgage arrears, providing insight into the factors that put individuals at risk of housing debt, the impact of housing debt, and reasons for using, or not, advice and representation services. In recognition of the difficulties of engaging this hard-to-reach group, this research has adopted a mixed methods approach, using survey instruments, interviews and court observations to gather data⁶ and a range of techniques to reach those in housing debt including postcode targeting, survey QR code, digital display boards, survey distribution through trusted third parties, social media, and awareness raising in civic spaces.⁷

Despite these extensive recruitment efforts, there were a total of 104 responses to the online survey, with 65 fully completed responses and 39 partially completed. A total of 35 hard copy short surveys were completed making a combined total of 139 responses.⁸ However, the data reveal insights into the structural and individual factors that contribute to the disengagement of people in housing debt.

Structure of the Report

In the next chapter of this report we provide an overview of the regulatory framework and legal process relating to housing possession in England and Scotland, setting out the context in which our findings should be understood. We then provide information on the demographic profile of our survey respondents. The next three sections of the report form the main discussion of our findings organised to address our research questions. Chapter 4 examines the structural factors that increase the risk of housing debt while Chapter 5 considers the individual factors that can contribute to someone falling into arrears. In Chapter 6 the discussion centres on occupier engagement with the arrears and possession process. Woven throughout these three chapters is testimony from occupiers and housing providers about the impact of housing debt and the barriers that prevent earlier access to help and advice. In Chapters 7 and 8 we present our conclusions and recommendations.

⁶ See Appendix A for detail of the research methodology.

⁷ See Appendix B for further details.

⁸ Financial incentives to encourage engagement with the survey were considered but ultimately rejected as inappropriate in this context. The use of a recruitment agency was beyond the scope of the project's resources.

Chapter 2 – Regulating housing debt and home loss

Introduction

Before setting out a discussion of our findings it is first necessary to understand the process by which housing debt can lead to the loss of one's home in England and Scotland respectively.⁹ In particular, focus is given to the manner in which housing providers are regulated and the legal process of housing possession.

Summary of the Key Differences Between the Legal Process in England and Scotland

- Mortgage borrowers in England who are trying to suspend an order for possession must demonstrate an ability to repay their arrears within a reasonable period whereas in Scotland, the judge must be convinced that it is 'reasonable' to order possession.
- All grounds for possession in the private rented and social rented sectors in Scotland are discretionary while in England some grounds in the private rented sector remain mandatory.
- Maladministration in the benefits system is not considered sufficient to prevent possession on those mandatory grounds.
- There is no pre-action protocol in the private rented sector in England.
- The First Tier Tribunal (Housing and Property Chamber) in Scotland publishes data on issues including the number of occupiers who attend and are represented. Similar data is not available in respect of the sheriff court or the County Courts in England.
- Legal advice and representation in England is free for those in receipt of a written notice that someone is seeking possession of their home. In Scotland, advice is free in a limited number of areas, otherwise, it is means-tested.

England

Mortgage Borrowers

Most mortgage agreements used to purchase residential property in England are known as 'regulated mortgage contracts' (RMCs). Since 1 April 2013, RMCs have been subject to regulation by the Financial Conduct Authority (FCA) under the Financial Services and Markets Act 2000 (FSMA 2000). The FCA's key objective is to ensure that borrowers are 'treated fairly'. Central to this goal is the FCA's main regulatory instrument, the Mortgages and Home Finance Conduct of Business Sourcebook (MCOB). This requires lenders to make reasonable efforts to come to an arrangement for repaying any arrears that may include, for example, amending the date on which payments are due and the method of payment. Additionally, there is the Pre-Action Protocol for Possession Claims based on Mortgage or Home Purchase Plan Arrears in Respect of Residential Property (PAP) which aims to encourage pre-action communication and negotiation between the parties to avoid the need for enforcement procedures to be undertaken.

The Mortgage Charter

In response to rising inflation and increases in mortgage interest rates, the Chancellor of the Exchequer, the FCA, and principal mortgage lenders agreed from June 2023 to follow a 'set of standards' designed to support borrowers worried about high interest rates. These standards operate in addition to existing support mechanisms employed by lenders in assisting borrowers in financial difficulties (such as MCOB and PAP). The Charter is designed, in particular, to assuage the concerns of borrowers with fixed rate deals that are due for renewal. All lenders have agreed, for example, to allow customers to switch to a new mortgage agreement at the end of their existing fixed rate deal without another affordability check. However, most of the commitments under the Charter are applicable only to borrowers who have maintained their mortgage payments. For those who have missed payments or are in financial difficulties, measures such as extending the mortgage term to reduce payments, offering a switch to interest only payments, and temporary payment deferrals are suggested within the Charter.

⁹ This research does not include Wales due to resource constraints.

With regard to repossession, signatories to the Charter agreed (from 26th June 2023) that ‘a borrower will not be forced to leave their home without their consent unless in exceptional circumstances, in less than a year from their first missed payment.’ This does not mean that lenders will not seek a possession order. Rather, the Charter states that repossession is only done as either a last resort or when it is in the financial interests of the borrower.

The FCA ‘Consumer Duty’

This duty came into force in July 2023 and requires firms to act in good faith towards customers, avoid causing foreseeable harm and enable and support customers to pursue their financial objectives.¹⁰ The FCA is monitoring the implementation of this duty and publishing examples of good practice and areas for improvement.¹¹

The Legal Process of Possession – Mortgage Borrowers

It is clear from both MCOB and the PAP that mortgage lenders should treat repossession as a last resort. However, where a mortgage borrower is failing to pay their mortgage payments and attempts to recover the position have failed then a lender is likely to seek possession in the local County Court. Once a claim in the County Court has been initiated, the possible outcomes are adjournment, dismissal, a suspended possession order or an outright possession order.

By virtue of s. 36 of the Administration of Justice Act 1970 (AJA 1970), the court has discretion to adjourn or postpone the grant of an order for possession if it appears to the court that the borrower is likely, within a reasonable period, to pay the instalments normally required under the mortgage and any arrears in repayment. The meaning of ‘reasonable period’ is defined as the remaining term of the mortgage. In practice, this means that the judge will calculate how much the borrower needs to pay, in addition to their normal contractual payments, to clear the arrears by the end of the mortgage term. If the borrower confirms that they can afford those payments, then the possession order will be suspended provided the borrower keeps up with those payments. If the borrower cannot convince the court of their ability to repay the arrears within a reasonable period then the court is likely to award an outright possession order, delayed for 14 or 28 days to allow the borrower time to find alternative accommodation.

The time order process

A mortgage borrower can also ask the court to delay possession through the award of a ‘time order’ (Whitehouse and Crampin 2023). By virtue of s. 129(2) of the Consumer Credit Act 1974 (CCA 1974), the court can, if it considers it just, order the debtor to pay ‘any sum owed under a regulated agreement... by such instalments, payable at such times, as the court, having regard to the means of the debtor... considers reasonable.’ In addition, the court may also, by virtue of s. 136 of the CCA 1974, tag on to a time order ‘such provision as it considers just for amending any agreement or security in consequence of a term of the order.’ This means that a borrower could be given more time to repay their mortgage at a lower rate of interest. Unfortunately, this process appears to be rarely used so information relating to how these provisions are implemented in practice is scant with only two cases of any real note.¹²

The Legal Process of Possession – Tenants

The legal framework surrounding both the social and private rented sectors in England is incredibly complex so it is not our intention to offer a detailed account of the law as it relates to eviction (excellent guidance can instead be found online by the housing charity Shelter¹³ and DLUHC¹⁴). The focus here will be to outline the rules relating to the most common types of tenancy in each sector.

In the private rented sector (PRS), the assured shorthold tenancy (AST) is most prevalent. By virtue of the Housing Act 1988 (HA 1988), all private sector tenancies created after 28 February 1997 will be ASTs. An AST can be for a fixed term (of any length) or a periodic term, but one feature of the AST is that a landlord cannot evict a tenant during the first six months of the tenancy (unless the tenant has breached the agreement and the landlord can show one of the grounds listed in Sch. 2 of the HA 1988).

In the social rented sector (SRS), a distinction needs to be made between local authority landlords and private registered providers of social housing (PRPSH), most of which are housing associations. The most common form of tenancy between a tenant and a local authority is the secure tenancy (ST). Most tenancies created on or after 28 February 1997 between a tenant and a PRPSH will be assured tenancies (ATs) or ASTs.

¹⁰ See FCA, ‘A new Consumer Duty Feedback to CP21/36 and final rules’, Policy Statement PS22/9, July 2022 and FCA, ‘Finalised Guidance FG22/5 Final non-Handbook Guidance for firms on the Consumer Duty’, July 2022.

¹¹ [Consumer Duty implementation: good practice and areas for improvement | FCA](#)

¹² *First National Bank v Syed* [1991] 2 All ER 250 CA (Civ Div) and *Southern & District Finance Plc v Barnes, J & J Securities Ltd v Ewart, and Equity Homes Loans Ltd v Lewis* (1995) 27 HLR 691, CA.

¹³ [Eviction - Shelter England](#)

¹⁴ [Understanding the possession action process: guidance for landlords and tenants - GOV.UK \(www.gov.uk\)](#)

Notice requirements

Regardless of the type of tenancy, or the reason for eviction proceedings, tenants are entitled to receive notice from the landlord of their intention to seek possession, which must state the ground on which possession is being sought and the particulars of it in such a way that a reasonable recipient would understand it. For ASTs, where the claim is based on rent arrears, this is known as a 'notice seeking possession' (NSP) or 'section 8' notice.¹⁵ Local authorities must serve a notice seeking possession.¹⁶ Following the service of a valid notice, the landlord must then initiate a claim for possession which, other than in exceptional circumstances, should be in the local County Court.

Grounds for possession in the PRS

There are many grounds on which private tenants may be evicted from their home, and some depend on the type of tenancy and landlord. Some grounds are fault based (e.g. antisocial behaviour or rent arrears) while others are not (e.g. under s. 21 of the HA 1988). Our focus here is on grounds related to rent arrears.

Mandatory Ground 8 – serious rent arrears

The HA 1988 lists several grounds for possession which require the court to make an order for possession if one of those grounds is established.¹⁷ One such mandatory ground, and the one most relevant for the purposes of this report, is Ground 8. By virtue of this ground, a landlord is entitled to possession if at least eight weeks' rent is unpaid.

If the claim for possession relates to a mandatory ground, then, if that ground is proved, the judge has little discretion other than to order outright possession. It is possible to adjourn a claim but only before the mandatory ground is proved and only in very limited circumstances.¹⁸ This applies even where the arrears are due to a mistake in the payment of welfare benefits, 'arrears attributable to maladministration on the part of a benefit authority are not considered to be an exceptional circumstance.'¹⁹

One means by which a tenant might avoid possession under this ground, albeit temporarily, is by seeking a 'Breathing Space Order', discussed in more detail below.

Discretionary grounds

The HA 1988 lists several grounds for possession which afford the court discretion to make an order for possession if one of the grounds listed is established and the court considers it reasonable to do so.²⁰ For present purposes, the most relevant discretionary grounds are Ground 10, 'some rent lawfully due from the tenant is unpaid' and Ground 11, 'whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.'

When considering eviction on discretionary grounds the judge has to consider whether it is reasonable to order possession. Shelter list the factors that can be taken into account, such as:

- the reason for and the seriousness of the breach,
- whether the tenant has had an opportunity to remedy the breach,
- whether the breach has, in fact, been remedied,
- the effect of the tenant's conduct on others,
- the consequence of eviction for this particular tenant and their family, and
- whether any further breaches have occurred in the run up to the trial.²¹

The judge may also adjourn on terms or grant a suspended possession order. Both usually require the tenant to meet certain terms such as paying a set amount off their arrears in addition to their normal contractual payments. The judge may also adjourn to a fixed date in order to allow the tenant to make a benefit claim. If the judge determines that possession is reasonable in the circumstances then they will grant an outright possession order, typically delayed for 14 or 28 days.

¹⁵ Housing Act 1988, s. 8.

¹⁶ Housing Act 1985; s.83(1).

¹⁷ Housing Act 1988, s. 7(3) and Sch.2, part I.

¹⁸ *North British Housing v Matthews* (2004) EWCA Civ 1736.

¹⁹ *North British Housing Association v Matthews* [2004] EWCA Civ 1736.

²⁰ Housing Act 1988, s. 7(4) and Sch.2, part II.

²¹ [Shelter Legal England - Assured tenancy mandatory grounds for possession - Shelter England](#)

The Legal Process of Possession – Social Landlords

A social landlord bringing a possession claim against a tenant is obliged to comply with the Pre-Action Protocol for Possession Claims by Social Landlords issued by the Ministry of Justice in 2015. The protocol applies not only to local authority landlords but also to PRPSH. The aims of the protocol are:

- a. to encourage more pre-action contact and exchange of information between landlords and tenants,
- b. to enable the parties to avoid litigation by settling the matter, if possible, and
- c. to enable court time to be used more effectively if proceedings are necessary.

Part 2 of the protocol relates specifically to claims based on rent arrears and ‘recognises that it is in the interests of both social landlords and tenants to ensure that rent is paid promptly and that difficulties are resolved, wherever possible, without court proceedings.’

Grounds for possession in the SRS

Discretionary grounds

By virtue of Sch. 2 of the Housing Act 1985 (HA 1985), the court has discretion to make an order for possession ‘if it considers it reasonable’ where ‘rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.’²² In considering whether it is reasonable to make a possession order the court will consider matters such as the tenant’s rent payment record, the cause of the arrears and the landlord’s compliance with the pre-action protocol.²³

Breathing Space Regulations

Introduced in May 2021, the Debt Respite (Breathing Space Moratorium) Scheme, known more commonly as the ‘Breathing Space Regulations’ enables a debt adviser or a local authority (where they provide debt advice to residents) to initiate and administer a ‘breathing space moratorium’. During the operation of a breathing space, a creditor cannot demand payment of debts known as ‘qualifying debts’, which include credit cards, personal loans, overdrafts and rent and mortgage arrears. This does not mean, however, that the debtor does not have to pay anything during a breathing space. Debts defined as ‘ongoing liabilities’ must still be paid, including mortgage and rent payments, but not any arrears.

There are two types of breathing space: a standard breathing space (SBS) and a mental health crisis breathing space (MHCBS). Anyone who is ‘unable, or is unlikely to be able, to repay some or all of their debt as it falls due’,²⁴ can apply to a debt adviser for a SBS. The MHCBS is a little more flexible in that those caring for or representing a person who is receiving mental health crisis treatment can apply for a MHCBS²⁵. An SBS lasts for 60 days,²⁶ whereas a MHCBS continues for the duration of the treatment, plus 30 days.²⁷

In relation to the possession process, mortgage lenders cannot demand payment of the mortgage arrears or charge interest on them. From 4 May 2021, a section 8 notice served to a tenant on grounds 8, 10 and 11 of the HA 1988 (grounds relating to rent arrears) during a breathing space period where rent arrears are included in the moratorium is invalid.²⁸ Social landlords are prevented from taking any steps to enforce a moratorium debt or to start action or legal proceedings for a moratorium debt. If the claim involves rent arrears, then notice must not be given during the moratorium for arrears included in the application.²⁹

If a tenant or mortgage borrower has a breathing space moratorium, then the court must ensure that any proceedings that have already been initiated to enforce an order relating to a moratorium debt do not progress.³⁰

Free Legal Advice in England: The Housing Loss Prevention Advice Service

Anyone who is at threat of losing their home can get free legal advice and representation on the day of their hearing in most courts. The Housing Loss Prevention Advice Service (HLPAS) replaced in August 2023 what was previously known as the Housing Possession Court Duty Scheme (HPCDS).³¹ Although funded by the Legal Aid Agency (LAA) individuals do not need to meet legal aid financial eligibility rules, they must simply be at risk of losing of their home.³²

²² Housing Act 1985, Sch. 2, Part I, Ground 1.

²³ Woodspring DC v Taylor (1982) 4 HLR 95, CA; Bracknell Forest BC v Green [2009] EWCA Civ 238.

²⁴ s. 24(4)(a) of the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

²⁵ s. 29 of the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

²⁶ s. 26 of the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

²⁷ s. 32 of the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

²⁸ The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 SI 2021/1311, reg 7(7)(j).

²⁹ Reg. 7(7)(a) and reg. 7(7)(f) The Debt Respite Scheme Regulations (breathing space moratorium and mental health moratorium) (England and Wales) Regulations 2020 SI 2020/1311

³⁰ The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 SI 2021/1311, reg. 10(5).

³¹ <https://www.gov.uk/government/publications/housing-loss-prevention-advice-service-hlpas>

³² H. Cromarty, ‘Mortgage arrears and repossessions in England’, House of Commons Library Briefing Paper Number 04769, September 2023, p. 7, available at <https://researchbriefings.files.parliament.uk/documents/SN04769/SN04769.pdf>

While retaining the existing features of the HPCDS, which offered emergency advice and representation on the day of a possession hearing, the HLPAS now allows legal practitioners to provide legal advice to those facing possession proceedings at an earlier stage. In an innovative move, the new scheme also extends the scope of legal aid so that advisers can provide advice on issues such as ‘housing, debt, and welfare benefits matters.’³³

Scotland

Mortgage Borrowers

A mortgage in respect of residential property, known as a Form A standard security, is regulated by the Conveyancing and Feudal Reform (Scotland) Act 1970. Substantial amendments were made to this Act by the Home Owner and Debtor Protection (Scotland) Act 2010. Provoked by rising numbers of repossessions associated with the economic downturn, the 2010 Act was intended to strengthen the protection offered to Scottish mortgage borrowers in financial difficulties and introduced the following measures:

- All repossession cases relating to residential property to call in court, except in cases of voluntary surrender (which require written confirmation that the surrender was voluntary).
- Sets out pre-action requirements for creditors.
- Preserves and extends the right of certain residents other than the debtor (entitled residents) to make representations to a court considering a repossession application.
- Gives those facing repossession and entitled residents who make applications to the court the right to be represented in court by an approved lay representative.

Mortgage Pre-Action Requirements

The pre-action requirements include the provision to the debtor of clear information about the terms of the standard security and the amount due to the creditor under the standard security, including any arrears and any charges in respect of late payment or redemption. The lender is also required to make reasonable efforts to agree a repayment plan with the debtor, and to provide them with information about obtaining debt management advice. The lender is also prevented from seeking a warrant from the court if the borrower is ‘taking steps which are likely to result in the payment to the creditor within a reasonable time of any arrears, or the whole amount, due to the creditor under the standard security.’

Notice requirements

Prior to seeking a warrant from the court, the lender must serve a ‘calling up’ notice,³⁴ which will demand that the borrower repay the principal sum plus any arrears within two months. If not paid in that time, the lender is then entitled to apply to the sheriff court for a warrant to repossess or sell the property.

Summary application in the sheriff court

A lender wishing to enforce the mortgage upon default by the borrower must make a summary application to the sheriff court. Once an application is made, the lender is also required to serve a notice on the borrower (known as a ‘section 24 notice’) informing them of that fact and including a copy of the application. The lender must also give notice of the application to the relevant local authority so that their homelessness services are prepared to provide assistance if the repossession action goes ahead. Following receipt of the initial writ, the borrower has 21 days in which to inform the court if they wish to defend the action.

The court has discretion to make any order it thinks fit or to continue the proceedings but only if it is satisfied that the lender has complied with the pre-action requirements and it is reasonable in the circumstances of the case to do so.³⁵ If the lender has not complied with notice requirements or the pre-action requirements then the case will be dismissed. In making its decision, the court must, where the borrower appears or is represented, have regard to factors such as the nature of and reasons for the default, the ability of the debtor to fulfil within a reasonable time the obligations under the standard security and the ability of the debtor and any other person residing at the security subjects to secure reasonable alternative accommodation.

³³ Ministry of Justice, November 2021. Housing Legal Aid: A Way Forward, p. 10, para. 31, (publishing.service.gov.uk).

³⁴ The Conveyancing and Feudal Reform (Scotland) Act 1970, s. 19(1) and Sch. 6, Form A.

³⁵ The Conveyancing and Feudal Reform (Scotland) Act 1970, s. 24(5).

Types of Tenancy

Prior to 2002, most tenants of private landlords and housing associations had 'assured' tenancies (regulated by the Housing (Scotland) Act 1988) while tenants of local authority landlords had 'secure' tenancies (regulated by the Housing (Scotland) Act 1987). In order to introduce greater consistency in the type of tenancy enjoyed by tenants of 'social' landlords, the Housing (Scotland) Act 2001 introduced a clearer distinction between the private and social rented sectors. By virtue of the 2001 Act, tenants of local authorities and housing associations (or Registered Social Landlords - RSLs) were subject to a new form of tenancy, the 'Scottish secure tenancy' (SST). This meant that ATs, and in particular, short assured tenancies (SATs), remained the preserve of the private rented sector (PRS). Introduced by the Housing (Scotland) Act 1988, SATs had become the most common form of tenancy in the PRS. Since then, moves have been made to phase out ATs and to replace them with private residential tenancies (PRTs). Since 30 November 2017 no new SATs have been allowed. Our focus therefore will be on SSTs in the SRS and PRTs in the PRS.

The Legal Process of Possession - Tenants

A landlord (the pursuer) who wishes to recover possession on the basis of rent arrears is usually required to bring an action in the court that has jurisdiction over the tenant (or defender). This will either be the local sheriff court, the First Tier Tribunal (Housing and Property Chamber) (HPC) or the Court of Session.²⁵ On 1 December 2017, jurisdiction for proceedings arising from SATs and PRTs (i.e. tenancies in the PRS) was transferred from the sheriff court to the HPC.³⁶ Most social landlord cases will be raised as a summary cause action in the sheriff court.

Before bringing proceedings for possession, a landlord must serve notice on the tenant. The rules relating to the type of notice and the manner in which it must be served are prescribed by the relevant Acts.

The Response to the COVID-19 Pandemic

The Coronavirus (Scotland) Act 2020 introduced temporary modifications with the aim of protecting those renting their homes during the COVID-19 pandemic. It made mandatory grounds for possession discretionary and extended notice periods in relation to SSTs, SATs, and PRTs. While some of these measures, including the extended notice periods, came to an end on 30 March 2022, the discretionary grounds for eviction were retained. This was achieved through the introduction of the Coronavirus (Recovery and Reform) (Scotland) Act 2022.

Pre-action requirements in the PRS

From September 2020, in respect of SATs and PRTs, landlords were required to provide tenants with clear information about, among other things, the amount of rent owed and how the tenant may access information and advice on financial support and debt management and to make reasonable efforts to agree with the tenant a reasonable plan to make future rent payments and the arrears of rent.³⁷ The Coronavirus (Recovery and Reform) (Scotland) Act 2022, put these pre-action requirements on to a permanent footing. While compliance with the pre-action protocols is not compulsory, the court will consider the extent to which the landlord has complied with them in considering an application for an eviction order on grounds of rent arrears.

The Legal Process of Possession - Private Residential Tenancies

Where the ground for eviction relates to rent arrears (Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016, Sch. 3, s. 12(3)), the HPC has discretion to make an order if the tenant has been in arrears for three or more consecutive months and the Tribunal is satisfied that it is reasonable to issue an eviction order. In determining whether it is reasonable to grant an eviction order, the HPC has to consider whether the arrears are due to a delay or failure in the payment of a relevant benefit (which is not due to an act or omission of the tenant), and the extent to which the landlord has complied with the pre-action protocol.³⁸

First Tier Tribunal (Housing and Property Chamber)

Since the pandemic, tribunal activities have been largely conducted remotely, using teleconference or video-conferencing facilities. In 2022-2023, the bulk of the HPC's work related to eviction applications, which made up 60% of all applications received compared to 37% in 2021-22 (Judicial Office for Scotland 2023, 14). The tribunal is described as taking 'an inquisitorial approach, rather than the adversarial process which exists in the courts. The process is designed to be accessible to parties, many of whom, whether landlords or tenants, are unrepresented' (Housing and Property Chamber 2021, 6). Similarly, all HPC decisions and statements of reasons for those decisions are made publicly available via the HPC website. To aid accessibility, decisions and statements are expressed in language that is less legalistic than court judgments. Similarly, statistics regarding the number of litigants who were represented is recorded and published. During 2021-2022, 60% of landlords in eviction cases were represented (compared with 47% in 2020-21) and 7% of respondents (tenants) were represented in eviction cases (compared with 5% in 2020-2021) (Housing and Property Chamber 2022).

²⁵ The HPC is based in Glasgow although cases are heard all over Scotland, see the Tribunals (Scotland) Act 2014, s. 61.

³⁷ The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020, SSI 2020/304, Rule 3 amended the 1988 Act and Rule 4 amended the 2016 Act.

³⁸ The Private Housing (Tenancies) (Scotland) Act 2016, Sch. 3, s. 12(4) (as amended by the Coronavirus (Recovery and Reform) (Scotland) Act 2022).

The Legal Process of Possession - Social Rented Sector Tenancies

Pre-action requirements

Where the claim relates to rent arrears, the landlord has, since 1 August 2012,³⁹ been required to comply with the 'pre-action requirements' set out in s. 14A of the Housing (Scotland) Act 2001.⁴⁰ Similar to the pre-action protocol for social landlords in England, the pre-action requirements set out in s. 14A require the landlord to, for example, provide the tenant with clear information about the outstanding rent and sources of advice in relation to managing debt. The landlord must also make reasonable efforts to agree a repayment plan with the tenant and to advise them on their eligibility to receive housing or other benefits. Additionally, a landlord is not entitled to serve a notice under s. 14(2) if the tenant has made a welfare benefit claim which has not yet been determined. When serving notice, the landlord must set out the steps taken to comply with those pre-action requirements,⁴¹ and when raising proceedings, the statement of claim must include confirmation that those requirements have been met.⁴² If a landlord is found to have failed to comply with the pre-action requirements then the action can be dismissed (Stalker 2021).

The Legal Process of Possession – SSTs

According to s. 14 of the Housing (Scotland) Act 2001, the landlord under a SST may raise proceedings in the local sheriff court.

Grounds for possession

Before the court can grant an order for possession, it must be satisfied that the landlord has established a ground for possession.⁴³ Of the fifteen grounds set out in the 2001 Act,⁴⁴ it is Ground 1 that will be the focus here. Adopting similar language to the equivalent provision in England (under Ground 1 of the HA 1985), Ground 1 of the 2001 Act states, 'Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken.'

In addition to establishing that Ground 1 is satisfied, and that the landlord included that ground in the notice required under s. 14 of the 2001 Act, the court is also required to consider whether a possession order would be 'reasonable'.⁴⁵ In rent arrears cases, the factors which the court may take into account include whether the landlord has complied with the pre-action requirements in s. 14A of the 2001 Act. The court can also have regard to factors such as the reasons for the missed payments, the personal circumstances of the tenant, their health, and how long they have been living in the accommodation.⁴⁶

The ability of the court to adjourn a claim for recovery of possession based on rent arrears derives from s. 16 of the 2001 Act. The adjournment can be 'for a period or periods, with or without imposing conditions as to payment of outstanding rent or otherwise.'⁴⁷

Temporary Moratorium on Evictions

The Cost of Living (Tenant Protection) (Scotland) Act 2022 was introduced to limit evictions in both the PRS and SRS on a temporary basis from 6 September 2022 until March 2024.⁴⁸ The aim underlying this move was to, 'help to reduce the negative impacts on the health and wellbeing of tenants caused by being evicted and/or being made homeless during the costs crisis.'⁴⁹ While these provisions are no longer in operation, they were referred to by some of our respondents and so it is necessary to offer at least a brief outline of these temporary measures.

By virtue of Cost of Living (Tenant Protection) (Scotland) Act 2022, the enforcement of an eviction was suspended for six months except in specified circumstances.⁵⁰ This meant that landlords could still issue notices and obtain orders from the sheriff court or HPC, but any order could not be enforced until six months after the order was granted, or until the legislation expired, whichever date was sooner.⁵¹

The 2022 Act introduced eviction on the basis of 'substantial rent arrears' to allow for such cases to be excluded from the moratorium. In relation to PRTs, a new Ground 12A in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016, defined substantial rent arrears as the equivalent of 6 months' rent. Ground 12A was not covered by the moratorium. As with all grounds for eviction, the Tribunal still has to be satisfied that it was reasonable to issue an eviction order.

In relation to SSTs, proceedings brought under Ground 1 of Schedule 2 of the Housing (Scotland) Act 2001 (rent lawfully due from the tenant has not been paid), were not covered by the moratorium if 'the amount of such rent specified in the decree is equal to or greater than £2,250'.⁵²

³⁹ The pre-action requirements were introduced by the Housing (Scotland) Act 2010, s. 155.

⁴⁰ The Housing (Scotland) Act 2001, s. 14(2A).

⁴¹ The Housing (Scotland) Act 2001, s. 14(4)(c).

⁴² Scottish Secure Tenancies (Proceedings for Possession) (Confirmation of Compliance with Pre-Action Requirements) Regulations (SSI 2012/93).

⁴³ The Housing (Scotland) Act 2001, s. 16(2).

⁴⁴ See Sch. 2, part 1.

⁴⁵ The Housing (Scotland) Act 2001, s. 16(2)(a)(ii).

⁴⁶ See *Castle Vale Housing Action Trust v Gallagher* [2001] EWCA Civ 944.

⁴⁷ The Housing (Scotland) Act 2001, s. 16(1).

⁴⁸ [Scottish Parliament approves final extension of tenant protections - gov.scot \(www.gov.scot\)](https://www.gov.scot/topics/housing/tenant-protection)

⁴⁹ [The Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022: Report to the Scottish Parliament covering the period 1 June to 30 September 2023 \(www.gov.scot\)](https://www.gov.scot/topics/housing/tenant-protection)

⁵⁰ The Cost of Living (Tenant Protection) (Scotland) Act 2022, s. 2 and Sch. 2.

⁵¹ The Cost of Living (Tenant Protection) (Scotland) Act 2022, Sch. 2 para. 1(3).

⁵² Sch. 2, para. 5(b)(i)

The Bankruptcy and Debt Advice (Scotland) Act 2014

Introduced prior to the Breathing Space Regulations in England, the Bankruptcy and Debt Advice (Scotland) Act 2014 enables those in debt to seek a six-month statutory moratorium during which creditors cannot take action against them. Unlike the scheme in England, there is currently no provision for those experiencing a mental health crisis. However, the Scottish Government is consulting on the introduction of a 'Mental Health Moratorium'.⁵³ Responses to the consultation closed on 22 January 2024 and the Scottish Government's response is, at the time of writing, awaited.

The Debt Arrangement Scheme

One consequence of being awarded a statutory moratorium is that it allows the debtor time to consider options for repaying their debts. One such option is the Debt Arrangement Scheme (DAS) which enables those in debt to apply for a debt payment programme (DPP) during which they repay their debts over a 'reasonable' amount of time.⁵⁴ During the operation of a DPP creditors cannot request payment from the debtor or initiate court proceedings. As regards mortgage arrears, these are covered by the DAS but the borrower must still be able to pay their normal contractual payments.

Legal Advice and Representation in Scotland

Occupiers can access legal representation funded by the Scottish Legal Aid Board. Eligibility for legal aid is means-tested with recipients of certain benefits, including Universal Credit (UC), automatically eligible. However, this does not mean that the advice is entirely free with some claimants having to make a 'contribution' based on their income. Emergency helpdesks are, however, available in some courts (e.g. Glasgow and Dumfries) and Shelter Scotland's 'Housing Law Service' provides free legal advice and representation in Edinburgh, Glasgow and Dundee.⁵⁵

Key Differences Between the Legal Process in England and Scotland

To summarise:

- Mortgage borrowers in England who are trying to suspend an order for possession must demonstrate an ability to repay their arrears within a reasonable period whereas in Scotland, the judge must be convinced that it is 'reasonable' to order possession.
- All grounds for possession in the PRS and SRS in Scotland are discretionary while in England some grounds in the PRS remain mandatory.
 - Maladministration in the benefits system is not considered sufficient to prevent possession on those mandatory grounds.
- There is no pre-action protocol in the PRS in England.
- The HPC in Scotland publishes data on issues including the number of occupiers who attend and are represented. Similar data is not available in respect of the sheriff court or the County Courts in England.
- Legal advice and representation in England is free for those in receipt of a notice of a possession hearing. In Scotland, advice is free in a limited number of areas, otherwise, it is means-tested.

⁵³ <https://www.gov.scot/publications/scottish-government-consultation-mental-health-moratorium/>

⁵⁴ <https://www.mygov.scot/what-is-das>

⁵⁵ [Housing Law Service - Shelter Scotland](#)

Chapter 3 – Who Took Part in This Research?

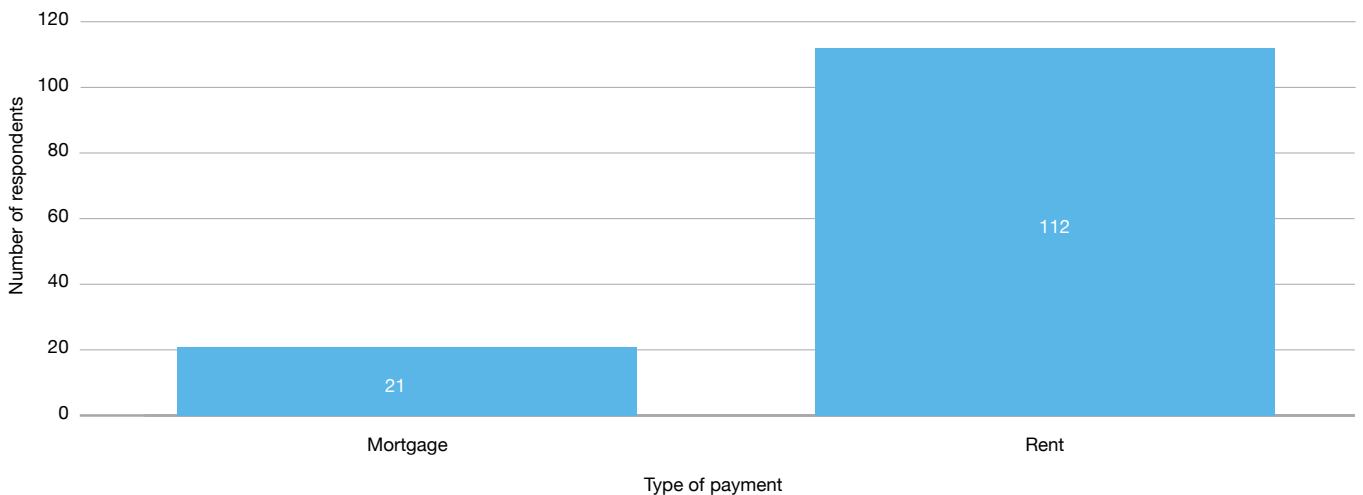
Introduction

In this chapter we provide an overview of those who participated in the survey, drawing on the data that was collected on their demographic characteristics and the context of their housing debt. Unless otherwise stated the data combines findings from the online and hard copy survey returns.

Type of Debt

The majority of those responding to the survey (112 of 133 - 84.2%) reported rent arrears with 21 (15.8%) saying they had experienced mortgage arrears.

Figure 1: Type of payment missed (total number of respondents = 133)

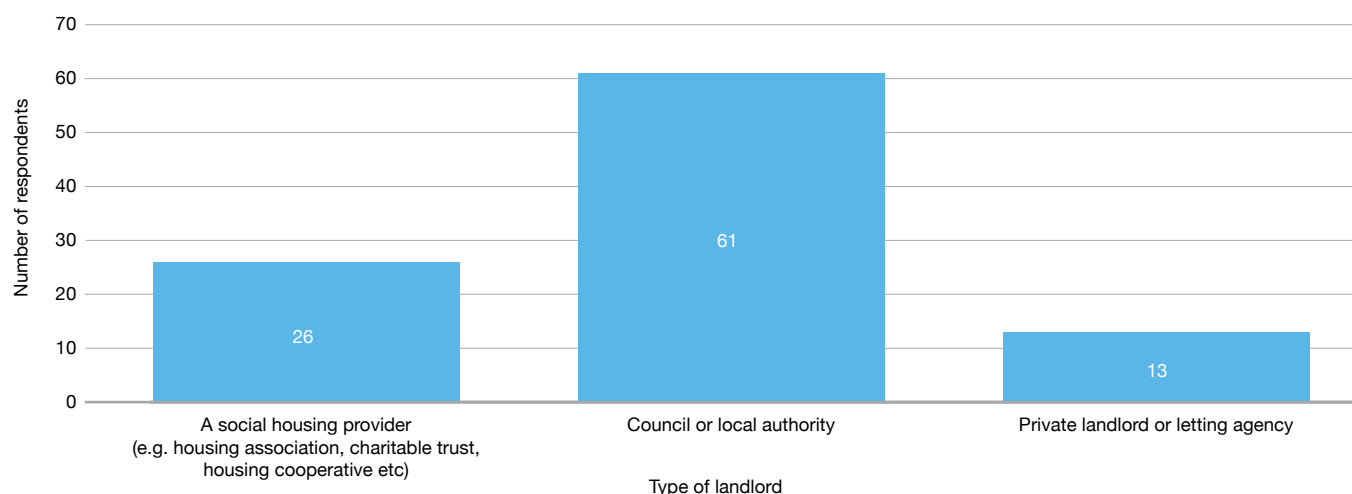


Type of Landlord/Lender

Respondents reporting mortgage arrears (n=21) were invited to name their lender. We received 14 responses, 12 naming an established high street lender (one lender was mentioned five times). Two respondents reported that their mortgage was from a sub-prime lender.

Similarly, tenants were invited to answer the question, 'who is or was your landlord when you missed your rent payments?'. As shown in the diagram below, of 100 respondents, 87 were social housing tenants. This is perhaps not surprising given the level of assistance we were given by councils and other social housing providers in disseminating the survey.

Figure 2: Type of landlord (total number of respondents = 100)



Location of Respondents

We asked all survey respondents to provide the first part of their postcode to map where people were living. There is a clear concentration of responses from those reporting mortgage and rent arrears in our case study areas, but we also saw clustering of respondents particularly in the north and east of England. These findings tend to reflect where the research team made good connections with ‘gatekeepers’ who were able to help us raise the profile of the research.

Mortgage postcodes	Number of respondents
BB2	1
BN1	1
B25	1
B44	1
B67	1
G51	1
IP30	1
LS7	1
MK40	1
PE13	1
SO15	2
SO17	1
SO19	1
SO31	1
B1	1

Mortgage postcodes	Number of respondents
B5	2
B6	1
B7	2
B8	2
B9	1
B11	3
B12	1
B13	1
B14	4
B15	1
B19	1
B20	2
B21	1
B23	5
B24	1
B25	1
B26	3
B28	1
B30	1
B31	4
B32	1

Mortgage postcodes	Number of respondents
B33	3
B36	3
B37	1
B38	2
B44	2
B45	2
CH43	1
CH44	1
DE22	1
G22	1
G41	1
G44	1
G45	1
G46	1
G51	2
G52	1
G53	1
HA0	1
HD7	1
LE19	1
LN11	2
M8	1
M24	1
NN10	2
PE8	1
PE9	1
SO14	1
SO16	2
S017	1
SO18	2
SO19	1
SW19	1
UB2	1
WA5	1

Figure 3: Location of respondents in mortgage arrears

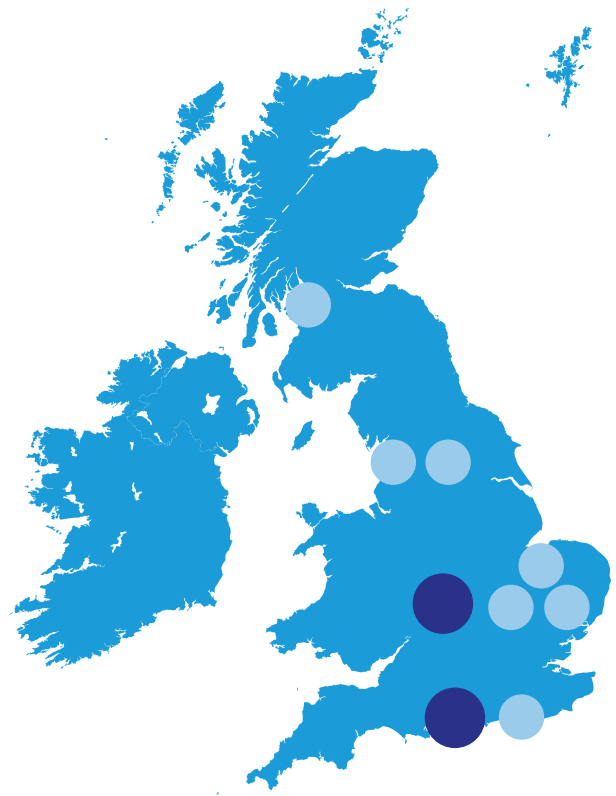
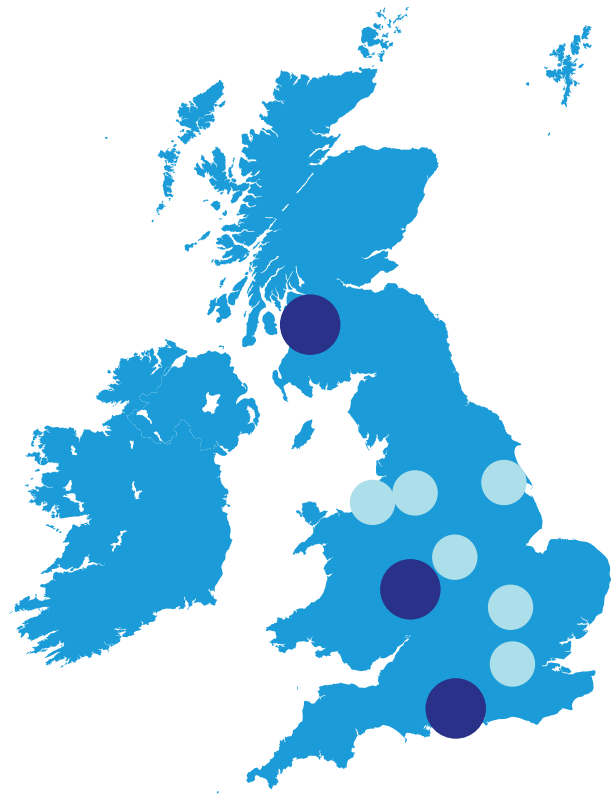


Figure 4: Location of respondents in rent arrears



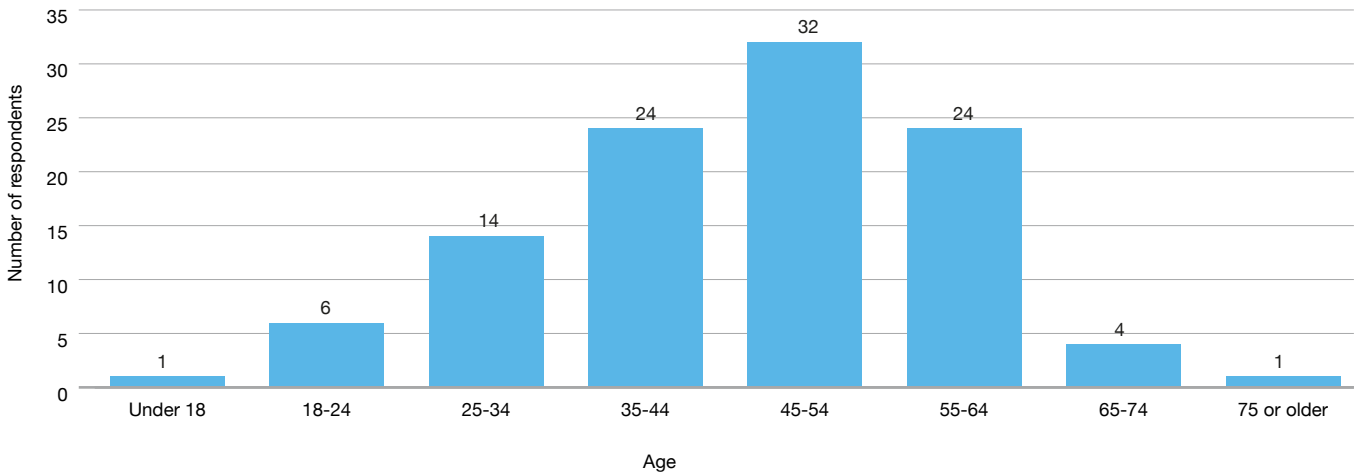
Respondents were asked whether they were currently in arrears or whether they were reporting historical arrears, and if so, to tell us when this had occurred. For those reporting mortgage arrears (n=13), two reported having difficulty paying their mortgage within the previous 12 months, and three indicated that they were currently unable to pay their mortgage. The amount of arrears reported ranged from £68 to £10,000 based on responses from 12 respondents, of whom four reported arrears of over £1,000.

Of those reporting difficulty paying their rent (n=74), 51 had struggled to pay within the previous 12 months, with 23 saying they were currently unable to pay their rent. The amount of arrears reported ranged from £70 - £30,000 based on information provided by 50 respondents of whom half owed more than £1,000 in rent.

Age of Respondents

Overall, of the 106 respondents who reported their age, 80 (75%) were aged between 35-64:

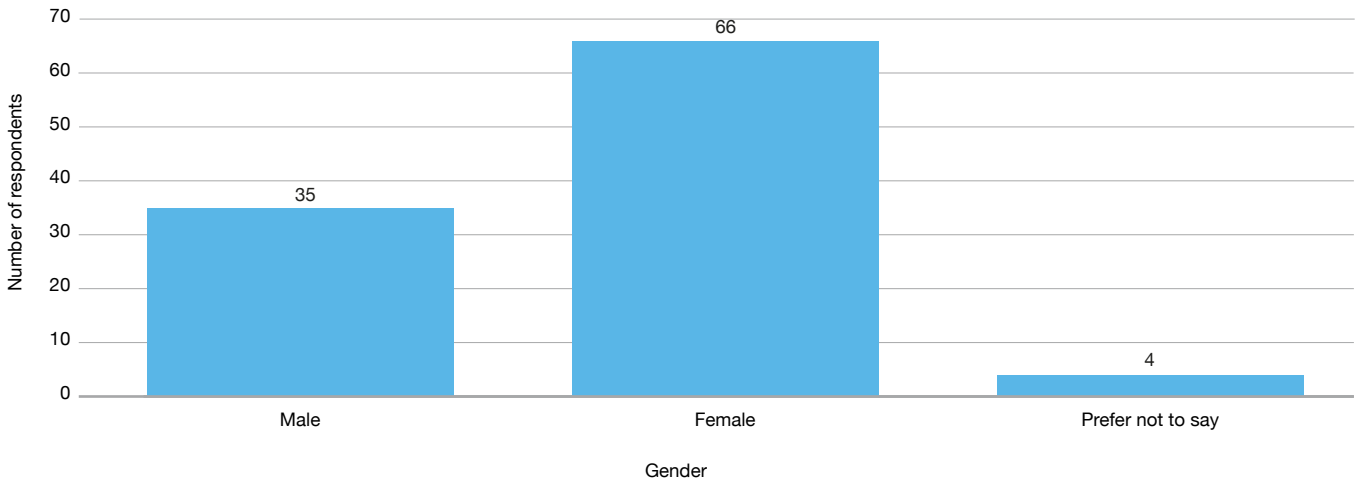
Figure 5: Age of respondents (number of respondents = 106)



Gender Profile of Respondents

In terms of the gender profile of our respondents, of the 105 respondents who answered the question, 35 identified as male, 66 as female and 4 preferred not to say:

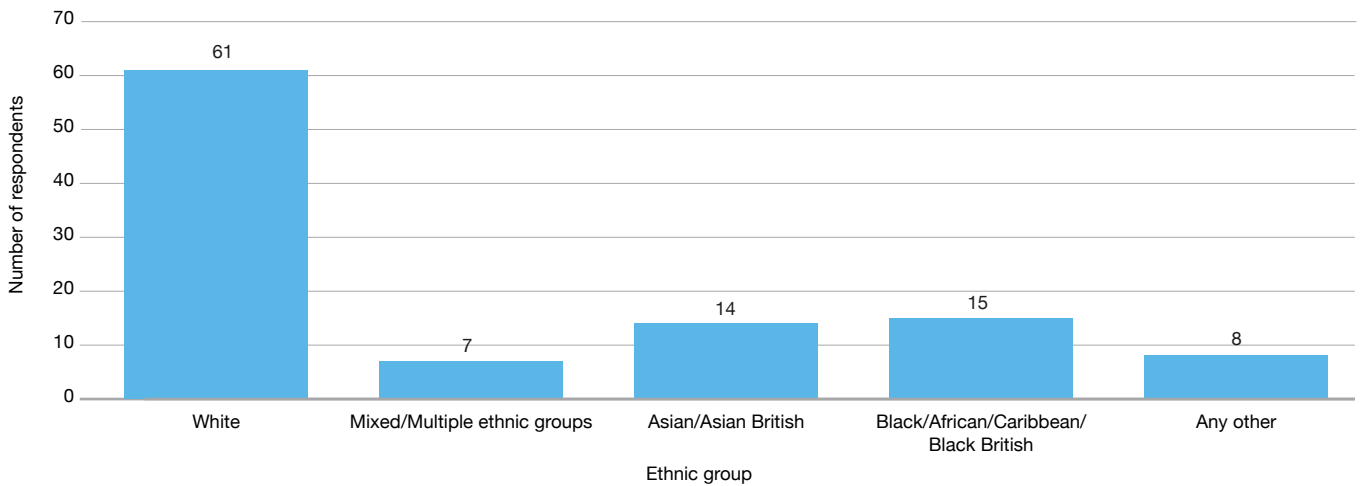
Figure 6: Gender at birth (number of respondents = 105)



Ethnicity

Of the 105 who answered the question, 61 (58%) described their ethnic group as White.

Figure 7: Ethnicity of respondents (number of respondents = 105)

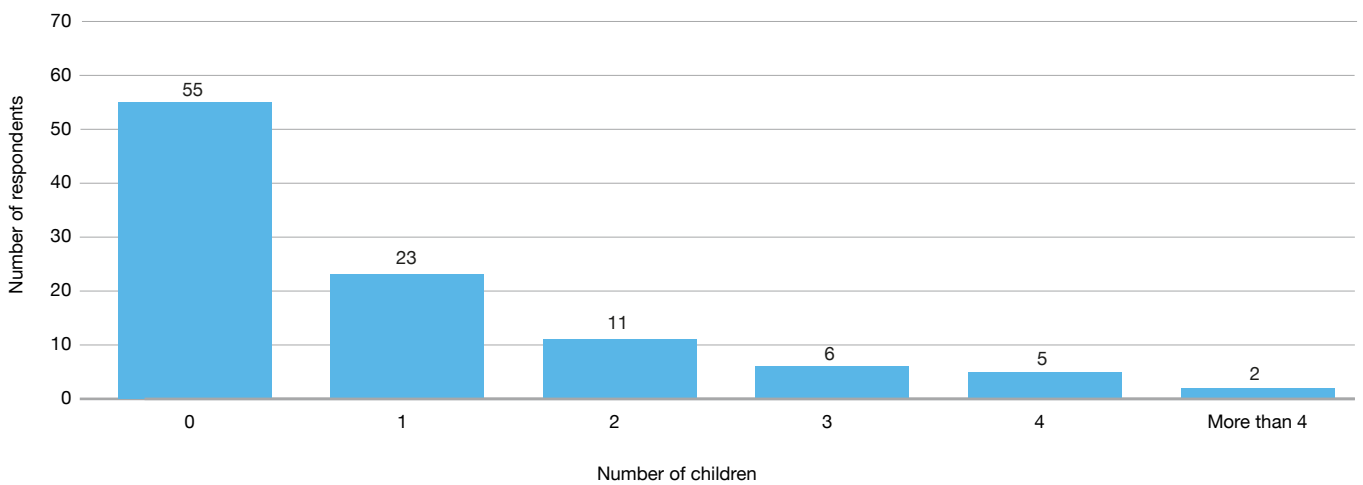


We asked respondents if English was their first language and 88 of 104 answering the question (84%) said that it was, with 16 (15%) indicating that English was not their first language.

Number of Children

Asked about the number of children under the age of 16 living in their household, over half of a total sample of 78 said there were no children in the household:

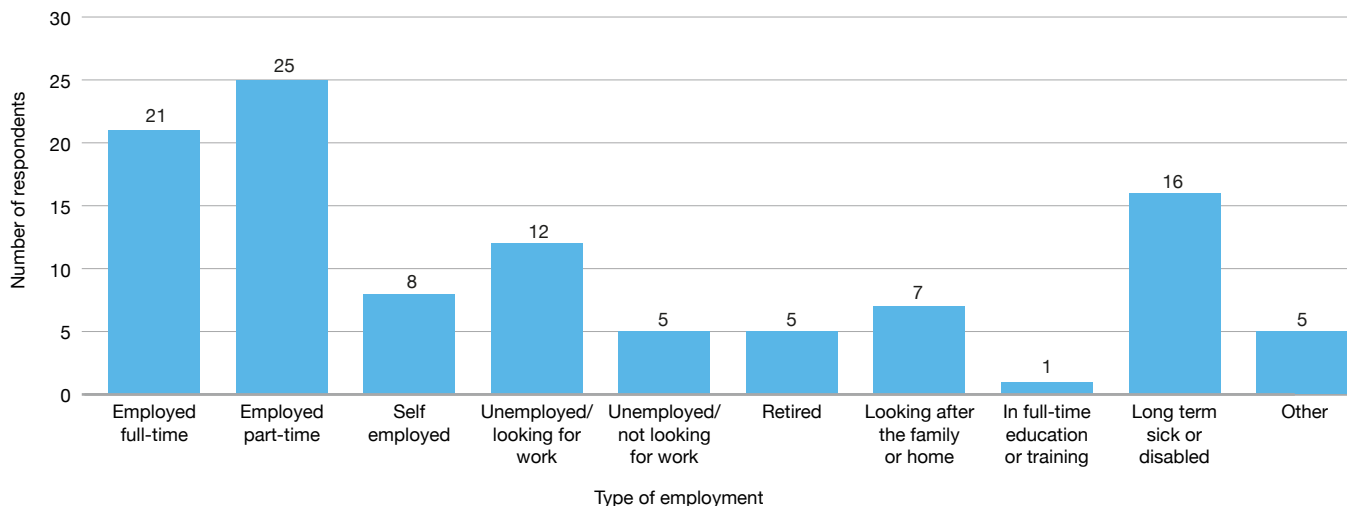
Figure 8: Number of children in household (number of respondents = 102)



Employment Status

Just over half of respondents to the online survey (54 of 105) said they were in employment, with 21 (16%) full time, 25 (26.5%) part time and 8 (4%) self-employed. It is notable that 16 (almost 20%) of respondents said that they were long term sick or disabled.

Figure 9: Employment status (number of respondents = 105)



Having laid out the background to the research and set out the demographic data we collected on our respondents, the following chapters set out a discussion of our findings, commencing with an examination of the structural and individual factors that increase the risk of housing debt before turning to consider occupier engagement with the arrears and eviction process.

Chapter 4 – Structural risk indicators for housing debt

Summary

- Interview data suggest that the moratorium on possession proceedings implemented in response to the COVID-19 pandemic, and the consequent delays in the court system, combined with the cost of living crisis, have exacerbated the problem of arrears for both housing providers and occupiers.
- Nearly half of respondents (45%) said that the COVID-19 pandemic had had a high to very high impact on their ability to pay their rent or mortgage.
- There is evidence that service charges are impacting the ability of social tenants to afford their rent.
- The Universal Credit system emerged as a contributor to housing debt and a barrier to its effective resolution.

Introduction

This research found that there are both structural and individual factors that put occupiers at risk of housing debt. In this chapter we consider the structural problems that emerged from the data including: the cost of living crisis, the consequences of the pandemic, housing provider systems and processes, and the operation of the benefits system.

The Cost of Living

Recent global economic pressures have left many people at risk of financial difficulty but as this housing officer suggested when interviewed, many people were already struggling to make ends meet.

“I know obviously we’ve hit a crisis now, but it’s been going on for years. Years and years and years. Like energy bills are insane at the moment, cost of food, everything.”
(Housing Officer #34)

While financially vulnerable consumers were to some extent protected during the pandemic, for example, through Government support schemes such as furlough⁵⁶ and the Bounce Back Loan Scheme,⁵⁷ there is evidence to suggest that more recent efforts to support those on the lowest incomes has not been sufficient. For example, the Joseph Rowntree Foundation has reported that in October 2023 around 2.8 million households were in arrears with their household bills or behind on scheduled lending repayments, 4.2 million households were going without essentials and 3.4 million did not have enough money for food (Joseph Rowntree Foundation 2024, 101). The Financial Lives survey found that 70% of UK adults felt that their financial situation had worsened in the six months to January 2023 (Financial Conduct Authority 2023, 142) and StepChange, the debt advice charity, has reported that since June 2022, their clients have identified ‘cost of living increases’ as the main reason for being in debt (StepChange 2022; Waldron and Redmond 2016, 496).

⁵⁶ This scheme provided grants to employers to retain and pay staff during coronavirus related lockdowns, up to 80% of their wages.

⁵⁷ This scheme was aimed at small and medium sized businesses and allowed them to borrow money at favourable rates, guaranteed by the Government.

Prior to the COVID-19 pandemic, a combination of circumstances, including labour market conditions (McCarthy 2014, 13), job insecurity (de Santos 2015, 34) and a reduction in social welfare provision (Nettleton and Burrows 2001, 253), had given rise to what Forrest describes as a 'landscape of precariousness' (1999) in which individuals, regardless of age or status, were capable of falling into debt. Within this landscape it takes only one or two 'affordability shocks' to impact significantly on an occupier's ability to meet their housing payments (de Santos 2015; McCarthy 2014). It would seem that the cost of living crisis has imposed affordability shocks on a significant number of households, a theme made evident by some of our respondents:

"Because of all these consecutive rate rises I'm back in mortgage shortfall again."
(Occupier #11 – mortgage borrower)

"If interest rates go down a bit that would help obviously...I had a reasonably survivable situation and now it's very dicey."
(Occupier #26 – housing association tenant)

"There's no point paying the rent if you are starving to death."
(Social Tenant Group Interview #12)

"There's a complete mismatch between how much rent is and what their income is, whether it's welfare benefits or wages."
(Duty Adviser #32)

The COVID-19 Pandemic

As we begin to learn more about the longer-term impact of the COVID-19 pandemic, it is perhaps unsurprising that emerging evidence suggests that the pandemic has had a profound effect on household debt, leading to an increase in rent and mortgage arrears. For example, findings from the English Housing Survey for the period April-May 2021 (Department for Levelling Up Housing and Communities 2021) found that:

- 2% of mortgagors were in arrears, higher than the pre-pandemic rate of 0.5% and 10% of mortgagors reported finding it rather or very difficult to keep up with their mortgage payments in the last year, up from a pre-pandemic rate of 4% in 2019-20.
- Private rental arrears were higher than they were pre-pandemic. In April-May 2021, 7% of private renters were in arrears, up from 3% in 2019-20. A further 9% of private renters said they were very or fairly likely to fall behind with rent payments in the next three months.
- The proportion of social renters in arrears was 13%, not significantly different to pre-pandemic.

A Joseph Rowntree Foundation briefing paper published in October 2021 reported that, 'A large majority (87%) of low-income households now behind with their bills report they were always or often able to pay all their bills in full and on time before the pandemic, underlining the pandemic's extraordinary hit to household balance sheets' (Earwalker 2021).

Our online survey found that 44.5% of respondents (45 of 99) said that the COVID-19 pandemic had a high to very high impact on their ability to pay their rent or mortgage. Free text responses describing the nature of the impact included the following:

"I wasn't able to give my children three meals a day...sometimes it was hard to even give them one meal a day it was either feed my kids or make them homeless."
(Survey respondent #56 – council tenant)

"By just staying close to home I couldn't shop around for cheaper produce so was spent double what I usually would spend."
(Survey respondent #106 – housing association tenant)

"Extra people at home to feed."
(Survey respondent #117 – housing association tenant)

"Husband was on furlough which meant a low income for a long time. So lower income but same amount going out."
(Survey respondent #60 – council tenant)

"I was furloughed for three months so my income was reduced and it's been difficult to catch up since then as everything has got more expensive."
(Survey respondent #64 – private tenant)

Changing Practices of Housing Providers

Prior to the pandemic, it was common practice for some social landlords to use the threat of eviction as a means of ‘encouraging’ tenants to recognise the importance of paying their rent. As noted by this advice service provider:

“For a long time, it would be fair to say, what we were seeing was the use of formal action for eviction being used as a rent collection tool. You know? Where it would not proceed to eviction, but actually it was a method of getting tenants into court and agreeing a payment plan.”

(Advice Service Provider #7)

There is evidence to suggest, however, that this changed as a result of the pandemic, with some social landlords adopting a more ‘supportive’ (rather than ‘enforcement’) approach to arrears, which continues to influence their practice. The same interviewee suggested that, in their view, there had been a shift in the thinking of councils and other social housing providers in Scotland:

“... a punitive approach, which we might have been seeing in places like [name redacted], in the past, is now less fashionable, and there’s a greater understanding, on a cultural level, within associations, on the need for a careful and caring response towards the tenants, and to put in support, and to intervene early.”

Advice Service Provider #7)

People we interviewed in England also noted changes in the approach of social housing providers. Referring to practices twenty years ago an Engagement Officer reported:

“[Tenants] used to get a notice seeking possession within eight weeks of their first arrears, if they hadn’t made any engagement. If we couldn’t communicate with them, that kind of thing.”

(Engagement Officer #13)

In contrast, now he reports that more time is spent making different attempts to contact the tenant before issuing a possession notice:

“A lot of it, now, is, ‘Well, we’ll send an email.’ No response. ‘We’ll make a phone call.’ No response. ‘We’ll send a text.’ No response. There’s none of that actual door-knocking and there are various processes. It’s much longer and it’s much more passive.”

(Engagement Officer #13)

The Consequences of the Changed Practices of Landlords on the Level of Arrears

Our findings suggest that these more supportive policies, designed to shield people from financial stress during the pandemic, have had unintended consequences for the level of arrears. As this Housing Officer told us in interview:

“During lockdown we were told we couldn’t do any enforcement work, which I understand. However, we could have still serviced those people that were £800 and above to say, ‘Hi, Miss Jones, how you doing? Are you being made furloughed? How are you coping through the lockdown? You know that you still need to pay your rent, are you affected financially? Can we signpost you?’ ...It got to the stage where it was normal to see a case £4,000/£5,000/£6,000 in rent arrears...”

(Housing Officer #18)

The view from a different council area was found to be similar:

“We made a mistake. We couldn’t evict because of the moratorium and I don’t know why but the councillors decided we weren’t even going to chase rent. So, even though most people on a benefits situation wouldn’t necessarily have changed because their benefits would still be coming in, we – as a council – wanted to be a nice council so we stopped chasing rent during that period and we’ve never caught up.”

(Engagement Officer #13)

There was also evidence of the continuing impact of COVID policies on addressing and resolving cases of arrears. For example, this council employee told us:

“It’s very hard to get people in court. We’ve only evicted a few people since the start of COVID. We weren’t allowed to evict over COVID. We weren’t even allowed to mention debt during COVID. A very strange time that was, sort of dancing around the issue.”

(Engagement Officer #2)

The COVID-19 pandemic also appears to have had consequences for the way in which social housing providers manage their tenants. For example, one housing officer identified the pandemic period as a time when the number of staff available to visit tenants was reduced to zero, only increasing to three subsequently:

“In the short-term it’s like, ‘Oh, great, we’ve got three new, additional, engagement officers that are going to go out and sort out everything.’ In reality, it’s a significant cutback from where we were pre-COVID.”
(Engagement Officer #2)

Whether as a consequence of the pandemic or because of cost cutting exercises, interviewees indicated that opportunities for in-person tenant services have been reduced by social housing providers over time:

“It’s much cheaper to have someone manning a phone because they can do more calls in any one particular time and bring more money in, than actually going out and door-knocking.”
(Engagement Officer #13)

However, housing officers also reported adopting their own (possibly questionable) approaches to making and maintaining contact with tenants:

“I have no qualms dobbing them into their parents or whatever. So I might call up some nice lady, who is the mother of a tenant, and say, “Hi, you know, I can’t go into detail but just looking for your daughter and wondered if you’ve got any forwarding information for her or if you could get her to get in touch.”
(Engagement Officer #2)

“I’m a person that doesn’t shut off my mobile, I show my number, so at least they can call back and I say, ‘Look, save me as the rent lady if you have to’ and just take it from there.”
(Housing Officer #18)

The consequences of the pandemic on public services also contributed to people falling into housing debt. For example, one interviewee working part-time suffered deterioration in his chronic health condition and ended up on statutory sick pay. He has since found himself unable to return to work, which he attributes to the impact of COVID on NHS services:

“I’m waiting for the hospital appointments to come through. The catch-up from COVID and the length of time that’s been involved, I’m still waiting for some appointments on the original referrals. There have been more referrals, so I’m waiting for those appointments to come through. It seems like it’s a much longer process now. And that’s kind of what constituted us going into debt.”
(Occupier #20 – council tenant)

COVID-19 and Cost of Living Measures in Scotland

In contrast to the temporary changes introduced in the housing possession process in England (see Whitehouse 2022), many of the measures introduced in the housing sector in Scotland in response to the COVID-19 pandemic continued beyond 2021. These measures were originally intended to address the impact of the pandemic but have been extended in response to the cost of living crisis, the aim being to, ‘help to reduce the negative impacts on the health and wellbeing of tenants caused by being evicted and/or being made homeless during the costs crisis.’⁵⁸ The Cost of Living (Tenant Protection) (Scotland) Act 2022, for example, limited evictions in both the private and social rented sectors from 6 September 2022 until 31 March 2024.⁵⁹ The temporary eviction ban did not, however, apply to ‘serious’ rent arrears.⁶⁰ The Act also introduced a ‘rent freeze’ which limited how much a private landlord could increase the rent to 3% (or up to 6% if they made an application to Rent Service Scotland). This applied only to PRT, ATs and SATs.

In a further departure from the approach in England, the Scottish Government introduced a pre-action protocol in the PRS which has been made a permanent feature in respect of SATs and PRTs by virtue of the Coronavirus (Recovery and Reform) (Scotland) Act 2022.⁶¹

⁵⁸ See The Cost of Living (Tenant Protection) (Scotland) Act 2022: Report to the Scottish Parliament covering the period 1 June to 30 September 2023 (www.gov.scot) 12 October 2023, Para. 6.2.2.

⁵⁹ The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Dates and Rent Cap Modification) Regulations 2023.

⁶⁰ Defined as £2,250 or more, if the landlord was a council or a housing association, or six months’ rent or more for private landlords.

⁶¹ See Part 4, ss. 46 and 47.

Impact on Scottish Landlords in the PRS

However, these pre-action protocol requirements have not necessarily found favour with Scottish landlords. One of our interviewees explained this as follows:

“So since that arrangement has been in place we’ve seen quite extreme policies being introduced. So a complete freeze on rents for six months and now quite stringent caps at a time when landlords’ mortgage repayments are going through the roof. Significant restrictions on evictions as well, so if the tenant is in rent arrears the process to evict them can easily take over a year. During which time they would typically not be paying any rent at all. So that’s the biggest issue for landlords and a lot of landlords are choosing to exit the sector primarily because of that.”

(Landlord Advice Service Provider #15)

One landlord described how such policies tie the hands of the landlord and effectively make renting out property in Scotland an unattractive investment:

“For a landlord of 40 years I have never evicted a tenant that has been paying the rent. You know as a landlord once you buy a bit of property you say, ‘OK I’m going to rent this out at a fair rent, everybody’s happy, you pay the rent, fine.’ We’ve got a situation now in Scotland where you’re actually encouraged not to pay the rent. There’s a two and a half thousand pound cap on arrears just now so I could have somebody in one of my properties, right, and as long as they keep it below two and half thousand pounds, right, I can’t even take any kind of action against that tenant.”

(Landlord PRS #5)

In our Scottish case study area, this interviewee working with PRS landlords pointed out that:

“The majority of landlords that we engage with, our findings are they just want to have their tenant in their property and they want the rent paid. That’s it, you know.”

(PRS Housing and Welfare Officer #6)

This person went on to say,

“I think there’s over 60,000 properties and over 35,000 landlords. The majority of landlords in the city have only one property and the majority of them again are accidental landlords, for want of a better word. You know, being unable to sell or inheriting a property.”

(PRS Housing and Welfare Officer #6)

The restrictions on eviction caused one of our respondent landlords to only rent out property if the prospective tenant has a guarantor. He has also started converting his properties into AirBnBs to try and sidestep problems with the eviction process, something he claims several landlords in Scotland are now doing:

“I would say that’s one of the main reasons that a lot of people are doing Airbnb, that’s the reason they are doing it because they can rent out that flat for a third of the year, right, and make the same amount of money as what you would get if there was somebody living in it all year round. But what they don’t have is they don’t have the responsibility and the worry of that person not paying the rent, how do they get rid of them, you know?”

(Landlord PRS #5)

An adviser to private landlords described the situation as follows:

“It’s not a happy climate for landlords or tenants at the moment. I think that’s the case elsewhere in the UK as well, but I think it’s particularly extreme in Scotland because of the political framework that we have up here.”

(Landlord Advice Service Provider #15)

While we did not receive similar data from private landlords in England, our discussions with representatives of landlords and earlier research by Rugg and Wallace (2021) has made it clear that they have not welcomed some of the changes made to the PRS.

Service Charges in the Social Rented Sector

In addition to the requirement to pay rent, some social tenants are required to pay 'service charges'. These are defined in the UC Regulations 2013, Schedule 1, Paragraph 7(2) as:

- payments of, or towards, the costs of or charges for providing services or facilities for use or benefit of persons occupying the accommodation
- fairly attributable to the costs of or charges for providing such services or facilities connected with accommodation, as are available for the use or benefit of persons occupying accommodation.

Examples of service charges include the costs associated with the external cleaning of a tenant's windows, communal grounds maintenance and the cleaning of communal lifts and staircases. In addition to these communal costs, some social landlords also impose a communal charge for gas, electricity and/or water supplied to a tenant's home. Some confusion arises over whether these charges qualify as 'rent'.

In Scotland, rent is defined as 'compensation to the landlord for the possession of the property during the term of the agreement.'⁶² In England it is defined as 'a payment which a tenant is bound by his contract to pay to the landlord for the use of his land.'⁶³ According to Stalker, 'rent' in Scotland does not include service charges, water rates, or heating charges, unless the contract states otherwise (Stalker 2021, 125). In England, however, 'it has been held that rent is the total monetary payment to be paid to the landlord as rent. This may include payments that can be attributed, for example to water rates, services or other amenities.'⁶⁴

Regardless of whether such charges qualify as 'rent', in most cases social landlords will include these charges in the contract, either by ensuring that they form part of the tenant's rent or as a condition of the tenancy agreement. If the tenant fails to pay these charges, therefore, the court has discretion to make an order for possession 'if it considers it reasonable' as 'rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.'⁶⁵ The important issue that arises here (as we observed during our court visits) is that some tenants may find themselves subject to a possession claim due to their failure to pay their utility bills.

Whether the service charges are included in the tenancy agreement as part of the rent or as a separate obligation under the tenancy agreement can, however, cause difficulty where there has been an overpayment of welfare benefits. Guidance published by the Department for Work and Pensions (DWP) makes it clear that local authorities 'must ensure that any overpayment transferred to the rent account is distinguishable from any rent arrears.'⁶⁶ It is generally accepted, therefore, that the recovery of overpaid benefit payments should not give rise to a claim for possession (Mitchell 1995, 15). The problem is that the distinction between the various charges paid by tenants is not always clear cut, as Stalker notes, the difference between 'rent and other payments is apt to be obscured: some social landlords use the rent payment system to collect a variety of charges' (2021, 125). It is important therefore that the judge or sheriff enquires as to which charges have given rise to the arrears.

As regards disputes raised by tenants, in one case we observed, the tenant disputed the heating charge element of their rent as the heating did not work. This required the heating charge to be separated from the rent so that it did not form part of the arrears calculation. As this Duty Desk Adviser commented, the inclusion of such charges as part of the rent is likely to cause confusion:

"I mean I think that that's obviously quite confusing for anybody. Including us. I mean we have to literally pick it [the tenancy agreement] apart. And I think some of it is untested, frankly, in terms of the case law. I'm not sure that it's altogether clear."

(Duty Adviser #33)

⁶² See, for example, [Shelter Legal Scotland - Definition of rent - Shelter Scotland](#)

⁶³ *United Scientific Holdings Ltd v Burnley BC* [1978] A.C. 904 at 934.

⁶⁴ *Sidney Trading Company v Finsbury BC* [1952] 1 All ER 460; *Property Holding Co Ltd v Clark* [1948] 1 All ER 165.

⁶⁵ Housing Act 1985, Sch. 2, Part I, Ground 1. See also Shelter England, 'Discretionary grounds for possession of assured tenancies' available at [Shelter Legal England - Discretionary grounds for possession of assured tenancies - Shelter England](#)

⁶⁶ Department for Work and Pensions Housing Benefit overpayments guide - GOV.UK (www.gov.uk) para. 4.64.

Service charges and whether they are covered by Housing Benefit (HB) or UC is set out by the DWP.⁶⁷ In the main, communal charges (such as maintaining and cleaning shared lifts and stairwells) are covered by HB and UC but ‘individual living expenses, such as heating, lighting and hot water for the tenant’s accommodation’ are not. The rapid rise in energy costs during the cost of living crisis has therefore put some tenants at risk of arrears despite Government measures to provide financial support:⁶⁸

“As of last year I paid £19 a month on my electric and £40 a month on my heating which is in my rent. And now it’s gone up from £80 every four weeks and £61, that’s a big gap, it’s over doubled easy which is a shock to the system.”
(Occupier #17 – council tenant)

“You’ve got people paying £160 a month on council-controlled heating bills so they can’t even opt out of it. They can’t even turn their heating off and put a jumper on, they have to pay it. That’s a big sticking point for us at the minute.”
(Case Officer #1)

“Due to the spiralling cost of living have been struggling to meet all my expenditure costs over the past year. Service charges in particular have doubled due to doubling of the heating charge element... Costs of everything has gone up by far more than the benefit rise. Was just about to make ends meet before and now I can’t.”
(Survey Respondent #122 – council tenant)

“The heating went up quite a lot recently. I think it doubled or something like that, but years ago, we used to get a rent card with it all mapped out on our rent card, how much we were paying and what we were paying for, but the council stopped doing that.”
(Occupier #28 – council tenant)

Additional service charges, particularly heating charges, were also mentioned several times by social housing providers as a reason for people falling into arrears.

“A lot of the cases that I deal with are of the older age and they live in sheltered accommodation blocks. A lot of them, Housing Benefit pays the majority of the rent for them but there are service charges, obviously, that Housing Benefit and Universal Credit don’t cover. They just don’t pay that. We try to get hold of them and they just can’t afford it. They only get pension, they’re only getting really minimal benefits, and the majority of them genuinely just cannot afford it.”
(Engagement Officer #2)

“It’s the heating charge increase that’s having a real impact on tenants.”
(Senior Council Officer #16)

There was also a suspicion among interviewees that service charges have become a way for housing providers to recoup losses from rental income:

“I think initially bundling water charges so that they were communal maybe came from a good place. But now it does feel exploitative. The caps that central government have placed on increasing rent for social housing, the big social landlords have thought, “Oh maybe we can get around that by increasing service charges.”
(Duty Adviser #32)

The consequences of such charges seemed to weigh on the minds of those who are meant to be collecting them, too:

“A major one that we have is our rents include, some of the properties, include a heating charge, which until this last six, eight months, however long, most people managed to afford, even if they refuse to pay it. But unfortunately, in April, it went up so much that as case workers, we are very reluctant, shall we say, to insist that they pay the whole amount.”
(Case Officer #3)

Where an individual is struggling to pay for essential items then they may be able to seek financial support from the state. As the following section demonstrates, however, it would seem that some people are either not aware of this support or have found it inadequate to cover the current cost of living.

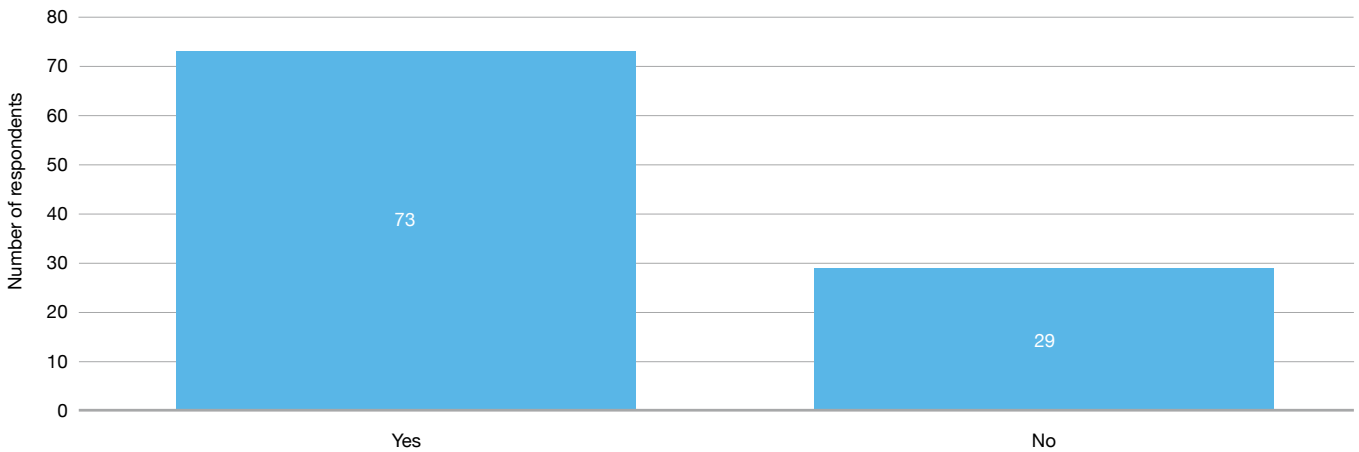
⁶⁷ Department for Work and Pensions [Universal Credit: service charges – guidance for social landlords – GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/universal-credit-service-charges-guidance-for-social-landlords)

⁶⁸ ‘Cost of living’ payments were made available to around 8 million low income households in 2022/23 and 2023/24, with the final payment made in February 2024. In April 2024, the Government increased benefits by 6.7%. See further: Cost of living support payments: Government Response to the Committee’s First Report – Work and Pensions Committee (parliament.uk)

Benefit Issues

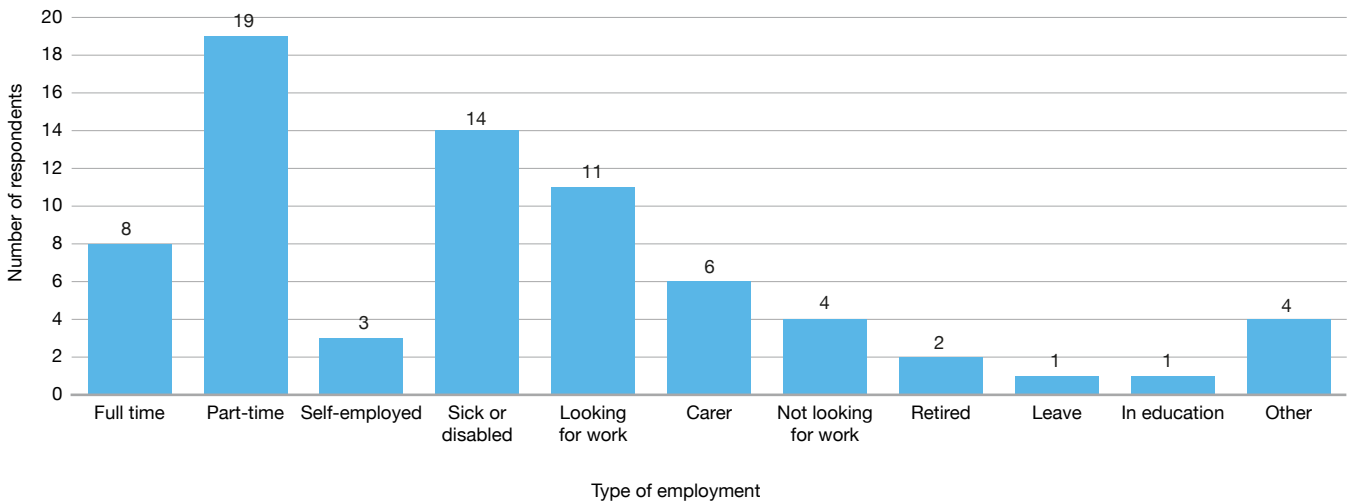
A majority of respondents, 73 of 102 (71.6%), indicated that they were in receipt of state benefits:

Figure 10: Respondents in receipt of state benefits (number of respondents = 102)



Of those in receipt of state benefits (n73), 30 were employed (19 part-time, 8 full-time and 3 were self-employed).

Figure 11: Employment status of those who reported to be in receipt of state benefits (number of respondents = 73)



In percentage terms 41% of respondents on benefits were in employment, either part-time (26%), full-time (11%) or self-employed (4%).

UC as a Cause of Housing Debt

The introduction of UC in April 2013 was intended to replace six existing ‘Working Age’ benefits, including HB. In December 2023 there were 6.3 million UC claimants. The two main changes introduced by the UC system included monthly (rather than weekly or fortnightly) payments and the housing element is paid directly to the tenant (rather than the landlord). In November 2023, 3.4 million households were in receipt of the housing element as part of their UC assessment, with 1.2 million Working Age recipients of HB still to transfer on to UC.⁶⁹

Our findings show that UC caused particular issues for those struggling to pay their housing costs.⁷⁰ There was a broad consensus among occupiers, housing providers, and advisers that the UC system is too inflexible, that there is insufficient understanding of how it works, and that resolution of problems with UC operatives is too often time consuming and difficult. Overall, the UC system emerged as a contributor to housing debt and a barrier to its effective resolution. When asked to identify the cause of people falling behind with their rent one Senior Council Officer simply stated, ‘the Universal Credit regime’ (Senior Council Officer #16).

⁶⁹ [DWP benefits statistics: February 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/dwp-benefits-statistics-february-2024)

⁷⁰ Due to the low number of survey respondents reporting mortgage arrears, the findings in this section mainly relate to people in rent arrears.

Direct Payments

The change in who receives the housing element of UC (from the landlord to the tenant) appeared to be a significant cause of arrears for some of our respondents.

“I had to go on Universal Credit, and I didn’t know that the money that I was getting had to go to or I had to pay it on the rent coz I’ve always been on benefits and they’ve always paid it for me. It was about two years when they finally got in touch with me... it was a letter they sent out to me saying that I owed them just over £4000 of debt for rent. So I was like, woah, I was like nah, that can’t be right.”

(Occupier #36 – council tenant)

To mitigate the impact of these changes on those least able to manage their own finances, Alternative Payment Arrangements (APAs) are available which include the reinstatement of ‘managed payments’ to a landlord.⁷¹ However, as one respondent noted, APAs may come too late to for some claimants:

“When we had Housing Benefit it would go sometimes, most of the time it would go straight to the landlord. But now you have it all, £1,000 going to someone with substance misuse, alcohol misuse, they are not paying their rent. You can arrange Universal Credit to go straight to the landlord but by that time it’s too late and that’s where we are picking up the referrals.”

(Adviser Large Group Discussion #35)

The Wait for the First UC Payment

One aspect of the UC system that was reported by a number of our respondents to be particularly problematic was the wait for the first UC payment (those applying for UC for the first time usually have to wait five weeks for their first payment). When asked why they were unable to pay their rent, for example, one tenant said:

“Long wait to receive first payment and when you get your rent deducted there is a delay in when the rent is paid to your housing association and it doesn’t help that rent is due four weekly and Universal Credit is paid on a specific date on a monthly basis.”

(Survey respondent #111 – housing association tenant)

“So, they’ve gone from being on Housing Benefit, which is paid weekly, to then being on Universal Credit. The first payment is already a month behind. They’re not used to it, they mess up, that first payment doesn’t get made for one reason or another, and then they’re a month or two behind by the time they get something sorted. And then they’ll kind of stay roughly around that level. We’re talking between £500 to £1,000 level of arrears. I’d say that’s a fairly large proportion of them.”

(Case Officer #3)

Those unable to cope financially during this time can apply for an ‘advance payment’ equivalent to their first estimated payment. This is then repaid over the next 24 months as a deduction from their monthly UC payment. As Hardie notes, these loans ‘leave claimants with the choice of hardship now or hardship later’ (2022, 4-5). For those who do ask for an advance payment, they will be in debt from the start and as this local authority officer made clear, that can have a long-term impact on the claimant:

“That’s the other thing, on Universal Credit, if you get even slightly behind you’re never coming back. You’re done, that’s it. Until you get a job, that is it, you are in debt now. There is no way back, even £100 or £200, so it’s like... It’s a really easy slippery slope.”

(Engagement Officer #2)

Consequently, this Case Officer described how he advises people to be circumspect about applying for an advance payment and how much they ask for:

“So, when we’re talking to people about getting an advance, we advise them to just get enough for food, and if they want a key meter, to just get enough to cover the key meter. Because, the more you borrow, the more you have to pay back, which reduces their income in the long run for 24 months on a first claim.”

(Case Officer #3)

However, as this Senior Council Officer noted:

“I think there does need to be more understanding of the system by people claiming it. They do need to understand that if, for example, they ask for an advanced payment, it’s a loan. It’s not extra.”

(Senior Council Officer #16)

⁷¹ [Alternative Payment Arrangements \(APAs\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Sanctions and Deductions Under the UC System

The aims underlying the introduction of UC have been described as ‘(a) simplifying the welfare system, (b) improving financial work incentives, (c) increasing conditionality and sanctions, (d) making the welfare system “like work”, and (e) promoting the UK’s flexible labour market’ (Hardie 2022, 2). The assumption underpinning these aims is that those in receipt of benefits are capable of work but need to be nudged, incentivised, or pushed in order to obtain employment. This is exemplified by the sanctions regime which punishes those who fail to comply with the rules, such as failing to attend a work-focused interview when required.⁷²

Tenants are also penalised if they live in properties considered to be larger than needed. The best-known aspect of this regime is the ‘Removal of the Spare Room Subsidy’, otherwise known as the ‘bedroom tax’, which reduces the housing element of UC awards if social tenants have spare bedrooms (by 14% for one extra room and by 25% if the tenant has two or more spare bedrooms). As of November 2023, 14% (170,000) of Working Age HB recipients had a reduction to their weekly award amount due to the Removal of Spare Room Subsidy scheme. As this Council Housing Officer makes clear, the ‘bedroom tax’ is a source of problems for tenants:

“There were hard-to-let properties in the city, nobody didn’t want them, but we had people that could fill it. So, yeah, you put a single person in a two-bed flat, high-rise flat, and then you brought this policy in where you’ve got a spare bedroom, you have to start paying. You’re crippling people already, they don’t have the money.”

(Housing Officer #18)

A similar reduction in UC applies to tenants in the PRS who live in a house bigger than is considered necessary for the number of people living there.⁷³ For private tenants, the amount received is calculated by reference to the Local Housing Allowance rate in their area.⁷⁴ In the four years from April 2016, LHA was frozen in cash terms but as a result of the COVID-19 pandemic, it was returned in April 2020 to the 30th percentile of local rents. It was then frozen again in cash terms until 2024, when it was returned to the 30th percentile again.⁷⁵

In addition, a benefits cap operates which cuts the recipient’s UC (or HB) if they are in receipt of benefits that exceed the cap. At the time of writing, the cap for a couple (with or without children) living outside London is £423 per week and for couples living in a London Borough it is £487.⁷⁶ There is also a cap on the amount of additional funding that can be claimed for children, with a third or subsequent child born from 6 April 2017 no longer qualifying for these additional amounts. These caps were identified as putting people at risk of a negative budget, with one duty adviser⁷⁷ reporting that they were having a particular impact on single parent households:

“That’s really making things worse. Sort of month-by-month almost you can see it getting worse.”

(Duty Adviser #32)

Brickell and Nowicki have argued that the various deductions within the UC system ‘often create a complex layer of welfare-generated debt that can leave people in thousands of pounds of arrears, and consequently vastly reduced Universal Credit payments’ (Brickell and Nowicki 2023, 35). Some of our respondents suggested that these pressures on finances can result in people ‘playing’ the system.

“You’ve also got a massive trend in people wanting to claim Disability Living Allowance for their children because of [the child benefit cap], because obviously they are going to be finding something wrong with their children, because once you get the DLA you then aren’t capped.”

(Housing Officer #18)

Both occupiers and providers acknowledged that there would always be some people who set out to deliberately game the system but thought that these were a minority:

“There are, without question, a few tenants that will play the system, but most tenants, I think, aim to do the right thing but then school comes up, the car breaks down, washing machine breaks down, and it’s very easy to get into a spiral, to fall down.”

(Engagement Officer #13)

“Yes, there is always going to be an element of society, no matter what you do. And however great everything can be, there are always going to be those that are going to abuse the system, buck the system, do what they can to get away with not doing it. Whatever it is, there’s always going to be that element.”

(Social Tenant Group Interview #12)

⁷² [Universal Credit and you - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/universal-credit-and-you)

⁷³ [Understanding Universal Credit - Housing](https://www.gov.uk/guidance/understanding-universal-credit-housing)

⁷⁴ [Local Housing Allowance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/local-housing-allowance)

⁷⁵ [Indicative Local Housing Allowance rates for 2024 to 2025 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/indicative-local-housing-allowance-rates-for-2024-to-2025)

⁷⁶ [Benefit cap: Benefit cap amounts - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/benefit-cap-benefit-cap-amounts)

⁷⁷ A specialist in housing law who provides free advice, regardless of income, to people whose landlord or lender has applied for possession of their home. They might work for an advice charity like Shelter, a local Law Centre or a private solicitors firm.

The Challenge of Navigating the UC system

The lack of understanding of how UC works was mentioned by this case officer who commented:

“It’s about changing that mind-set to try and persuade people to think about what’s going to happen next month. And I do think that the people at Universal Credit aren’t particularly good at explaining this. And a number of times, I’ve spoken to tenants who have got a new Universal Credit claim. And I’ve gone through our explanation of how it works, and I’m not a benefits adviser. I’m not an expert, but I know enough and I read stuff to them from the Universal Credit website. And I go through basic information about how it works, and they’re saying, “Oh, I had no idea about this. Nobody told me anything. I didn’t know that’s how it worked with my wages, I didn’t know that’s how I got paid. I didn’t know any of that stuff.”

(Case Officer, #3)

However, the evidence from our research is that the challenge of navigating UC can be beyond the capabilities of some people. One duty adviser we spoke to commented on how the UC system makes budget management difficult for occupiers, especially those who are facing other challenges:

“So, I’ve had clients who were on Housing Benefit. They were working part-time, subject to the two-child benefit cap, getting fluctuating Housing Benefit, not understanding how much to pay, and then transferred to Universal Credit. So, then [they] had a five-week gap with four children. So, it just exacerbates an existing problem. And then, you still have this problem potentially of not exactly knowing how much you’re going to get each month. So, even though it should equal out, most of my clients, if they haven’t got mental health problems, or sometimes, learning difficulties, they may not have a high level of education. We’re talking about quite complex changing financial circumstances each month, and it’s a lot to expect people to deal with.”

(Duty Adviser #27)

This assessment was supported by a senior council officer in one of the case study areas who expressed the view that UC was

‘actually making it harder to budget for the most vulnerable people.’

(Senior Council Officer #16)

Even where someone is fully competent, the challenge of the system can be overwhelming. Talking about his experience of applying for financial assistance, this tenant said:

“I’ve found it really, really challenging. Not on a literate basis, but just on things being done and being done in the timelines that you’re being told that they will be done. And then information sent not received or not processed...Really, really demoralising and really devastating, I would say. Although they are strong words, I think I would say that without any kind of hesitation.”

(Occupier #20 – council tenant)

Commenting on UC, this Engagement Officer said:

“So, yes, top to bottom, it’s been a bit of a disaster. Tenants aren’t happy about it because they’ve now got to do something they didn’t have to do before, which is manage their finances and work it out. The council is not happy because we used to just go over the road to Housing Benefit and say, “Hi guys, here is a new claim, can you pay it over?” and it all just got sent. If there was a backdate we could talk about it, we could argue about it in-house and come to a good conclusion. Universal Credit are just faceless.”

(Engagement Officer #2)

Only one occupier out of the seventeen interviewed as part of this project who had experienced both the legacy benefits system and UC preferred the UC system:

“I do think it’s easier to negotiate when you’re on Universal Credit, because before there was all these different things that you didn’t know you could claim, do you see what I mean, and now it is all in one pot. And the fact that you get everything in one go – Housing Benefit, your ESA [Employment and Support Allowance] whatever it is, PIP [Personal Independence Payment], whatever it is, I don’t know whatever else there is, you know, like it’s much clearer I feel.”

(Occupier #14 - private tenant)

However, she did acknowledge that others may not find it so easy, and noted, too, that UC assumes that people have access to the internet:

“It does assume a lot that you have got a smartphone and you’ve got a computer...and then people turn around and go oh, these benefits scroungers with all their smart phones. Well, how the hell do you claim benefits without a smartphone? You need it to actually claim the benefit, cause it’s all on there, isn’t it? It’s not like you’ve got any choice about it.”

(Occupier #14 - private tenant)

Even where respondents were able to use the online UC system, they reported that features of it were very unhelpful. For example, changes to income must be reported via the online portal, but there are circumstances that are not recognised by the system as currently designed. For example, the means to report changes to a partner's pension payments are not available via the online portal, which only recognises changes to income associated with employment. This creates a barrier that some people may find difficult to overcome, as this interviewee explained:

“So what do you do? Do you not tell them? With a lot of people probably wouldn't bother to tell them, but that doesn't mean they're trying to do something wrong. They're just, there's no....They're defeated by the system, yeah. They're, do you see what I mean? There's not always a yes or no answer. It's like...um, and having that ability to then negotiate, that is what the problem is really for a lot of people.”

(Occupier #14 – private tenant)

This Engagement Officer described the UC system as ‘awful, not fit for purpose. The staff don't seem to know what they're talking about, the queue times are really long.’ He went on:

“The emphasis on online is fine but you've got to remember that the people who are emphasising online are the sort that have online banking and have a smartphone and blah blah. The people that are on the other end, using it, are elderly, vulnerable... You know, dementia. They haven't been educated, haven't been through school, whatever. They can really struggle to use it. I mean the amount of people that refuse to go online, the amount of people that don't have internet, it's a lot more prevalent than you'd think.”

(Engagement Officer #2)

Indeed in our case study areas, interviewees reported that many social housing tenants struggled with online methods of managing their benefits and communicating with housing providers:

“Levels of digital literacy amongst our tenant group tends to be fairly low, if you look at the results of surveys.”

(Senior Council Officer #16)

“I think there are around 20% of tenants who aren't digitally active and that's quite a significant amount ... And they're not all old people ... The majority are but they're not all.”

(Engagement Officer #13)

UC and the Legal Process of Possession in Scotland

Given the problems outlined in the UC system, it is perhaps not surprising that it has been identified as a factor common among rent arrears cases in the Scottish legal system. As Stalker notes, ‘the benefits system is very complex, and there are numerous possible ways in which claims can run into difficulties’ (Stalker 2021, 154). He goes on to summarise the most common issues, including, the defender's failure to apply for benefits which they are eligible for, disputes regarding eligibility, a reduction in benefits, and delays in, or the underpayment of, the benefit (2021, 154-155).

UC and its Disproportionate Impact on PRS Tenants in England

While it seems evident that the UC system was a contributory factor in the debt accumulated by our respondents in England and Scotland, it can have an additional impact on the likelihood of a PRS tenant losing their home in England. As was noted earlier in this report, in relation to claims brought by a private landlord on the mandatory ground of serious rent arrears (Ground 8 of the HA 1988), ‘arrears attributable to maladministration on the part of a benefit authority are not considered to be an exceptional circumstance.’⁷⁸ In Scotland, however, where no grounds for eviction are mandatory, the ground for eviction relating to rent arrears allows the HPC to consider whether the arrears are due to a delay or failure in the payment of a relevant benefit (which is not due to an act or omission of the tenant).⁷⁹

Additional Financial Support for Tenants on Benefits

Those in receipt of HB or the housing element of UC who are struggling to pay their full rent as a result of, among other things, the benefit cap, bedroom tax or LHA rates, can apply for a Discretionary Housing Payment (DHP).⁸⁰ This is administered by local councils and is awarded on a case-by-case basis with the average DHP award in 2022-2023 being £612.⁸¹ The funding allocated to councils in respect of DHP was reduced from £140 million for the financial year ending March 2022 to £100 million for the financial years ending March 2023, 2024 and 2025.⁸²

Announced in May 2022, a ‘cost of living payment’ (£900 in 2023/24 paid in three instalments) was available to those in receipt of UC, paid automatically to the recipient. These payments ended in February 2024 and the Government does not intend to reinstate them.

⁷⁸ *North British Housing Association v Matthews* [2004] EWCA Civ 1736.

⁷⁹ The Private Housing (Tenancies) (Scotland) Act 2016, Sch. 3, s. 12(4) (as amended by the Coronavirus (Recovery and Reform) (Scotland) Act 2022).

⁸⁰ [Applying for a Discretionary Housing Payment - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/applying-for-a-discretionary-housing-payment)

⁸¹ [Use of Discretionary Housing Payments: analysis of end-of-year returns from local authorities, data for April 2022 to March 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/use-of-discretionary-housing-payments-analysis-of-end-of-year-returns-from-local-authorities-data-for-april-2022-to-march-2023)

⁸² [S1/2023 Discretionary Housing Payment government contribution for English and Welsh local authorities for financial years ending March 2024 and March 2025 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/s1-2023-discretionary-housing-payment-government-contribution-for-english-and-welsh-local-authorities-for-financial-years-ending-march-2024-and-march-2025)

Mortgage Borrowers – Support for Mortgage Interest

Borrowers in receipt of UC (or other specified benefits) can apply for help paying the interest on up to £200,000 of their mortgage. Prior to April 2018, Support for Mortgage Interest (SMI) was a state benefit paid to borrowers in receipt of a qualifying benefit. After April 2018 it was converted into a loan that covers the interest payable on a mortgage.⁸³ Recipients are expected to repay the loan with interest once they sell the property. This aspect of SMI acted as a deterrent for some of our interviewees who reported putting off claiming SMI because it is an interest bearing loan and they worry about incurring further debt:

“You know, if you’re in debt, you don’t want another loan...because it is a charge on your property as well.”
(Occupier #11 - mortgage borrower)

The waiting time for receipt of SMI payments has varied from an original period of eight weeks up to nine months for those in receipt of UC. However, the Chancellor of the Exchequer announced in the Autumn Statement of November 2022 that from April 2023, those in receipt of UC would have to wait three months before receiving SMI.⁸⁴

Interviewees complained about the length of time it took to arrange SMI with one interviewee reporting that the DWP was obstructive and tardy in providing the necessary proof to the lender of their eligibility for the loan which they needed to forestall eviction proceedings.

The interest rate used to calculate the amount of SMI currently stands at 3.16%, which falls short of the market rate for fixed and variable rate mortgages. The loan is repaid at an interest rate of 4.5%.⁸⁵

One of our interviewees was critical of the lack of information provided by lenders in respect of the SMI scheme,

“... they should be making their customers more aware of financial support like the SMI scheme, even though it’s not that supportive. They’ve started, like, putting Citizens Advice Bureau debt advisers on their letters, but there never seems to be anything about support for mortgage interest or help from other organisations.”
(Occupier #11 - mortgage borrower)

Additional Financial Support for Those Not on Benefits

The Household Support Fund was introduced in England in October 2021 in response to the cost of living crisis. It was due to end on 31 March 2024 but was extended for a further six months in the 2024 Spring Budget. The scheme, which is administered by local councils, was designed to help those struggling to pay for essential items such as food, energy and water bills and other essential items. Local councils were given discretion to award the funding allocated to them in whatever manner they considered appropriate. Examples include hardship funds, assistance with meals for children during school holidays, the provision of supermarket vouchers to assist with the cost of food, and the funding of community-based support services including food banks.

A similar scheme operates in Scotland where individuals on low income can apply to their local council for a one-off Crisis Grant to assist with the cost of food or with heating costs.⁸⁶

⁸³ [Support for Mortgage Interest \(SMI\): Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/topics/support-for-mortgage-interest)

⁸⁴ [Autumn Statement 2022 HTML - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/speeches/autumn-statement-2022)

⁸⁵ <https://www.gov.uk/support-for-mortgage-interest>, Figures correct at 23/4/2024.

⁸⁶ <https://www.mygov.scot/scottish-welfare-fund/crisis-grants>

Lack of Awareness of Additional Financial Support

Despite the apparent safety net in place to ensure that those in financial difficulties are able to access benefits and/or additional support when needed, it became apparent from our data that lack of awareness of these sources of support was prevalent. As these service providers noted,

“I had the DWP breathing down people’s necks and sanctioning them. The majority of people had rent arrears, almost every case that I contacted had rent arrears because they were unaware that they could claim DHP.”
(PRS Housing and Welfare Officer #6)

“But a lot of the clients we’ve had don’t actually know what they should be getting or what they are entitled to. They are getting a really small amount of benefit and really struggling because they think that’s all they are entitled to.”
(Adviser Large Group Discussion #35)

This was despite service providers making efforts to signpost people to sources of advice,

“... if they’re struggling with their payments and they receive part Housing Benefit or part Universal Credit then we encourage them to apply for Discretionary Housing Payment, if they haven’t done so already, because not everybody has applied for it.”
(Housing Officer #18)

This lack of awareness can have significant implications for occupiers:

“I spoke to the housing officer, she then tells me that there was this way, I could have probably stayed in the other property by getting a discretionary housing payment to cover the difference. But nobody told me about that at the time, which would have saved a hell of a lot of hassle, time, energy, money and from the Council’s, the housing people’s point of view, or the whoever pays your benefits...”
(Occupier #14 - private tenant)

There was also some suggestion that even where individuals are aware of sources of support, they may find it difficult to access them:

“Obviously a lot of people don’t know what they can claim and how they can claim it and when they can claim it. And the communication between the government departments and whatever, if anybody has ever had to fill out a PIP form or ever had to fill out a Universal Credit application, it’s not the easiest thing to do, is it, necessarily, for them?”
(Social Tenant Group Interview #12)

“That would be useful to have known I could have applied for [a DHP] before being made homeless, but that’s not really anyone’s fault as such, because unless you’re in front of somebody talking about stuff, do you see what I mean? How do you find that out? Because even if you do a bit of research online, it’s very difficult to.”
(Occupier #14 - private tenant)

The lack of uptake of financial support by respondents may explain, to some extent, why a large proportion of them reported having insufficient income to cover essential costs.

Negative Budgets

Aside from the vagaries of the UC system, low wages, deductions and sanctions in the UC system, and the failure of benefits to keep pace with the cost of living has meant that individuals simply do not have enough money to cover all their outgoings. According to Citizens Advice, in 2023-4, five million people were in a ‘negative budget’ (income insufficient to cover essential costs), an increase of 54% since 2020-1.⁸⁷ Citizens Advice also found that more people in employment are finding it necessary to seek out additional financial support, with the number of people in work and in receipt of crisis support from the charity nearly tripling since 2019.⁸⁸ This may help to explain why a large proportion of our respondents were in receipt of benefits despite being in paid employment.

There was a suggestion by one of our respondents that being in work could actually have an adverse impact on the individual’s financial position,

“[UC is] meant to benefit people working and it does to a degree financially, but then they also miss out on a lot of the other things like the free school lunches because they are deemed as being over the threshold. But they’re not. They are just on the cusp.”
(Advice Service Team #35)

⁸⁷ [Negative budgets data - Citizens Advice](#)

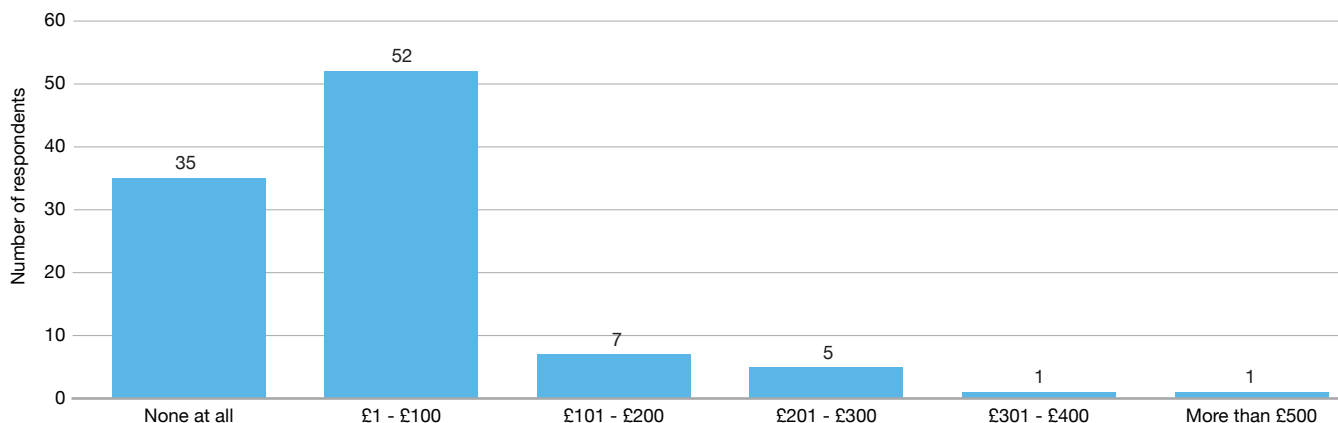
⁸⁸ [Citizens Advice cost-of-living data dashboard | by Tom Brooke Bullard | We are Citizens Advice](#)

For those in receipt of benefits, there is evidence that such payments may not be sufficient to cover all of their rent. For tenants in the PRS, for example, those under 35 who do not live with a partner or children, are only able to claim for a single room in a shared house, called the Local Housing Allowance shared accommodation rate. StepChange found that 78% of PRS tenants stated that housing support did not cover all of their rent costs and that 82% of this group reported struggling to afford their rent (Richardson 2023, 4).

Clustering of Debt Issues

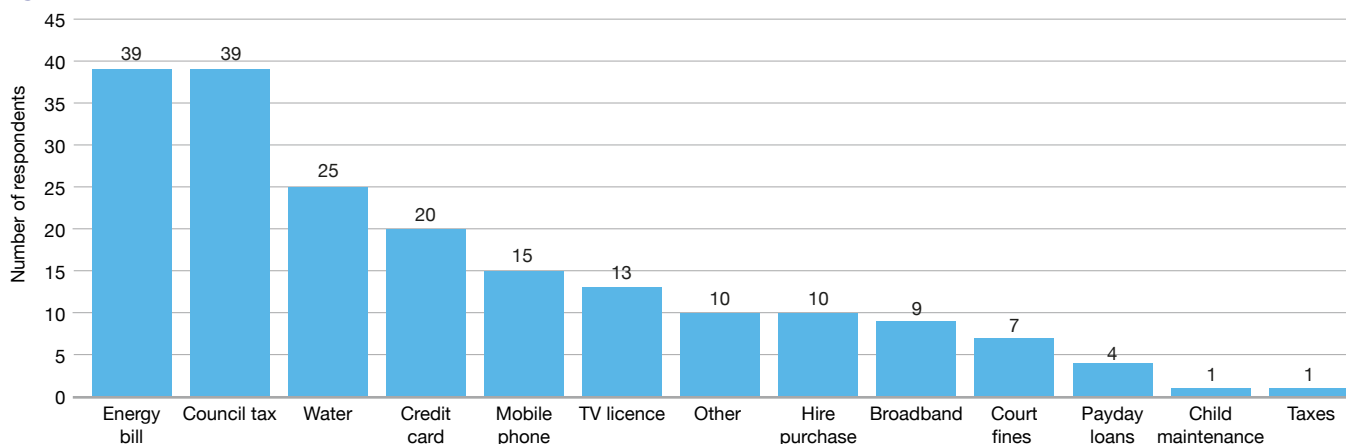
A large proportion of our respondents (87 of 101) reported having either no spare money or between £1 - £100 per week left after paying their bills. Of this number, 35 had no money at all and 52 had less than £100 per week.

Figure 12: Available income after paying bills (number of respondents = 101)



Given the prevalence of negative budgets or very low surplus income among our respondents, it is perhaps not surprising that for some, rent or mortgage arrears were not their only source of debt. When asked to select other sources of debt using a multichoice question, utilities and council tax were the most selected categories:

Figure 13: Other debts (total number of respondents = 74)



Those who selected 'other' as their answer, indicated in free text responses that they were behind with:

- Individual Voluntary Arrangement (IVA)
- Payments to friends and family in accordance with agreements
- PayPal account
- Existing credit
- Catalogue credit

Some of our interviewees also reported having a range of debts:

“British Gas I’m in debt with those for about £700, £800. I was provided with, you know, I was very thankful they provided me with a grant because I’m on their system as being vulnerable. But obviously due to the, you know, utility prices, the debt’s gone back up again.” (Occupier #11 - mortgage borrower)

“So on the 7th I get the money comes in and on the 8th most, most of it, those priority bills are gone. So they’re all they’re all dealt with. And then after that I have credit cards. I’ve got two credit cards. And I’ve got...Well, in theory I’ve got debt from years ago, I’m talking like credit cards...”
(Occupier #14 - private tenant)

As one tenant indicated, “generally speaking, those that are in debt aren’t just in debt with one person, so they’re not just in debt with the landlord, they’re in debt with various people.” (Social Tenant Group Interview #12). These findings are consistent with data gathered by StepChange which found that in 2022 ‘a growing proportion of clients were behind on their energy bills. One third (33%) of clients were in arrears with their energy bills in 2022, compared to 29% in 2021’ (StepChange 2022, 11).

Evidence of negative budgets and their impact on people was made apparent by our respondents:

“I’ve also, um, cut back on food. I, you know, I don’t I don’t buy clothes regularly, you know.”
(Occupier #11 - mortgage borrower)

“It’s not nice because you can’t really treat anybody or you can’t feel like...You know when you go out and you think everyone wants to buy a round or something, or whatever it is, a round of coffees, mostly, um, you don’t feel like you can do that but again, it’s one of those things I think I’ve come to terms with now.”
(Occupier #14 - private tenant)

“[People] don’t get enough money from Universal Credit. It’s very limited and you get the bare amount to live on. So if something happens - I mean, when my kids were little, I couldn’t buy three pairs of shoes going back to school, I had to buy in stops and starts because you couldn’t do it all at once. And that was hard because you like them all to be treated the same. So that doesn’t help either. And then uniform is also expensive if you’ve got children at school. And you’ve got to do all of it on this meagre amount. I know it’s a lot to the government, like millions and millions and millions, but it’s not a liveable wage.”
(Social Tenant Group Interview #12)

“There’s a lot of issues of people with benefits problems, and some of those problems are that they just can’t afford to live.”
(Duty Adviser #27)

Having identified the structural factors that our respondents reported as putting them at risk of debt, we now turn to individual risk factors, which include poor financial and digital literacy, poor mental and/or physical health, challenging living circumstances, and behaviours such as prevarication and avoidance.

Chapter 5 – Individual risk indicators for housing debt

Summary

- 71% of respondents who answered the question (n=108) stated that their arrears had had a high or very high negative impact on their lives.
- Over half of respondents reported a health condition or disability (53 of 99 responses) and of those, 8 in 10 reported having a mental health issue (conditions most mentioned were anxiety and depression).
- Reference to occupiers 'burying their head in the sand' was common among a large number of our respondents.

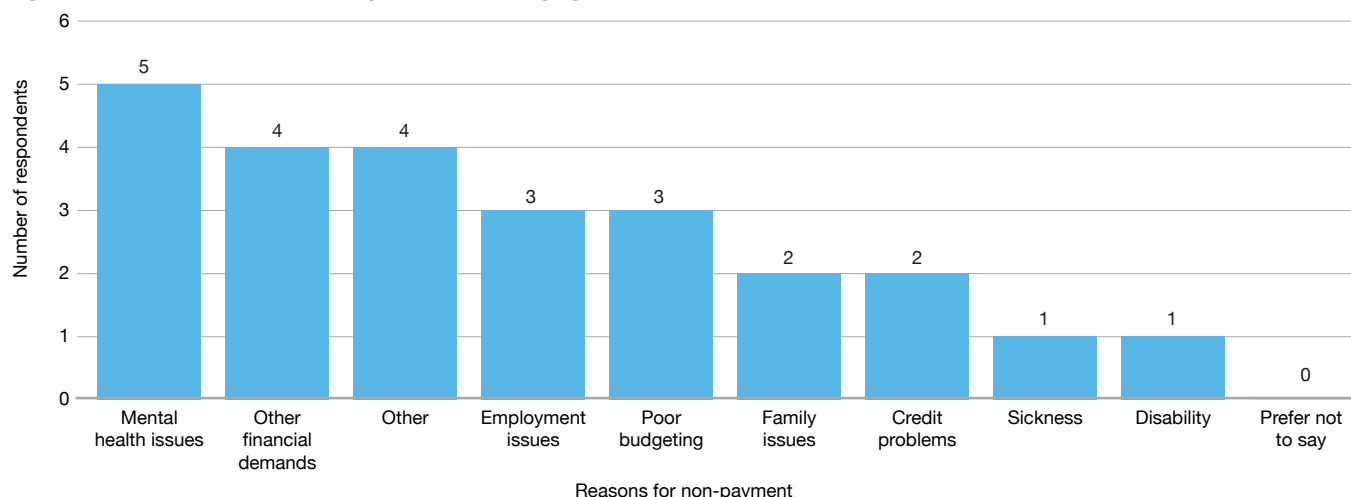
Introduction

In this chapter we consider the causes and consequences of debt based on occupier testimony and including comment from housing and advice service providers. Our findings show that housing debt impacts significantly on mental and physical health and has negative consequences for personal relationships, compounding other difficulties faced by our respondents. Drawing on their stories, we also offer insight into the coping strategies adopted by respondents.⁸⁹

Explanations of Housing Debt

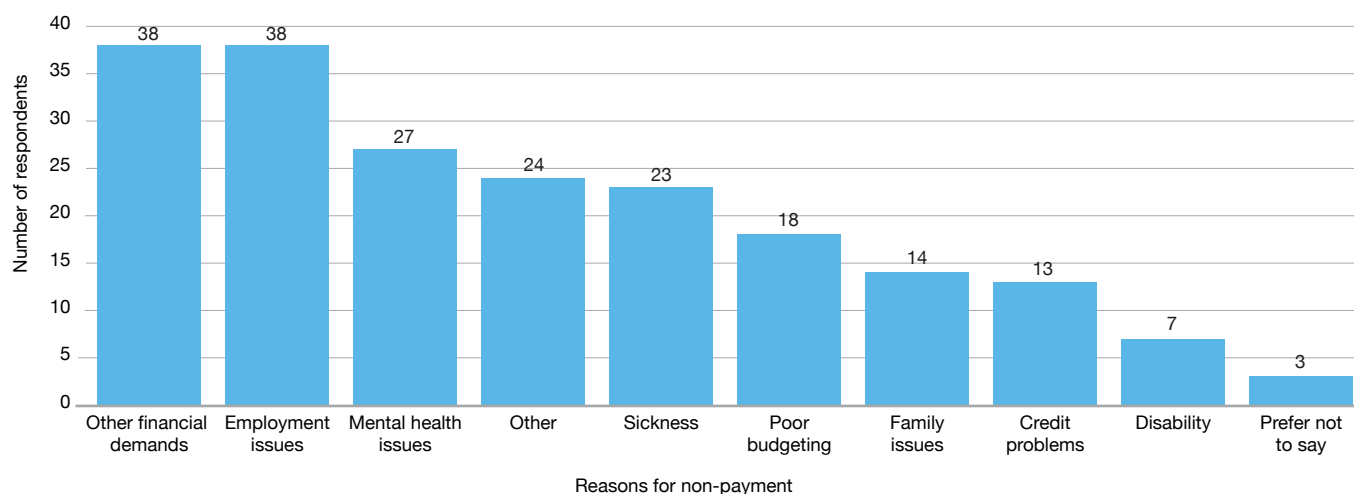
It has been evident for many years that those in debt tend to experience a clustering of problems (Pleasence 2006; Moorhead and Robinson 2006), and that problem debt is rarely due to one isolated cause (Pleasence, Buck and Balmer 2007; Turley and White 2007). As Brackertz argues, 'frequently individual, environmental and structural issues conspire to place low income, marginalised or vulnerable individuals, families and groups in precarious financial situations' (Brackertz 2014, 394). This lack of financial resilience can mean that a 'life event' such as relationship breakdown or ill health can lead to problem debt (Richardson 2023). For mortgagors responding to the survey, the most frequently identified reason for their arrears was poor mental health, followed by too many financial demands, and then 'other'. Factors specified as 'other' in free text responses included: loss of partner and part-time or irregular income. Those in rent arrears most commonly identified the cause as 'too many other financial demands' followed by employment issues, mental health issues and sickness.

Figure 14: Reasons for non-payment of mortgage (number of respondents = 16)



⁸⁹ This chapter draws on in-depth interviews supplemented by free text survey responses to explore the lived experience and feelings of those in arrears.

Figure 15: Reasons for non-payment of rent (number of respondents = 95)



Factors specified as ‘other’ by renters in free text responses included:

- “House don’t deserve no rent”
- “Low income”
- “COVID”
- “Too many bills”
- “Benefit Issues”
- “Health Issues”
- “Bereavement”
- “Job loss”

In the following sections we look in more detail at those explanations that were most commonly identified by respondents and how they report the consequences of being in arrears.

Financial Management

The housing and advice service providers we spoke to were clear that some people were less able to manage their money than others:

“Not everybody can manage their money, their financial situations, their life admin as effectively as others.”
(Advice Service Team #35)

“So one [area of need] is tenants needing help to budget. So in the past, I know there have been discussions about jam jar accounting and how maybe people can understand the need to put a little bit aside.” (Senior Council Officer #16)

“We are getting more people who have complex needs. That has a big effect. If you have someone with mental health and then substance misuse then they’ll have, for instance, problems maybe with managing their finances, their budgeting, so they get into debt.”
(Advice Service Team #35)

StepChange has identified that a ‘lack of control over finances’ remains the main reason for debt among clients (StepChange 2022). Some of the occupiers interviewed recognised their failure to effectively manage their finances:

“Honestly, I would say we, at the time we were, we were living above our means a little bit. We were living above our means.”
(Occupier #8 – mortgage borrower)

However, for others, an inability to manage their finances may be due to not having been provided with the skills or support necessary to manage a household budget in difficult circumstances. Service providers, for example, were aware that those in housing debt are often trying to manage a very difficult situation:

“I mean, it takes quite a lot of knowledge, and time, and input, to manage on a really low income. And people don’t always prioritise their rent. They quite often have a lot of other debts as well.”
(Debt Adviser #27)

One Council Engagement Officer (#13) stated succinctly that, **“it’s very expensive to be poor”** a comment that was echoed by this Advice Service Provider:

“It’s like the people that are already in hardship in council houses, they have additional costs that the rest of us don’t, won’t ever have to have.”

(Advice Service Team #35)

This observation is illustrated by the explanation that this tenant gives of her need to keep up monthly insurance payments on her white goods despite having a very limited budget:

“And do I give it up? And what happens if it breaks down? And I thought no, I have to keep paying it because I couldn’t afford to get new. I could get it on Amazon and pay it over five months but then I’d be skint before it even started so I can’t do that. So I keep the insurance going on the important things, it’s my washing machine, my tumble dryer and my fridge freezer. The hob and the oven if that goes that’s fine, I’ve got a microwave. I don’t really cook from scratch.”

(Occupier #17 - council tenant)

In attempting to explain why low-income households may engage in ‘counterproductive’ behaviour, ‘scarcity theory’ holds that, ‘... financial scarcity forces the poor into counterproductive behaviors that may perpetuate the condition of poverty’ (de Bruijn and Antonides 2022, 6). This was evidenced by some respondents who reported being in a position where there were no good choices and they therefore ended up making decisions that may appear irresponsible to others, but may be understandable in context:

“You take out loans to get this and you take out loans to get that, and it’s just horrendous...And also credit cards. Because they’ve got all these credit cards, they keep advertising Ocean or something, isn’t it, on the telly? Something like that. And it’s those sorts of things that can put [you] in debt.”

(Social Tenant Group Interview #12)

“I’ve got a tenant who always, every six weeks’ holiday, ‘I’ve got nine kids, I’ve got school uniform, I need to feed them when they’re at home’ and I can really understand where they’re coming from. However, your rent still needs to be paid.”

(Housing Officer #18)

Competing demands on available finances may lead to occupiers juggling payments which might work in the short term but is not a sustainable response:

“Stealing from Peter to pay Paul. Because that’s what you’ll do, you’ll pay this one [bill] this week and that one that week or this month.”

(Social Tenant Group Interview #12)

Mental Health and Debt

Both occupiers and service providers reported that people in housing debt often face a range of other challenges in their lives:

“I don’t think you get to owing £5,000 on your rent account without having some serious issues going on, and that will be largely financial issues, but also plenty of people I speak to having health issues, mental health issues, domestic violence issues, and things along those lines, and aren’t getting the support that they need in any other area, which does make it quite difficult. But, it’s normally a symptom of a larger problem, I think.”

(Case worker #3)

A significant challenge faced by people responding to the survey was ill health. Just over half (53 of 99) of respondents said they had a mental or physical health condition or disability. Of these over 80% specified a mental health issue. This is consistent with findings published by the Financial Conduct Authority (2023) and StepChange who found that, ‘around two in five (40%) clients have a mental health condition and the most common types are stress or anxiety and depression, which affect one in ten (11%) clients each’ (StepChange 2022, 9). As Brookes and Hunter indicate, ‘... given the type of problems which often cluster together with housing, it is unsurprising to find that there is evidence of ill health and in particular mental ill health’ (Brookes and Hunter 2016, 165). This finding was supported by our interview data:

“It’s a combination of factors. But I think there’s a huge percentage of people who have become long-term sick or disabled. That’s certainly the case a lot of times. It’s a lot of times mental health issues.”

(Duty Adviser #33)

“With my mental health I struggle to go to new places. If I go somewhere new I need to work out my escape routes, so if I’m having a panic attack I can get to a quiet area.”

(Occupier #19 – mortgage borrower)

The impact of illness has effects beyond the physical and mental toll on the individual. It brings its own burden, incurring additional costs and presenting barriers for individuals trying to cope with their debt problems:

“Also, if you’ve got illnesses, you’ve got prescriptions. And they’re £9, nearly £10 for a prescription. And I have 12 tablets in the morning and 8 at night. You think how much that would cost me. It must cost me about £100 to get a month’s worth of... Yeah. That’s something else.”

(Social Tenant Group Interview #12)

“You’re just trapped. You want to work, so you want to get to back to work. So you don’t have all this stress and the threat of repossession, but if you’re trapped in your body, there’s just nothing you can do about it, you know?”

(Occupier #11 - mortgage borrower)

Debt as a Cause of Mental Health Problems

The correlation between debt and mental health is now well established (Balmer et al. 2006; Bond and Holkar 2018) with evidence that ‘debts, financial difficulties and housing payment problems lead to mental health problems. The more debts people have, the higher the risk of many common mental disorders’ (Wahlbeck and McDaid 2012, 139). In line with these findings, interviewees told us that they were stressed by being in arrears:

“Oh, yes, absolutely definitely stress. My specialist said you’ve got to keep away from stress. And I said well, I don’t know how the hell I’m going to do that.”

(Occupier #11 - mortgage borrower)

“And the stress of it...the wife took over because it was just getting too much for me. It was draining and just exhausting me. And it’s come to the point now where it’s just drained and exhausted her too.”

(Occupier #20 – council tenant)

“And the food - I don’t know, I don’t know what to do. I’ve already spent £60 and it has all gone, and I’ve got another three weeks before I get my next pension. It’s just horrendous.”

(Social Tenant Group Interview #12)

Occupiers also identified feelings of lack of control and worthlessness that come with losing a home due to arrears:

“It’s the feelings, it’s the feelings of having no, no power over your life and having no...no...no....And as much as people say “oh, don’t be silly”...you don’t feel worthwhile because you’re not...you’re not you know, you’re, you’ve got nothing. When you’re homeless you literally you have nothing.”

(Occupier #14 - private tenant)

Mental Health Problems as a Cause of Debt

Evidence suggests that the relationship between debt and poor mental health is a two-way process, with mental health not only arising as a consequence of debt but also having a causative effect. As the FCA found in relation to mortgage borrowers,

“...those not coping financially were also more than twice as likely as the UK average to put off dealing with financial matters, for example by ignoring warning letters or not opening correspondence (24% vs. 10% of all UK adults); to be less productive at work or to have had to take time off due to money worries (17% vs. 8%); and to have avoided speaking to their lenders about their finances or debts (17% vs. 7%).”

(Financial Conduct Authority 2023, 19).

This owner occupier described how trying to deal with her mortgage arrears exacerbated her existing health conditions and simultaneously reduced her capacity to address the issues:

“I’ve got mental health, I’ve got PTSD, and the mortgage is just in my name, not my ex-partner’s name. And I just couldn’t open the letters or do anything. It was just too overwhelming...they phoned up and said, ‘You’re behind.’ And I was like, ‘I can’t talk.’ I couldn’t talk. When my mental health is really bad I stutter.”

(Occupier #19 - mortgage borrower)

Avoidance Strategies

It has become commonplace to suggest that people in housing arrears are guilty of ‘sticking their head in sand’ and there were some indications in this research of individuals seeking to prevaricate or avoid addressing their debt:

“I probably avoided speaking to him [the landlord] for a couple of months, thinking oh yeah, I’ll get another job. I’ll get another job...”
(Occupier #14 - private tenant)

One of the Case Officers interviewed explained that some tenants are almost paralysed by the intractability of their situation and just hope they can ‘fly under the radar’:

“I believe they’re scared really...I think, if you owe a lot of money to one particular source, or people, you’re going to owe elsewhere. You could be in that sort of mind-set where you bury your head, you sort of forget about it. You’re sort of, ‘Oh, okay, if I leave it for a couple of weeks it might work itself out or they might forget about it. If they can’t get hold of me for a couple of weeks they might just think, ‘Oh, tell you what, I’ll give it an extra month or so before I try again.’”
(Case Officer #1)

Some interviewees told us that they have resorted to ignoring their debt problems for the sake of their own wellbeing, which provides an alternative understanding of the view that people tend to stick their head in the sand:

“Life in general, how it is at the moment, I mean becomes a stage where I have to switch off completely. It’s like a self-preservation. You know, it’s not me trying to avoid debts as such, it’s just that I just can’t cope anymore with it.”
(Occupier #11 - mortgage borrower)

Ignoring the problem means that people do not get the early support and help they need to deal with their arrears. As this Duty Adviser noted:

“There’s definitely a point way back here where they could have had help. But we don’t see them at that point. People don’t come to us because they’re getting into rent arrears. They come to us because their landlord is seeking to evict them.”
(Duty Adviser #27)

Can’t Pay v Won’t Pay

Perhaps reflecting the changes instituted during the COVID-19 pandemic, some interviewees thought that tenants might have a false sense of security from eviction and were therefore less concerned about arrears. In particular, some pointed to a strain of unconcern among some social housing tenants:

“Some people just don’t care, because at the end of the day, ‘What’s the worse you can do, evict me? But if you evict me you’re going to rehouse me.’ ”
(Housing Officer #18)

“I have had both mental health people and people with children say, ‘You can’t evict me.’ I’ve had old people say, ‘you can’t evict me.’ And of course, I’ve had to come back and say, ‘we can, it just takes longer.’ ”
Housing Officer #3)

In a similar vein, this Senior Council Officer described a conversation with one tenant who believed that the council would only evict them if their rent arrears reached a certain level (£10,000 in this instance):

“So they felt quite comfortable racking up the debt thinking we wouldn’t do anything. So there’s a misperception there, which is borne out of, you know, we’re asked to minimise arrears and minimise evictions.”
(Senior Council Officer #16)

There was some evidence, however, that this was not a ‘misperception’ but rather the practice in relation to some social housing providers:

“The only people that we tend to put into court are people that are in over £10,000 worth of debt, have failed to engage on many, many, many occasions, have failed to stick to payment plans on many, many, many, occasions, usually single, usually young, usually not vulnerable, not disabled, or whatever, often criminal record. If you’re going to take someone to court, you kind of need them to be the most evictable person of all time to even have a hope.”
(Housing Officer #1)

This Landlord Adviser also observed:

“We do get quite a lot of scenarios where it seems to be more as though the tenant has just chosen not to pay their rent. Perhaps because they know that the eviction process for the landlord takes a long time and to a certain extent they can get away with it because it’s quite difficult for the landlord to pursue them for a debt after they’ve moved out of the property.”

(Landlord Advice Service Provider #15).

However, a Case Officer from a council disagreed with the notion that people are not bothered about their housing debt:

“I know it’s very popular to say you have the ‘can’t pay’ and the ‘won’t pay’. I’ve never really believed that. I think that everybody who’s ended up with that significant debt, obviously, the odd month here and there, maybe yeah, some people just go, ‘Oh, sod it. I’ll sort that out another time.’ But, the large arrears cases, I don’t think there’s a single one of those people that is there just because they can’t be bothered. I think there is always something else going on, and that might manifest as seeming like they can’t be bothered. But, yeah, I think I’m definitely getting a lot more people now who are saying, ‘I want to be on top of it, I want to try, but I’m really struggling.’”

(Case Officer #3)

The Consequences of Housing Debt

Respondents to the survey were given the opportunity to describe the ways in which being in arrears had affected their lives.

Responses touched not only on the financial consequences but also the impact on health, home and family relationships:

“Finding it difficult to stretch my low income. Everything is now expensive. Helping my adult children as well as they are to financially struggling. I will skip meals. Makes me tired.”

(Survey respondent #127 – mortgage borrower)

“I have anxiety and depression already and each and everything which is maybe little for someone else but I think about it too much. But this is my shelter, my house where me and my kids live if I will lose that due to not make a full rent payments. I will not be able to cope with it. I am taking so much stress about it.”

(Survey respondent #51 – council tenant)

“I have depression and anxiety. I have 3 little children. So when I see I’m behind on rent I really start to get stressed and panic because of how one person from [] spoke to me. I’m always worried when I get post from [] because i wonder if it’s because of my rent.”

(Survey respondent #45 – council tenant)

“It has made me feel very unwell with my mental health plus I had a heart attack due to the stress of going to court I thought my kids would be sleeping on the streets & I found the council unsympathetic & unhelpful.”

(Survey respondent #58 – council tenant)

“I was made homeless along with my two sons (they were 14 and 12).”

(Survey respondent #37 – private tenant)

“Knowing i owe money is a great weight each day. Thinking before purchasing anything as i keep thinking maybe i should use that money to clear the debt. I hate owing money its very stressful and impact my every waking moment and keeps me up at night.”

(Survey respondent #40, housing association tenant)

“High stress on relationships not good on health.”

(Survey respondent #25 – mortgage borrower)

“Various explaining to wife who is not very good with money, can cause conflict.”

(Survey respondent #49 – council tenant)

“Stress anxiety worry panic, arguments with partner putting strain on relationship.”

(Survey respondent #92 – council tenant)

The Value of 'Home'

It is well established in the academic literature that 'home' is more than just the bricks and mortar; it has value beyond the financial (see, for example, Bright 2011; Easthope 2004). The importance of having a home and a place of sanctuary, and the positive effects for personal wellbeing, was echoed by our respondents:

"Well, yeah, because it's not bricks and mortar to me, it's somewhere safe where I can recuperate when you know I'm extremely ill."

(Occupier #11 - mortgage borrower)

"You know, you feel like even though it's not mine, I don't own it, it's still my home and I feel so much better for having the roots again, you know that whole sort of feeling of belonging somewhere, being part of the community."

(Occupier #14 - private tenant)

"Our home is our home. And your home is your sanctuary. And we're thinking, 'Well, we've got to pay it.' It's like, 'Okay, let's meet that'. And other things will fall slightly behind, but we will have to revisit them."

(Occupier #20 - council tenant)

This advice service provider also stated:

"The word 'home' is absolutely critical. And, like, to really say that this isn't an abstract thing, it's a real thing to people, and to families.... the introduction of home as a real concept that the courts need to be considering and understanding is crucial."

(Advice Service Provider #7)

This chapter has considered the individual factors that contribute to the barriers that deter engagement with sources of advice and support. In the next chapter, we look at engagement with the arrears and eviction process.

Chapter 6 – Engagement with arrears and eviction process

Summary

- Of the 81 respondents who answered the online survey question, 34 did not access advice and 11 were unable to access advice.
- Of those responding to the short survey, 34 of 35 respondents had accessed advice. This is not surprising since the majority of completed short surveys were distributed by duty desk advisers. This cohort were also much more likely to report that no help was accessed until late in the eviction process with 14 of 35 first accessing help at the court/tribunal.
- Reasons given by respondents for not accessing advice included: poor experience of asking for help, reluctance to acknowledge the problem, lack of awareness of sources of advice, and inability to navigate the process.
- 21 of 51 online survey respondents who accessed advice did so only when they received a letter about their arrears from their landlord/lender.
- 22 of 52 online survey respondents indicated that the help they accessed was provided by the housing provider/landlord, followed by debt adviser (n=12) and local council (n=9) and voluntary sector agency (n=9).
- A multichoice question asking how advice was accessed shows that most respondents to the online survey used the telephone to access help in preference to, for example, online provision.
- Asked how the housing provider had initially contacted them about their arrears, a clear majority of both mortgagors (11 of 12) and renters (44 of 64) responding to the online survey reported receiving a letter.
- Where respondents were able to access help and support for their housing debt, only 28% of respondents reported that they had found it very helpful or extremely helpful.

Introduction

Responses to the online and short survey combined suggest that although over 44% of respondents had received advice in relation to their housing debt, 42% had not and nearly 14% reported being unable to access advice despite efforts to do so. Free text responses in the survey and the findings from interviews suggest that access to support is affected by issues such as delays in getting appointments, inability to get through to help on the telephone, confusion about where to go for help, and poor experiences with advisers, deterring further efforts to find support. Respondents also reported being worn down by trying to access help and effectively giving up, sometimes for the sake of their health.

These findings may be attributed to structural issues arising from long-term underfunding of public and third sector services and the pressures placed on them by the cost of living crisis (Levelling Up, Housing and Communities Committee 2024). Furthermore, those working in the social housing sector reported that lack of funding resulting in reductions in frontline staff and changes of approach to dealing with arrears, has undermined the relationship between housing associations/councils and tenants, and may contribute to reluctance on the part of tenants to contact their housing provider for help.

In this chapter, we begin by discussing the ways in which people accessed advice, before turning to further discuss what our research suggests about the factors that lead to non-engagement, the connections between early engagement and eviction, and information deficits in the arrears and eviction process.⁹⁰

⁹⁰ The figures quoted in this chapter reflect the online survey responses unless otherwise stated.

Experience of Accessing Advice

Advice was most frequently accessed by telephone with 37 of 52 online survey respondents selecting this option when asked. This was followed by face-to-face (15 of 52) and online advice platforms (7 of 52). It should be noted, however, that there has been a move, in recent years, away from face-to-face provision and towards online and telephone provision of advice. This may explain why so few respondents accessed support in person. Several people reported in interviews that trying to resolve their problems by telephone could be frustrating, for example due to no continuity of contact, or lack of response to phone calls:

“No, there was no continuity at all. It was whoever was on the other end.” (Occupier #20 – council tenant)

“Many, many time I call them...they don't answer the phone.” (Occupier #10 – council tenant)

It is possible that some of the difficulties experienced by social housing tenants may be explained by resourcing issues. As this Housing Officer commented:

“The call centre staff have got a high turnover. I don't know how they're getting trained or whatever, but that's another issue. However, when somebody's calling up, they're getting three and four and five different answers for the same thing.”

(Housing Officer #18)

Additionally, some commented that the approach of some helpline staff could be rather inflexible, following a set script for resolving the issue rather than being responsive to the individual circumstances of callers:

“They're asking you questions, they ask you the same question three times in three different ways, it's really - so it's not easy at all.”

(Occupier #17 - council tenant)

“Universal Credit have got a phone number, you can phone them, but they're not very helpful on the phone number...you phone up and they say, 'Put a thing on the Journal.' I'm like, 'No, but I want to talk to somebody, I want to explain that if you do this I'm going to be left with no money.' They're like, 'Yes, just put it on your Journal'.”

(Occupier #19 - mortgage borrower)

Asked at what point they decided to access advice, most online survey respondents (21 of 51) told us that it was after they first received a letter from their housing provider or lender, followed by 9 of 51 who reported seeking advice after missing their first payment. Only one respondent said that they had sought help prior to incurring arrears, knowing that they would be unable to make the payment.

The Importance of Early Advice and Engagement

There is evidence to suggest that the earlier individuals seek advice and support for their debt problems the more likely they are to prevent the accumulation of serious debt and the consequent threat of home loss. As Brackertz notes, ‘the identified benefits, especially with regard to debt resolution, are even greater if people seek financial counselling early on in a financial crisis, highlighting the importance of early intervention as well as financial crisis counselling’ (Brackertz 2014, 403). A point reiterated by one of our interviewees:

“... early intervention around rent arrears, that's what works.”

(PRS Housing and Welfare Officer #6)

Given the problems encountered by our respondents with the UC system and an apparent lack of awareness of benefit entitlement and the financial support available from the state, it seems reasonable to extrapolate that early advice could lead to the alleviation or resolution of some of the financial difficulties encountered by occupiers, ‘many of the issues can be resolved if early contact is made with the housing officers, rather than the problem being left and worsening.’⁹¹ A claim supported by one of our respondents:

“... rather than wait for the arrears to get to a very high level, if we can address it early, get the [Housing Benefit] claim in, then that solves that problem.”

(Engagement Officer #4)

There was also evidence to suggest that a complete failure to engage could have serious consequences for an occupier:

“One of [my rent arrears cases], I've had to let go to court now because he's not paying, he's working, security, but he's just not paying. He's getting my messages on the blue ticks and it's like, 'Okay, so you're choosing to ignore me. I've said to you, doesn't matter what time, message me, let me know when you're going to pay.' And it's, like, nothing.”

(Housing Officer #18)

⁹¹ Wealden - Managing Demand in a District Council - Approved (local.gov.uk), p. 5-6

Our findings suggest, however, that the ability and willingness of individuals to seek advice is hindered by the source of advice used, the lack of advice provision, a lack of awareness of how to seek advice, and poor service from providers.

Sources of Advice

Our survey findings show that in response to a multichoice question, 22 of 52 online respondents indicated that the help they accessed was provided by the housing provider/landlord, followed by debt adviser (n=12) and local council (n=9) and voluntary sector agency (n=9). However, whether advice from a housing provider is always as impartial and fair as it might be is questionable. As one survey respondent wrote:

“Tried council but they were only interested in what they could get rather than what I could get.”
(Survey Respondent #140 – mortgage borrower)

Other survey respondents reported being advised by their housing provider to pay a certain amount off the arrears in addition to their rent:

“I received a letter saying that I may lose my home if I didn’t pay it, so I called them and arranged a payment plan.”
(Survey Respondent #13 – housing association tenant)

“Rent payment team just suggested to pay rent plus up to £4 a week extra to pay off debt.”
(Survey Respondent #92 – council tenant)

As some of the local authority housing officers we interviewed explained, the importance of agreeing a payment plan relates not only to recovering the arrears, but to reducing their caseload and the need to chase tenants for the money owed:

“If [the arrears are] under £1,000 or £2,000, I’ll quite often do £5 or £10 [in addition to the rent] because our system only cares about, ‘Is the debt going up or down?’ If it’s coming down, the system is happy.”
(Case Officer #1)

Whether such arrangements are always sustainable, however, is questionable, especially where available income is limited, as exemplified by this mortgage borrower when describing their experience of talking to companies about her debts:

“You might say, ‘Well I can only afford £10 a month,’ and they go, ‘No, we won’t accept that.’ ‘Well I’ve just asked you how much you want a month and you said I’ve got to make an offer.’ ‘Well that’s not the minimum what we want.’ ‘Well, what do you need me to pay?’ ‘We can’t tell you that. What can you offer us?’ ‘Well I’ve just offered you what I can afford.’ And it’s that sort of phone call. I would rather they said to us, ‘We really need you to pay us £50 a month.’ Then you we go, ‘Actually, that is far too out of what I can afford. I can only afford £20 a month. You’ve got to accept that, because that’s all I can afford.’ But often you end up saying, ‘Yes,’ to them. ‘Okay, £50 a month.’ And then you come off the phone and go, ‘Well where am I going to find that money? So what is not going to get paid?’ ”
(Occupier #19 - mortgage borrower)

Payment plans then may simply put the individual further into financial difficulty. However, as Occupier #19 describes, individuals may feel forced to agree to payment plans in order to stave off further action by the housing provider, at least in the short term. With independent advice it is possible that more realistic payment arrangements could be agreed.

Was the Advice Helpful?

Of the 50 online survey respondents who indicated how helpful they had found the advice or support they had accessed, 16 found it to be only ‘moderately’ helpful, 13 ‘slightly’ helpful and 7 respectively found it to be either ‘not at all’ helpful, ‘very’ helpful, and ‘extremely’ helpful. Short survey respondents, the majority of whom were made aware of the survey by a duty desk adviser, were much more positive about the help they received with 20 of 32 respondents indicating that it was ‘extremely’ helpful and 7 of 32 finding it ‘very’ helpful. Some of those who considered the advice to be helpful did so for the following reasons:

“Helped me to work out a budget and get back on track.”
(Survey Respondent #4 – mortgage borrower)

“Explained what I needed to do and by when.”
(Survey Respondent #75 – private tenant)

“They help me get out of debt and got me on a payment plan.”
(Survey Respondent #123 – council tenant)

Some of those who found the advice to be less helpful highlighted reasons including impractical suggestions and inconsistency in advice provision:

“I was told to find cheaper accommodation but there isn’t any. I’m a 53 year old single woman, I just haven’t enough money coming in.”

(Survey respondent #64 – private tenant)

“Just different responses from them. One would make me feel comfortable and calm and the other stressed me out a lot.”

(Survey respondent #45 – council tenant)

Reasons for Not Accessing Advice

There is a considerable amount of research available on the reasons why people in debt do not access advice and support (Pleasence, Buck and Balmer 2007; Orton 2008; Patel, Balmer and Pleasence 2012). This can include a lack of awareness of the availability of or how to access advice (Turley and White 2007), psychological barriers (Financial Conduct Authority 2022), a lack of economic and physical resources (Newman, Mant and Gordon 2021), aggressive practices by lenders and landlords,⁹² and poor practice on the part of providers which ‘can result in disengagement’ (Financial Conduct Authority 2022). Focusing specifically on those in housing debt and at risk of losing their home, our research reveals that the reasons for not accessing advice, or at least not in a timely manner, were varied and reflected some of the perceived structural barriers as well as personal reasons identified in the existing literature.

Of those respondents who did not access support the reasons given included that they felt able to address the arrears themselves:

“Didn’t need to get information and advice from anyone as I worked in a CAB so had access to information.”

(Survey Respondent #109 – private tenant)

“I hoped (correctly) that I would be able to pay shortly.”

(Survey Respondent #54 – mortgage borrower)

“Was able to sort this myself.”

(Short Survey Respondent #1 – private tenant)

However, in interview it was clear that some were not so able to resolve matters unaided:

“You need to be doing it yourself because you’re the one who’s got all the information. You’ve got, all the, you know... But when you’re in the middle of it all, you haven’t got the energy and you haven’t got the time.”

(Occupier #14 - private tenant)

Shame and Embarrassment

Research by others, including the Money and Mental Health Policy Institute (Murray and Bond 2023) has found that the stigma of being in debt can deter some people from accessing advice, and that ‘feelings of shame and embarrassment could have a very disabling effect and often discouraged respondents from discussing their problem’ (Turley and White 2007, p. 5). This barrier to seeking advice was made evident by our respondents who reported that embarrassment, shame, fear, and pride prevented them from asking for support:

“It’s admitting that you’re in trouble, is the hard thing to do.”

(Social Tenant Group Interview #12)

“I think the problem is when you get into debt you start being scared to speak to anybody.”

(Occupier #19 - mortgage borrower)

“Yeah, but then it’s a shame thing anyway if you’re in debt. You know, from a personal experience, I’ve been there.”

(Social Tenant Group Interview #12)

“I think one of the reasons people don’t [ask for] help is because that’s admitting they’ve failed. Even though they may not have failed.”

(Engagement Officer #13)

“A lot of people find it embarrassing to go to the Welfare Rights Bureau and things like that. It’s the pride that stops them, a lot of the time.”

(Social Tenant Group Interview #12)

⁹² R. Jones, [Government agencies and councils ‘more aggressive than banks’ over debt | Borrowing & debt | The Guardian](#) and F. Smith, [No Place Like Home \(moneyandmentalhealth.org\)](#).

However, this Landlord Adviser also pointed out that there may be other reasons for not seeking help:

“It could be...embarrassment, being ashamed, but I suspect there’s an element also of being worried that the landlord will be spooked by it. So even if the tenant expects it to be a short term issue and has plans in place to resolve the issue, they may be worried that if they let the landlord know that they’re having issues the landlord will be spooked and will then look to end the tenancy.”

(Landlord Advice Service Provider #15)

Lack of Advice Provision

Survey respondents who had tried to access advice described in free text responses being unable to find sources of help, or the type of help that was suited to their problem:

“There is no help available in my area.”

(Survey respondent #64 – private tenant)

“There is no support that directly gives advice on what to do and if there is one I haven’t come across it yet.”

(Survey respondent #43 – council tenant)

“I tried to get help but was unsuccessful three times.”

(Survey respondent #56 – council tenant)

Occupiers also reported not seeking help from commonly known sources of advice because they are aware of the difficulties in getting appointments or getting through on the telephone:

“I didn’t bother with Citizens Advice Bureau because I knew that they [are] just so overwhelmed.”

(Occupier #14 - private tenant)

“...you try and refer someone to debt advice around here and there’s weeks to wait.”

(Duty Adviser #27)

This is supported by evidence, provided at a 2024 Treasury Committee, which heard ‘Citizens Advice was currently only able to answer a third of the calls to its national debt helpline, which was “purely down to capacity not meeting the level of need”.’⁹³

Poor Practice

We found evidence of poor practice from lenders and landlords in response to efforts by our respondents to address their debt. This is supported by the findings of the Money and Mental Health Institute that lenders’ communication practices can discourage engagement among mortgage holders with mental health problems.⁹⁴ One of our interviewees was active in campaigning for better engagement practices by lenders suggesting among other actions, face to face appointments, allowing extended time limits for those with vulnerabilities to respond, being more proactive in assessing customers for mental health vulnerabilities prior to issues arising.

“I actually helped the FCA with their default letters from mortgage lenders, so it’s not so aggressive and you know because people switch off when these letters are too aggressive, not supportive enough.”

(Occupier #11 - mortgage borrower)

There was also evidence from interviews that people may have tried to get help but were deterred from further engagement by the nature of the response they received, and the way it made them feel.

“People just sort of like assume things as well, you know...they think you should look a certain way or act a certain way or...you know, and I just feel like, you feel like you should have, like, a begging bowl or something and how dare you even...know your rights.”

(Occupier #14 - private tenant)

Several of the occupiers we interviewed felt that they had received poor treatment from housing providers when they approached them about a housing debt. The following quote is from a council tenant who, due to illness, had been put on statutory sick pay and therefore had lost some of his income:

“I did try and communicate and explain the situation. Conversations were had. Emails were sent. It felt like the situation was being understood and empathy would be shown. But, unfortunately...they just kind of ignored what had been said or discussed, and even what they had said that they were going to do, and they just said A and did B. And that’s kind of where it got escalated to the point where we were getting court summons. And that was being added to the balance of the account too.”

(Occupier #20 – council tenant)

⁹³ See R. Jones, [Government agencies and councils ‘more aggressive than banks’ over debt | Borrowing & debt | The Guardian](#)

⁹⁴ See for example, Murray and Bond (2023), [Debts and Despair \(moneyandmentalhealth.org\)](#) and Smith (2024), [No Place Like Home \(moneyandmentalhealth.org\)](#)

Lack of Trust

A reluctance to seek out advice may stem from a lack of trust in the mortgage lender or housing provider (Brickell and Nowicki 2023). As the Financial Conduct Authority found,

“...many customers are reluctant to engage with lenders when they are facing financial difficulty. The reasons are broadly categorised as psychological barriers, negative views of lenders in general and misconceptions about the value and impact of contacting lenders.”

(Financial Conduct Authority 2022, 6)

Similarly, our data reveals that tenants may sometimes assume the worst about their landlords:

“They don’t realise we’re actually there to help them, a lot of them. We’re not in the business of kicking people out or making people feel horrible about themselves, we’re actually here to help them. Unless you can actually speak to them and get through to them, they don’t realise that.”

(Case Officer #1)

“I always say to the tenant, ‘Look, we are not monsters, we are here to get you to pay your rent. I am not interested in your property, I am interested in making sure you manage your rent payments. Because once you manage your rent payments I back off then, you run your account yourself.’ ”

(Housing Officer #18)

This lack of trust may not, however, reflect the reality. As one interviewee working regularly with private sector landlords in Scotland said:

“Often landlords really go overboard to help people when they’re aware of what’s going on in the household.

That’s, I mean, how simple is that, you know?”

(PRS Housing and Welfare Officer #6)

This view was echoed by someone providing advice to private landlords who commented:

“Some landlords would be really understanding and offer flexibilities with payment arrangements. Sometimes I think tenants maybe don’t realise that’s an option.”

(Landlord Advice Service Provider #15)

A Lack of Resources

The pressures caused by the COVID-19 pandemic and the cost of living crisis came through clearly during interviews and these seem to have exacerbated any problems in the relationship between landlord and tenant, compounded by changes to the way in which the arrears and possession process is managed. For example, in the social housing sector we were told that opportunities to establish relationships with tenants and to gain their trust have been curtailed by staff cuts:

“I think that if you want to get people to advice beforehand you have to have an approachable tenancy support with the housing associations. That’s all gone completely. It used to exist 10 years ago. And now it doesn’t exist at all. And I think this sort of commercial model, which they’ve had to adopt in order to continue existing, is probably very detrimental to their relationship with their tenants. I think you rarely see the old-school style, like housing officers that pop around for a cup of tea or whatever.”

(Duty Adviser #33)

“The demand, the expectation for you to go through your cases quickly versus the quality, it’s just stupid.”

(Housing Officer #18)

Methods of Communication

Interviewees from a tenant group reported that engagement with housing providers could be made difficult by the complexity of some communications:

“If you saw the paperwork that my mother receives every year from her housing association. Wow, you need a degree in order to be able to read these letters, what it’s telling you about the rent increase or whatever. It needs to be separated out so much better.”

(Social Tenant Group Interview #12)

“Yeah, it’s how you communicate...The trouble is you also get information overload as well, in certain areas you do get information overload.”

(Social Tenant Group Interview #12)

Senior council officers that we interviewed said that they had investigated changing the method and tone of communications with tenants and had trialled various approaches to improving communications. They reported using different types of techniques to engage tenants including a range of online platforms, tenant surveys, and even 'behaviourally informed' methods integrating, for example, nudge theory:

"We have had numerous conversations about how do we support people, what do we put in our comms to encourage people to come forward, to explain that we can offer payment arrangements...As we escalate recovery action, we try and make it clear that people can come and approach us, come and talk to us sooner rather than later. There's an e-newsletter. So we have regular articles in that as well, and then it's not just us. There's support available through other organisations who can then act as an advocate for people in dealing with us."

(Senior Council Officer #16)

Nevertheless, the way in which correspondence is framed and then read by tenants may vary due to the differing contexts in which it is received. Describing a letter she had been sent from her council, this interviewee told us:

"The letter it's abrupt but it says, 'You haven't paid your rent, do you know that your neighbour's paid [their] rent?' Now I don't like that bit but that's what they do, and that's fine. The letter isn't threatening, it's just saying you haven't paid your rent but your next door neighbour... well, not your next door neighbour but your neighbours have and do you think that's fair? But it wouldn't help somebody that's in up to their ears and can't see a way out."

(Occupier #17 - council tenant)

Changes in Communication Methods

Housing staff that we spoke to in our case study areas suggested in interview that the trend from in person to online or telephone interactions presented barriers to more personalised interaction and earlier engagement with debt issues.

"But where previously you'd have housing offices you could walk in, we don't have that anymore. Don't have those options. You can make a phone call now, make an appointment if you really want to. Everything's a barrier now than it used to be."

(Engagement Officer #13)

"Neighbourhood Office has shut down as well, they're getting people to be self-sufficient, that's okay if you are self-sufficient already but those who are illiterate in computer use, reading, financial, all the rest of it, then it's hard for you to just take away services like that."

(Housing Officer, #18)

And as this respondent commented:

"There's not many face to face and with this sort of debt. [You] should be able to get a face to face appointment. You can't discuss these things over the phone."

(Occupier #11 - mortgage borrower)

Housing provider staff also agreed that face to face was a preferable way of communicating with tenants, although this was not always possible because of the constraints they are under:

"[A face to face visit is] a lot easier, because you can sit in comfort, and they can see that you are wanting to help, because they can see you. Whereas, if you're just this voice on the end of a phone, you're somebody in authority who is saying all sorts of things that I don't want to listen to. So, I do prefer face to face all the time. All the time, I prefer face to face."

(Engagement Officer #3)

However, some interviewees reported more positive interactions with their housing provider over the telephone. For example, this tenant commented:

"The people that phone you about your rent arrears, if you've got any, are really nice. There's no coming across as, 'I'm the council, you owe me this money', it's, 'Can we help you?' and that is really nice."

(Occupier #17 - council tenant)

Housing officers did however report that there was some variability in the approach to recovering rent adopted by their colleagues, with differing outcomes depending on the individual tenant:

"Different people have different ways of approaching it, and we do have some members of the team that are a bit more, 'get in touch with me now or this will happen to you' and they get results from some people, and they don't get results from others... Some people need a kick up the arse and some people need kind of a hand offered to say, 'speak to me and I'll help'. And it's very difficult to tell, if you can't speak to them, what they need."

(Engagement Officer #4)

Communication Difficulties

As Turley and White (2007) found, even where those in arrears would like to engage with sources of support, some respondents reported finding it difficult to frame and address their problems in the way advisers expected:

“I just wanted to phone and say, ‘I’ve missed a payment’. ‘Yes, so what’s your payment plan going to be?’ I haven’t even thought of that, I’ve just phoned them. So once that experience has happened, you miss a payment, you’re scared to phone, because you’re thinking, I need to know all of this before I phone them. I’ve got to have a clear way of getting out of this, because they want to know.”

(Occupier #19 - mortgage borrower)

This advice service provider also described how individuals can struggle to explain why they did not do anything to try and resolve their debt situation:

“There isn’t actually a coherent answer from the person. They don’t know how to reconstruct it themselves. They can’t explain their own inaction. There’s a fear, there’s an inertia, but it doesn’t have an obvious explanation, and even when they’re giving a first-hand account, they can’t account for it.”

(Advice Service Provider #7)

Where occupiers find it difficult to communicate they can just give up, which can be interpreted negatively by the housing provider:

“It’s very common for a tenant just to shut down communications when an arrears situation arises. That’s a huge frustration for landlords because they have to assume the worst in that scenario. If the tenant’s not engaging with them and doesn’t give them any explanation as to what’s going on or when it might be resolved they will naturally assume the worst.”

(Landlord Advice Service Provider #15)

Other Priorities and Difficult Choices

Sometimes lack of engagement may occur where people simply have other priorities beyond addressing their housing arrears:

“Quite often you are not going to engage because it’s just not at the top of your list. Especially with the cost of living crisis us coming in and saying, ‘You need to prioritise your rent.’ If you are a single parent over Christmas you are not going to. You are going to prioritise buying your kids presents.”

(Advice Service Team #35)

This interviewee commented that although people are advised to make better choices,

“you could also see why occasionally people don’t because it’s just not living...it’s surviving.”

(Advice Service Team #35)

This point is neatly illustrated by a tenant who explained why she was reluctant to take the Council’s advice to set up a payment plan:

“Three people I’ve gone to, different organisations, told me I have to give up Sky and I have to give up [my] phone and not have an expensive phone like I do. I like to be up to date and that’s a choice I’m making so I have very little leeway once I’ve paid everything. Sometimes I’ve got about £50 to last me a month, but that’s my choice in a sense.”

(Occupier #17 - council tenant)

Asked why she clung on to what others might judge to be luxuries, she simply stated, **“That’s all I have.”**

The Perceived Futility of Seeking Advice

Some interviewees reported that they felt there was little point seeking help because fundamentally there was no way to resolve their situation, just a few unpalatable choices:

“The charities, bless them, they give good advice, and they’ve got lovely websites that give information. The thing is you’ve only got a few solutions to the problem. And I’m going to say they’re not solutions. They’re just taking you from one situation into another situation, which both are bad.”

(Occupier #20 – council tenant)

Others rejected the advice they were given because it was felt to be pointless:

“They wanted me to do an income and expenditure, but when you’re in negative budget...I don’t see the point, you know, I mean.”

(Occupier #11 - mortgage borrower)

These findings are supported by Turley and White's research which suggests that the impact of advice is reduced where 'a person had not been told anything new; if the advice source had not been able to offer any practical solutions to a debt problem; if the advice was considered implausible to follow and if the financial situation of the person had deteriorated after seeking advice' (Turley and White 2007, 5).

Tactics Employed to Encourage Engagement

While there was evidence of some social landlords using more supportive procedures to encourage engagement by tenants in arrears, several respondents described how the threat of possession proceedings is still used to force tenants to engage in a discussion about their arrears. This is not unknown within the legal process of possession, the motive being to use the threat of eviction to encourage the occupier to recognise the seriousness of the case and to start clearing the arrears. As Stalker notes, 'the legitimacy of this approach has been questioned' (Stalker 2021, 453), citing one judge who advised that if a landlord wished only to acquire a 'sword of Damocles' then the court would be entitled to refuse possession as not being reasonable in the circumstances.⁹⁵

The introduction of the pre-action requirements for social landlords in Scotland in 2012 was intended, in part, to address this approach and there is some indication that the changes have impacted on the number of claims being issued. In 2011-12, 52,285 notice of proceedings on the ground of rent arrears were issued. Following the introduction of the pre-action requirements in August 2012, this fell to 28,624 in 2012-13 and 23,624 in 2013-14 (and remained at that level prior to the COVID-19 pandemic).⁹⁶

However, as this Duty Adviser, based in England, commented, some housing providers are inclined to issue a notice seeking possession at the first opportunity:

"It's difficult to get people to come for help when they start getting into arrears before there's a notice. And I think you have certain social housing providers, like [name redacted] who the first moment that you get into arrears, they'll send you a notice seeking possession. And I think they do that a) because it's automatically generated, but b) because they find it the most effective way to get people to engage with them."
(Duty Adviser #27)

Another Duty Adviser, also based in England, remarked:

"I do think when the landlords say, 'Well, we just needed to file a claim against them to wake them up,' that's exactly right in a lot of cases. Where all of a sudden it's like, 'Oh, my God, I'm going to be evicted. I had better do something about it.'"
(Duty Adviser #33)

However, this Housing Officer said that even where a notice seeking possession has been issued, help is still offered right up to the date of the eviction:

"Even if it's on the day before, whatever, we're still trying to contact to say, 'look, you need to make contact.' Then we signpost them for the Homeless Prevention Fund, even for the DHP, and what else is there? Even independent advice as well, like CAB or Shelter."
(Housing Officer #18)

Advice and Representation at Court

Of the 78 people who answered the question in the online survey, 18% (n = 14) had a court or tribunal hearing, of which eight attended. Since at least 28 of the 35 short surveys returned were completed by respondents at court attending a warrant hearing, it was not surprising that 29 of the 35 respondents had a court or tribunal hearing and of those, 28 had attended. Reasons given for not attending a scheduled court hearing included:

"I could not find where it was being held."
(Survey Respondent #138 – council tenant)

"Can't be arsed."
(Survey Respondent #47 – council tenant)

"I sent a letter to court there was no need for me to attend."
(Survey Respondent #37 – private tenant)

"Payment arrangement."
(Survey Respondent #125 – council tenant)

⁹⁵ See *City of Edinburgh Council v Stirling*, *City of Edinburgh Council v Lamb* 1993 SCLR 587, cited in Stalker, 2021, p. 453.

⁹⁶ [Housing statistics: Management of local authority housing - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultations-petitions/html/documents/housing-statistics-management-of-local-authority-housing-2019-2020.pdf)

However, some occupiers had decided that there was no point in engaging in the process:

“I didn’t want to go cause I just...I don’t know, I just felt...there was not a lot I was gonna be able to contribute because it’s all done and dusted with lawyers...At the end of the day the judges are gonna stamp it and say ‘move on’ aren’t they?”

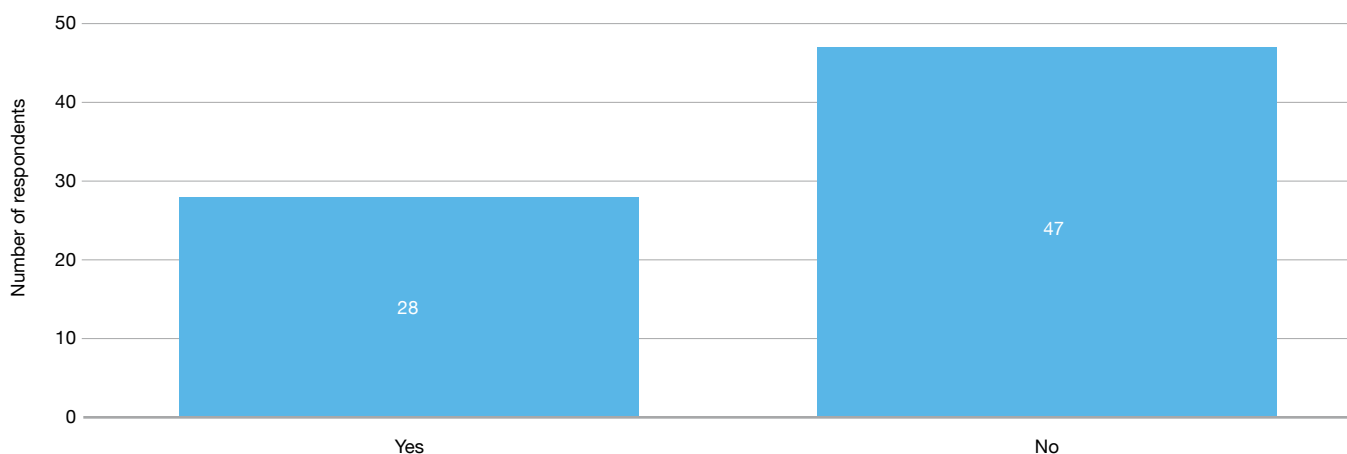
(Occupier #14 - private tenant)

“We’ve made the decision to not to fight it and to get it rid of it. Get the debt over and done with.”

(Occupier #8 – mortgage borrower)

We also asked online and short survey respondents if they would attend any future hearings. Of the 75 responses received, 28 indicated that they would attend and 47 indicated that they would not.

Figure 16: Intentions regarding attendance at court



Of those who said they would attend a future hearing the reasons given included:

“I would like to explain my situation in person.”

(Survey respondent #70 – council tenant)

“Need to explain my circumstances.”

(Survey respondent #127 – mortgage borrower)

“Wouldn’t risk losing my children’s home.”

(Survey respondent #56 – council tenant)

“It is always best to show up and put a face to everyone it looks better.”

(Survey respondent #25 – mortgage borrower)

Of those who said they would not attend a future hearing, the reasons given included:

“I have anxiety, i wouldn’t be able to attend the court if that will be the case.”

(Survey respondent #51 – council tenant)

“Too stressful.”

(Survey respondent #27 – private tenant)

“I paid the amount owed.”

(Survey respondent #20 – mortgage borrower)

Attendance, Representation and Outcomes

This reluctance to attend is of concern given an apparent association between attendance at court and avoidance of an outright possession order. Observations of possession proceedings during this research found that where a defendant did not attend, and had no representation, this tended to result in a judgment for the lender or landlord, supporting previous findings (for example, Hill and Mercer 1987; Whitehouse, Bright and Dhimi 2019).

Due to a lack of available data regarding the number of occupiers who attend or are represented at possession hearings in England, it is impossible to offer generalisations about the link between attendance, representation, and outcomes. However, the First-tier Tribunal (Housing and Property Chamber) in Scotland does publish some relevant statistics. Shelter Scotland undertook a short piece of data analysis on the First-tier Tribunal (Housing and Property Chamber) and found that ‘... tenant attendance at the hearing is low: in four out of five cases in our sample where the landlord was the applicant, the tenant did not attend their hearing. When tenants did attend, the tribunal was more likely to find in their favour (13% compared to 6%)’ (Shelter Scotland 2020, 4).

This apparent positive relationship between attendance and outcomes was reiterated by one adviser in Scotland who said that social sector tenants were less likely to be evicted if they engaged with the process:

“... if people are seen to engage, and they turn up, there’s a fair chance that they will not be evicted, and that the case will be continued, or monitored in some way, for some action to take place.”
(Advice Service Provider #7)

Shelter Scotland also found that, ‘in most of the cases there was no representation or support for tenants recorded as present (234, or 88% of 265 cases). Conversely, when the applicant was a landlord (as in most cases) the landlord had professional representation in 3 out of 4 cases. When landlords were represented, the tribunal was more likely to find in their favour (98% compared to 81%)’ (Shelter Scotland 2020, 4).

These findings are supported by this advice service provider who told us that:

“91% of arrears actions will result in an order being granted, first time. And in the vast majority of those cases, the vast majority, the tenant will not be represented in any way. They will have not made written submissions, they will not turn up on the day, or if they do, they will not be instructing a solicitor or other representative.”
(Advice Service Provider #7)

The drawbacks of not appearing at court were described as follows:

“People are penalised for not attending, and that’s a black mark against them, and a moral judgement is often attached to their lack of attendance. And I’ve observed that in my tribunal practice where people will pass comment about the lack of attendance. And I’ll try to say, well, there are a whole host of reasons why someone might not have attended that aren’t related to them caring about their home. It might be that they’re absolutely terrified, they don’t know what to say, they don’t know how to access, and the list goes on.”
(Advice Service Provider #7)

Agreements made without Advice or Representation

We were told by some interviewees that to avoid having to go to court tenants may agree to arrangements that might not always be in their best interests:

“Some of the Housing Associations definitely try and get on the phone and do sort of little sweetheart deals [with the tenant] the day before. They’ll get a suspended possession order whereas we would have maybe fought for a general adjournment.”
(Duty Adviser #32)

This point was echoed by another Duty Adviser:

“The number one reason for people not showing up in court is because the landlords have finagled a deal that they promised would be so much better than the deal they would get in court. So people, obviously, didn’t want to go to court to start with, and they’re bullied into accepting a deal that probably wasn’t in their best interests. And, obviously, from the court’s perspective it’s less cases to deal with, so the court is happy. The landlord is happy. The client doesn’t know any better, so they’re happy enough. So nobody can challenge any of it, obviously.”
(Duty Adviser #33)

However, sometimes, the circumstances of the eviction may mean that occupiers think it is better to settle out of court:

“So it took 13, 14 months, I would say. But then obviously we reached an agreement where the landlord realised and we realised it’s better to have a settlement, rather than we take it further in the court, like court hearings and stuff. My lawyer advised me, ‘Let’s settle the matters here because we don’t know how it’s going to go, which direction, in the end.’ So like I said, that’s where the landlord realised, we realised, and said, ‘Okay, let’s just settle and part our ways.”
(Occupier #21 – private tenant)

Asked whether they had accessed legal advice during eviction proceedings, interviewees reported that they did not see the point or felt that they cannot afford to access it:

“No, I couldn’t afford it. The only advice I got was, as I say, going on to [the] Shelter website, see what they had to say... just looking online, you know and just trying to find if there was anything I could do or not do, but a lot of it is stacked against you because err, like, you know, if you’re not paying your rent, you’re not paying your rent are you, you know?”
(Occupier #14 – private tenant)

The importance of representation is made clear by Stalker who observes, in relation to the Scottish system, that where an occupier attends but is not represented, it may not be clear whether the occupier wishes to defend the action given they may not be aware of defences available to them (Stalker 2021, 449). Consistent with our findings, Stalker further notes that, ‘mood disorders, and in particular depression, seem to be especially prevalent among defenders in rent arrears cases; difficulty in coping with paperwork, benefit applications and financial matters are common characteristics of that condition’ (Stalker 2021, 151). While it is possible for this to be taken into account by the sheriff under s. 14 of the Housing (Scotland) Act 2001, it requires the tenant to attend or at least have their circumstances relayed to the judge by a representative.

Lack of representation in court may also be a consequence of occupiers not realising what is in their best interests:

“They may not even understand it, that’s the thing...It’s like if you get arrested by the police. Not everybody knows, even though they might tell you at the custody desk, for example, that you’re entitled to a solicitor. They don’t tell you you should have a solicitor, because they know what the process is and what’s going on, don’t they?”
(Social Tenant Group Interview #12)

Legal Advice on the Day of a Court Hearing: HPCDS and HLPAS

There is some evidence to suggest that ‘... it is often at a very late stage that those who are at risk of losing their home either seek help or seek to resist the loss of the home in person through the courts’ (Brookes and Hunter 2016, 164). This was certainly something we observed during our court visits with several occupiers reporting that this was the first time they had sought advice. Fortunately, for those attending a court hearing for possession in England, free legal advice and representation is available. This was previously available through the HPCDS (Bright and Whitehouse 2014) but was replaced in August 2023 by the HLPAS. Receiving advice so late in the process is important but, ‘coming to court at this late stage both provides limits to the legal points that may be made and inevitably means that any arrears have continued to escalate during the course of the proceedings, making settlement harder to achieve’ (Brookes and Hunter 2016, 165).

In recognition of the importance of early engagement, the new HLPAS allows duty advisers to provide legal advice at an earlier stage than was previously the case under the HPCDS scheme. Eligibility is based on the receipt of a written notice of a possession hearing with the advice provided before that hearing takes place.⁹⁷ Reflecting our findings regarding the importance of early intervention, the MOJ notes that, ‘access to early legal advice can drive earlier and more effective resolution of legal problems, potentially before they reach court.’⁹⁸

In an innovative move, the HLPAS also extends the scope of legal aid so that advisers can provide advice on issues such as ‘housing, debt, and welfare benefits matters.’⁹⁹ The importance of this change was made clear by one of the duty advisers we spoke to:

“HLPAS has two parts, one is just like the normal duty scheme... but then there’s a new early legal advice part and that’s a bit different. It is remarkable. So there’s no getting around this. It is a remarkable extension of legal aid, non-means-tested early legal advice for anybody who’s had a written notice of their landlord wanting possession. Extraordinary, never been... not since the Legal Aid and Advice Act 1948, never been there.”
(Duty Adviser #31)

⁹⁷ Ministry of Justice, November 2021. Housing Legal Aid: A Way Forward, p. 10, para. 30. [\[Title\] \(publishing.service.gov.uk\)](#).

⁹⁸ Ministry of Justice, November 2021. Housing Legal Aid: A Way Forward, p. 9, para. 25. [\[Title\] \(publishing.service.gov.uk\)](#).

⁹⁹ Ministry of Justice, November 2021. Housing Legal Aid: A Way Forward, p. 10, para. 31. [\[Title\] \(publishing.service.gov.uk\)](#).

Occupiers also recognised the potential advantage in being to obtain both legal and welfare advice from the same provider:

“I think if somebody had been there in the court, and said, come on, let’s talk, let’s work through everything, and are you receiving the right benefits, if you’re receiving this, that and the other that would have helped enormously.”

(Occupier #11 - mortgage borrower)

While we welcome the MOJ’s recognition of the ‘clustering’ of issues which many occupiers face, the question arises as to whether duty advisers are best placed to offer such advice. It might be assumed, for example, that debt advisers, already facing significant cuts and a reduction in jobs,¹⁰⁰ might not welcome the allocation of their role to duty advisers.

It should also be noted that while the HLPAS is available to anyone at threat of home loss, the availability of legal aid funded advice at an earlier stage in the debt process was significantly curtailed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. This has led to ‘advice deserts’ across England, as the President of the Law Society noted, pointing out that, ‘this well-intentioned move may well be hampered by the desperate shortage of legal aid-funded solicitors with the relevant expertise in large swathes of the country which has created housing legal aid deserts, affecting millions of people.’¹⁰¹

In Scotland, occupiers can access legal representation (funded by legal aid for those eligible) through a number of providers. Emergency helpdesks are also available in some courts (e.g. Glasgow and Dumbarton). However, as this advice service provider commented:

“... it’s a mixed picture across Scotland, if you’re not in the Glasgow or Greater Glasgow area, it is definitely much more complicated - not impossible, but complicated for people.”

(Advice Service Provider #7)

While the number of observations undertaken for the purposes of this study are insufficient to offer generalisable findings, it was evident that the legal practitioners servicing the provision of free advice and representation at the courts in England and Scotland are providing a vital service.¹⁰² Every occupier we observed was either able to avoid an outright possession order or was able to negotiate an outcome that served their interests (e.g. being given more time to sell their home). These findings are consistent with previous research on the practical operation of the legal process of possession which has highlighted the value of legal advice and representation and its positive impact on outcomes (Bright and Whitehouse 2014; Whitehouse 2022).

We feel privileged to have received so many first-hand accounts from those with lived experience of housing debt and the threat of home loss. While we have attempted to present their voice in as accurate and unmediated a manner as possible, we have also tried to draw out recurrent themes and to offer an analysis of the findings arising from both the primary and secondary data obtained throughout this project. Based on this unique and invaluable data, we move on, in the next chapter, to offer a summary of our key findings and to offer conclusions.

¹⁰⁰ [AdviceUK calls on MaPs to PRESS PAUSE - AdviceUK](#)

¹⁰¹ M. Fouzder, 26 November 2021, [MoJ remodels housing emergency scheme to address concerns | News | Law Gazette](#)

¹⁰² Three days were spent observing 14 possession proceedings and shadowing duty advisers in three separate courts in England. See further Appendix A .

Chapter 7 – Key findings and conclusions

Drawing on the data generously provided by those who participated in this research, we can begin to offer some insights and answers to the questions we posed at the very outset of this project. In particular, we wanted to learn more about the apparent low level of engagement in the arrears and possessions process, to establish whether engagement matters and if so, to identify ways to improve it. A summary of what we learned is set out below.

Key Findings

The following findings are based on the 139 survey responses received and 53 interviews conducted with occupiers, debt and legal advisers, and housing providers. A majority of respondents indicated that they were tenants in the social rented sector. While some light is shed on the experience of those in the private rented sector and mortgage borrowers, further research is needed in order to learn more about their experience.

The Causes of Housing Debt

The most common causes of debt reported by our respondents were:

Mental health issues

A significant number of our respondents reported that health issues, particularly mental health issues, were a contributory factor in the accumulation of debt.

- Around half of respondents (53 of 99) reported a health condition or disability and of those, 8 in 10 reported having a mental health issue (conditions most mentioned were anxiety and depression).
- Respondents reported being worn down by the effort of trying to access help and effectively giving up, sometimes for the sake of their health.

Insufficient income to cover essential costs

- Most respondents (87 of 101) reported having either no spare money or between £1 - £100 per week. Of these, 35% indicated that they had no money left at the end of the week and 52% had less than £100.

The COVID-19 pandemic and cost of living crisis

- Nearly half of respondents (45 of 99) said that the COVID-19 pandemic had had a high to very high impact on their ability to pay their rent or mortgage.
- Interview data suggest that the temporary moratorium on possession proceedings and the consequent delays in the court system, combined with the cost of living crisis, have exacerbated the problem of arrears for both housing providers and occupiers.

The Universal Credit system

The Universal Credit system emerged as a contributor to housing debt and a barrier to its effective resolution.

- Of 102 respondents to the question, 72% reported that they were in receipt of benefits.
- There was broad consensus among occupiers, housing providers, and advisers that the Universal Credit system is too inflexible, that there is insufficient understanding of how it works, and that resolution of problems with Universal Credit operatives is too often time consuming and difficult.
- The direct payment of the housing element to tenants, the wait for the first payment, advance payments, and sanctions and deductions, were signalled as major causes of sometimes inescapable debt.
- There was some indication that those in debt may not be aware of sources of additional financial support such as Discretionary Housing Payments.

Communal heating charges (social tenants)

We found that social tenants are at heightened risk of eviction due to the exponential increase in communal charges, especially for heating. These costs are due to factors beyond the control of those tenants and the basic welfare safety net is simply not capable of covering those costs.

- There was confusion over whether Universal Credit or Housing Benefit payments cover communal charges for gas, electric and water. While benefit payments do cover most 'service charges', they do not cover services delivered to the tenant's individual home.
- The inclusion of communal heating charges in the tenant's 'rent' means that a failure to pay the charge can lead to a possession claim. This appears to introduce eviction for non-payment of utility bills 'through the backdoor'.

Occupier Experience of Housing Debt

Some respondents reported that being in debt was a contributory factor to poor mental health.

- Of the 108 respondents who answered the question, 77 (71%) considered being in arrears to have had a high or very high negative impact on their lives.
- Comments by survey respondents on the impact of debt included reference to anxiety, stress, insomnia, worsening mental health and negative impacts on relationships.

Accessing Advice

A significant proportion of our respondents did not or could not access advice, despite being in debt and at risk of losing their home. Reasons given by respondents for not or being unable to access advice included: poor experience of asking for help, reluctance to acknowledge the problem, lack of awareness of sources of advice, and inability to navigate the process.

- Of the 81 respondents who answered the online survey question, 42% did not access advice and 14% were unable to access advice.
- Respondents were deterred from accessing support by the lack of opportunity for face-to-face discussion of their issues, the difficulty of getting through on the telephone, and their awareness that advice services are overwhelmed.
- Most of those who did access advice (41% of online survey respondents) did so only after receiving a letter about their arrears from their landlord/lender.
- As regards the sources of advice accessed, 42% of online survey respondents approached their housing provider/landlord, 23% used a debt adviser, 17% approached their local council, and 17% used a voluntary sector agency.
- Where respondents were able to access help and support for their housing debt, only 28% of respondents reported that they had found it very helpful or extremely helpful.
- Respondents reported feeling overwhelmed by the challenges of getting help, and frustrated that system solutions to complex problems, notably payment plans, do not help to resolve underlying causes of debt (for example, insufficient income to meet bills).
- Local authority housing advisers reported that changes to working practices, accelerated during COVID, have led to a depersonalised approach to resolving arrears, with fewer frontline staff and more reliance on remote engagement practices. These changes have undermined their relationship with tenants and the level of trust and confidence that tenants have in them as sources of help and advice.

Engagement with the Legal Process

Our findings indicate a low level of participation in the legal process of possession. This finding is of concern given the apparent positive association between attendance at court and avoidance of an outright possession order.

- Over half (57%) of respondents to the online survey who had a court hearing scheduled did not attend it.
- The reasons for non-attendance included having instead sent a letter to the court and/or agreed a payment plan prior to the hearing. The risk here is that households in housing debt may agree to payment plans that are unaffordable.
- Asked whether they would attend any future court hearing, 63% said they would not, some indicating that they would find attending court 'too stressful'. This finding is of concern given the apparent association between attendance at court and avoidance of an outright possession order.
- While data on the relationship between attendance at court and outcomes is not available in England, statistics published by the First-tier Tribunal (Housing and Property Chamber) in Scotland indicate that where a tenant attends, the tribunal is more likely to find in their favour.

The Availability of Free Legal Advice and Representation in Courts in England and Scotland

- Court observations indicated that legal advice and representation tended to result in better outcomes for occupiers. This was due, in particular, to the ability of occupiers in England, at threat of losing their home, to access free legal advice and representation (on a non-means-tested basis) on the day of their hearing in most County Courts. This advice is now available through the Housing Loss Prevention Advice Service.
- Free emergency legal advice is available in only a limited number of sheriff courts in Scotland.

The Relationship Between Engagement and Outcomes

It was clear from the testimony of our respondents that early engagement can lead to better outcomes for those in debt.

- Given the problems encountered by our respondents with the Universal Credit system and an apparent lack of awareness of benefit entitlement and the financial support available from the state, early advice could lead to the alleviation or resolution of some of the financial difficulties encountered by occupiers.
- It was made clear by our respondents that being in debt and at threat of losing their home had an adverse impact on their mental health which then exacerbated their inability to manage their debt. Accessing advice at an early stage in this cycle could assist in arresting its development.

Conclusions

What these key findings reveal is that many people in debt do not engage in the arrears and possession process. By this we mean that they do not talk to their landlord or lender, seek advice, or attend their court hearing for possession. The reasons for this were numerous and complex, involving both individual and structural impediments. We obtained very little evidence that lack of engagement was due to apathy or indifference. Rather, a lack of awareness of available support services, the dwindling availability of advice provision, frustration caused by poor service, fear, and a sense of futility were just some of the issues that our respondents brought to light and which resulted in their (often avoidable) disengagement.

In relation to whether this matters, it became apparent that engagement, particularly early in the process, can lead to better outcomes for those in debt. For some, this may be due to the ability to resolve or mitigate their financial difficulties by obtaining advice on benefit entitlements and additional financial support from the state. Even engagement in the very late stages of the possession process appeared to prevent some people from losing their home by allowing them to take advantage of free legal advice and representation at their court hearing.

The importance of early engagement was also made evident by the fact that, for a large number of our respondents, being in debt and unable to pay rent or mortgage payments caused them considerable anxiety and stress. In turn, the adverse impact on their mental health made addressing their debt more difficult thereby enhancing the likelihood of serious rent or mortgage arrears and the consequent threat of home loss. Early engagement could have the capacity to disrupt the cyclical nature of this relationship between debt and poor mental health.

Given the adverse impact that debt had on many of our respondents, it is frustrating to note that for some, their debt was caused by factors beyond their control. The COVID-19 pandemic, the cost of living crisis, negative budgets, the wait for UC payments, benefit deductions and sanctions, ill health, and, for social tenants, increases in communal utility charges by social landlords, were reported as factors which had given rise to an inability to afford rent or mortgage payments. The availability of additional financial support from the state is intended to mitigate some of these factors but we discovered evidence, despite efforts by advice providers to signpost people to sources of support, of a lack of awareness of such sources. Where respondents were aware of them, some encountered difficulties in applying while others found such support to be insufficient to resolve their debt issues. This last point is supported by the level of negative or low surplus income reported by many of our respondents, which suggests that the system of additional financial support, for whatever reason, is proving ineffective in resolving debt.

Overall, it is evident from our findings that those in housing debt are generally facing a range of challenges. These challenges contribute to an inability to navigate the situation they find themselves in whether due to health issues or a basic lack of understanding of the nature of their predicament and, importantly, how to find a way out of it. This is compounded by the 'idiosyncrasies' of a system that can seem designed to be unhelpful. Income deficits, a welfare system that engenders debt through delayed payments, the need for digital competency, and the decimation of legal aid and debt advice are just some of the causes of a spiral of debt that is, for some, inevitable and inescapable.

In response to these findings, we present in the final chapter, evidence-based proposals that are intended to improve engagement in the arrears and possessions process and thereby reduce the likelihood of home loss for some people.

Chapter 8 – Priorities for change

Introduction

Drawing on the unique data obtained during this research, we have identified seven key areas for change within the arrears and possession process.

Improving Communication and Engagement

Our findings suggest that early engagement in the arrears management process can help prevent the escalation of housing debt and thereby assist some people in avoiding the loss of their home. Despite evidence of good practice among some landlords in terms of reviewing the tone and method of communications with their tenants, testimony from our respondents provides evidence of a wide range of different communication practices by landlords and lenders, some of which deter engagement. In order to encourage meaningful communication, we would recommend that:

- **Landlords and lenders** continually review their communication practices to ensure a supportive and consistent tone. Attempts to compel occupiers to repay their arrears through shaming or threatening legal action are likely to prove counterproductive and should be avoided.
- **Social landlords** should adopt or continue to adopt the 'supportive' rather than 'enforcement' approach to debt reduction seen during the COVID-19 pandemic, so as to encourage tenants to engage earlier in the arrears process.
- Face-to-face, familiar and personalised communication methods (e.g. WhatsApp messages, regular meetings with the same officer, etc.) are more likely to result in engagement by the tenant.

Landlords and Lenders as Sources of Advice

Landlords and mortgage lenders should recognise that occupiers often contact them for informed and fair advice about dealing with their arrears as well as other housing related issues. Landlords and lenders should be cognisant of the imbalance in power within this relationship and that clients may agree to unrealistic proposals in an effort to avoid the loss of their home. They should recognise also that the tenant or borrower's expectations when contacting them may not align with their aim of recovering arrears as quickly as possible. In response to landlords and lenders being approached as sources of impartial advice, we would recommend that:

- **Landlords and lenders** ensure that staff receive the training they need to address the complex range of issues experienced by occupiers in debt.
- The use of a 'one size fits all' or rote response should be avoided. Instead, service provision should be underpinned by a compassionate approach that allows people time to explain their situation and to feel heard and understood.
- **Landlords and lenders** ensure that, where advice is provided, staff are made aware of the propensity for occupiers in debt to agree to unaffordable repayment plans. In an effort to avoid this, staff should signpost customers in debt to independent sources of advice.
- **Landlords and lenders** ensure that they adopt systems which do not require people to repeat their circumstances and which deliver consistent advice.

Mental Health and Barriers to Advice

The clustering of problems experienced by people in debt requires a multi-agency and joined-up approach to adequately address their needs, particularly in respect of their mental health. This necessitates an improvement in both the quality and accessibility of debt and legal advice. The diminishing provision of advice, loss of expertise, and increasing demand from occupiers is placing unsustainable pressure on an already under-resourced system.

- Advice service providers should be adequately funded and provided with the training they need to deal effectively with people in crisis.
- Consideration should be given to increasing the capacity of Department of Work and Pensions work coaches and other professionals, such as General Practitioners, to provide advice or signpost individuals in debt to appropriate help.

Universal Credit

Findings from our research suggest that the design and operation of the Universal Credit regime is contributing to indebtedness and the difficulties faced by those attempting to address their housing debt.

- We support those calling for a review of the design and operation of Universal Credit, joining the voices of our research participants to others with lived experience of debt (see, for example, <https://www.turn2us.org.uk/about-us/news-and-media/latest-news/turn2us-hosts-all-party-parliamentary-group-on-universal-credit-and-gender>).
- **The DWP** should consider the reintroduction of direct payments of the housing element of UC or housing benefit to landlords. In the meantime, the need for Alternative Payment Arrangements should be identified at an earlier stage.
- **The DWP** should ensure that individuals should be able to easily report changes to their income in their journal that are not employment related, for example, pension changes.
- Benefits advice should be person-centred, rather than based on rote approaches to those seeking assistance.
- Steps should be taken by **the DWP** to ensure a better working relationship between Universal Credit administrators and social housing providers in relation to resolving benefit issues.

Communal Service Charges

In response to evidence that service charges (particularly communal heating charges) are impacting the ability of tenants to afford their rent we recommend that:

- **The DWP** issues clear guidance about which service charges are covered by Universal Credit.
- Consideration should be given to the feasibility of installing smart meters to ensure equitable charges for heating in social housing.
- **Central government** should ensure that people are not evicted because of the financial pressures imposed by global energy markets.

Free Legal Advice and Representation at Court

The introduction of the Housing Loss Prevention Advice Service is a welcome addition to the advice sector. Early intervention in the arrears process has the potential to prevent the escalation of problems that lead to home loss.

- We call on **central Government and the Legal Aid Agency** to ensure that this service is adequately funded.
- The performance and outcomes of the scheme should be monitored and reported to allow for an assessment of its effectiveness.
- We call on the **Scottish Government** to introduce a similar scheme throughout all areas of Scotland to make legal advice and representation free at the point of use for those who have received a notice of possession.
- **Central Government** should consider whether to make use of highly knowledgeable and experienced debt advisers as part of the scheme.

Data and Information Deficits

A key aim of our research was to understand the relationship between engagement and outcomes, and specifically whether attending and/or being represented at a possession hearing influenced the outcome. While we were able to access data relating to the First-tier Tribunal (Housing and Property Chamber) in Scotland,¹⁰³ observe court hearings and interview those representing individuals, we were not able to access the type of data that would offer more generalisable and verifiable findings as regards cases heard in the County Courts in England and sheriff courts in Scotland.

We welcome the publication of data by the First-tier Tribunal (Housing and Property Chamber) in Scotland and look forward to the outcome of the scoping study currently being undertaken by Byrom (and funded by the Access to Justice Foundation) regarding how data can be better used in the legal system.¹⁰⁴

- We would ask **HM Courts and Tribunals Service, the Ministry of Justice, and the Scottish Courts and Tribunals Service** to publish similar data to that published by the HPC in Scotland in respect of possession hearings held in the County Courts in England and sheriff courts in Scotland.
- In publishing the decisions of the courts, efforts should be made to ensure that the information is presented in a clear and accessible manner, avoiding the use of overly legalistic language.
- The publication of such data could assist in evaluating the relationship between engagement, attendance and representation in affecting the outcome of possession cases. Such data could be collected by adding check boxes to the court pro-forma already employed by courts to record, for example, whether the occupier submitted a defence form, attended the hearing, had representation, and the reasons for the judge's decision.

¹⁰³ Available data includes tribunal rule number, name of hearing date, applicant name, respondent name and the written decision with reasons. See: <https://housingandpropertychamber.scot/apply-tribunal/evictions-and-civil-proceedings/eviction-and-civil-proceedings-decisions>

¹⁰⁴ N. Byrom, [Building the infrastructure for a fair, accessible justice system - JUSTICE](#)

Appendix A – Methodology

This research was designed to address the following key question:

- How can the level of occupier engagement with arrears and eviction processes be improved?

To answer this question the research explores the following issues:

- The factors that put occupiers at risk of housing debt
- Occupier experience of housing debt
- Occupier engagement with arrears and eviction processes, including:
 - reasons for non-engagement
 - connections between early engagement and eviction
 - information deficits in the arrears and eviction process.

The study combined quantitative analysis of survey data and qualitative insight from housing providers, advice service providers, and occupiers in housing debt. Data were collected during the period March - November 2023.

Data Collection

A survey was designed to collect data on the topics of interest in this research from across the UK. After a period of piloting and feedback from key stakeholders, an online survey, 'Home Matters 2', was launched at the beginning of March 2023. The survey was available to anyone who had experienced mortgage or rent arrears. The survey could be accessed by those using desktop and mobile devices. A filter question at the start of the survey ensured that ineligible respondents without experience of mortgage or rent arrears were unable to answer any further questions. Respondents were able to move backwards and forwards between questions within the survey but once they had completed and submitted their response, they were unable to revisit their answers. Partially completed surveys were left open for the respondent to return to for a period of one week. The survey was initially set to close on 1 June 2023 but to encourage as many responses as possible the deadline was extended to 31 October 2023.

A shorter, hard copy version of the survey (referred to as the short survey) was printed and distributed to venues such as libraries, courts, and advice agencies to encourage responses from those unable to use or access a digital device.

Publicity material was provided to housing providers, advice service providers and civic organisations willing to display or distribute it, whether in hard copy or digitally. Use was made of social media (local community Facebook groups, Twitter) and project contacts were also asked to publicise the project and survey on social media. Full details of our participant recruitment activities are included in Appendix B.

Qualitative Data Collection

To add texture and depth to the survey data semi-structured interviews were conducted to allow participants to contribute their experience of dealing with housing debt in their own words and in more detail than was possible using the survey.

Semi-structured interviews were conducted with the following groups:

- Housing providers (11)
- Advice service providers (22)
- Occupiers in housing debt (20)

Interviews were conducted between April and November 2023.

We also spent three days observing possession proceedings in courts in the Midlands, South-West and South-East of England, and shadowing duty advisers. A total of 14 cases were observed, including six mortgage arrears cases, three PRS cases, and five SRS cases.

Housing and Advice Service Providers

Representatives of key stakeholder groups were recruited to the project's Advisory Group at the beginning of the research and served as useful informants, providing contextual information and introductions to other potential contributors to the research. Relevant individuals and organisations were also identified through desk research. Additionally, providers and practitioners in three case study areas were targeted for participation. Interviews were conducted either in person or online. The majority of interviews were one-to-one, but we held three interviews with colleague pairs where the work was complementary and one large group interview with advisers. In person interviews were generally recorded using a digital recorder unless environmental conditions required note taking. Online interviews were recorded using the host platform. Participants were asked to talk about their role, the profile of those in housing debt, the reasons for housing debt, the barriers to people accessing timely help and support, their reflections on mediation as an alternative approach, and their suggestions for improvements to the debt and eviction process. Interviews were scheduled for one hour and varied in length from 12 to 90 minutes. A total of 33 interviews were conducted with housing and advice service providers.

Occupiers

At the end of the survey, respondents were asked to write in their contact details if they were willing to be contacted by the research team. A total of 28 individuals submitted their contact details, of whom 12 agreed to be interviewed. Of the remainder, one changed their mind about taking part, one provided an invalid email address, one responded too late to be interviewed, and 13 did not respond to follow up emails. Other occupiers were recruited through personal contact at court or at tenant group meetings, and through awareness raising through project publicity, which included posters and postcards with a link to the survey, a project email address and a QR code.

The majority of interviews were conducted one-to-one but we also conducted one group interview with a set of tenants. Interviews were conducted either online or by telephone depending on the preference of the respondent. Those who had previously responded to the survey were asked to provide additional detail and insight into topics such as the nature of their debt, steps taken to address the debt, whether help had been sought, at what point, and with what outcomes, and their experience of court proceedings. Similar topics were covered with those who had not previously responded to the survey.

A total of 20 occupiers were interviewed: 17 concerning rent arrears and three in relation to mortgage arrears.

Case Study Areas

The survey was distributed nationally, but efforts were made to augment engagement with the survey in three case study areas: Southampton, Birmingham, and Glasgow. These areas were chosen on the basis of high levels of deprivation, a high concentration of social housing (social landlords form the bulk of housing possession claims in the courts), and high numbers of possession claims. In Southampton and Glasgow, 'drop a leaflet' campaigns were organised targeting particular postcode areas. In Birmingham, the local authority arranged for information about the project to be sent to 16,500 council tenants in housing debt. Some targeted sampling was also achieved through, for example, mailshots to tenants known to be in arrears and through communications sent out to clients by legal practitioners and debt advisers. Short surveys were also made available by legal advisers in our case study areas, including at the warrant stage of the possession process, providing useful insight into those who seek help at this late stage in the process. We did not find significant differences in the data collected from case study areas so no distinction is made in the presentation of findings. Where there are points of difference between jurisdictions, these have been explained.

Further detail of activities in case study areas is provided in Appendix B.

Data Analysis

The quantitative data was analysed using the analytical tools available within Qualtrics and Excel. Interviews were professionally transcribed and together with survey free text responses were coded and analysed using NVivo software. Findings have been triangulated with existing empirical research studies and secondary social science material collected during the literature search.

Research Constraints

The number of respondents means that the data are unable to show causal relationships but they do suggest some correlation between certain dependent and independent variables. Since only 28% of survey respondents and 15% of interviewees reported mortgage arrears, findings do not generally discriminate between mortgagors and tenants except where stated. Despite these limitations, 139 respondents completed the survey, a pleasing result but insufficient to qualify as representative of the groups canvassed or the population generally. While a range of approaches to recruitment were adopted, further consideration will need to be given to improving the engagement of occupiers in future research. Nevertheless, every home lost during the possession process is important and has consequences for the occupier, their family, the wider economy, and society: the voice of every occupier is therefore valuable and should be heard. This research offers rich and detailed accounts that provide valuable insight into the under-researched issue of the lived experience of occupiers at risk of eviction.

Ethical Issues

Given that human participants were involved in this research, ethical considerations were addressed before the project began and throughout. The ESRC's 'Framework for research ethics' was used as a guide to ensure compliance with expected ethical standards. Approval for the research was also sought and received from the University of Southampton.

The research involved interviewing people aged 18 or over with experience of housing debt. The research team was aware of an enhanced risk that individuals could be under stress and facing other challenges in their lives. For these reasons, the model of participation for interviews relied on people volunteering to talk to the research team, rather than the research team canvassing occupiers directly. Additionally, those participating in the study were given clear information about the aims and objectives of the research and the nature of their involvement, including their right to withdraw at any time. This information was included at the beginning of the survey, with respondents asked to tick a box to confirm that they gave consent. Interviewees were also provided a Consent Form and Participant Information Sheet (see Appendices C and D). They were asked to read these documents and confirm their participation by either signing and returning the consent form or by sending an email. Consent was checked at the beginning of each interview and participants were reminded that they could refuse to answer questions or to end the interview at any time. Interviewees were also invited to take breaks during the conversation if they wished.

Arrangements consistent with the General Data Protection Regulation (GDPR) and Data Protection Act 2018 have been followed. Appropriate security measures were put in place, such as password protected files and secure storage of project documentation. Disclosive data was only collected where needed: for example, to assess whether there was evidence of geographic clustering of housing debt, respondents to the survey were asked to provide the first part of their home postcode. However, it was not compulsory to answer, and the reason for asking for this information was explained alongside the question. Survey respondents were only asked to supply contact details if they indicated that they were willing to be followed up by a member of the research team. This contact information and the details of other research participants were kept securely in a password protected document. All respondents were anonymised using a numbering system. The survey was designed so that no personal or sensitive data could be traced to an individual.

Appendix B – Participant recruitment activities

Fact Finding

We held meetings with a range of organisations and individuals to understand the issues and key concerns:

- local authorities
- libraries
- debt advice agencies
- tenant and landlord associations
- social housing providers
- policy makers
- academics and commentators
- charities

Contacts/participants were sought using the following methods:

- Word of mouth, e.g. recommendations from Advisory Group members, previously established research contacts.
- ‘Snowballing’ based on conversations with those we have contacted.
- Web and documentary searches to identify key organisations/individuals.
- ‘Piggybacking’ on meeting agendas, organisation mailing lists, regular mailings (such as newsletters and client correspondence).
- Using personal networks and contacts.
- Distributing publicity via social media and in hard copy.

Awareness Raising

We produced an A4 poster and A6 postcard to advertise the project and specifically the link to the online survey, which is also provided through a QR code. We distributed publicity material to agencies willing to display or distribute it whether in hard copy or digitally. We also asked contacts to publicise the project and survey on social media.

Other publicity includes:

- Google ads campaign organised through our funder abrdn Financial Fairness Trust.
- Article in Scottish Housing News published 2 June.
- Podcast interview with Lisa Whitehouse conducted by Generation Rent 5 May.
- Social media campaign by StepChange in August.
- We contacted 31 NHS Integrated Care Boards for permission to display posters in GP surgeries. Separately we also contacted 51 surgeries direct in South Yorkshire and Telford and Wrekin areas. We had some positive responses, for example, NHS Midlands and Lancashire, and NHS Surrey Heartlands agreed to send out the information in weekly GP newsletter; Bristol, North Somerset and South Gloucestershire ICB included information about the project in their bulletin (27 June) which goes to 77 GP practices.
- We posted information about the project on FB.
- We posted several tweets about the project highlighting the survey and inviting people to come forward to speak to us.

- Information about the project has been distributed on our behalf to:
 - Greater Manchester Money Advice Group members and to the Housing Law Practitioners Association duty adviser mailing group.
 - Glasgow Advice and Information Network via their monthly meeting.
 - Scottish Federation of Housing Associations members.
 - Shelter Scotland managers of community based teams.
 - Shelter England staff.
 - Independent Food Aid Network staff.
 - Salvation Army Debt Services and Homeless Services Unit staff.
 - Caritas Social Action and the 19 diocese they work with.
 - Generation Rent clients.
 - Living Rent (Scotland) clients.
 - Advice4renters Money Advice Team.
 - Christians Against Poverty staff.

Additionally, we organised mailing/awareness raising campaigns in our case study areas as follows:

Southampton

- Link to the survey included in the council's annual rent letter distributed to all 18,500 tenants at the end of February.
- Royal Mail 'drop a leaflet' campaign targeting 2,456 households in postcode areas SO14 1 and SO15 4 based on an analysis of those areas considered deprived with a high proportion of private rented housing. This campaign ran for two weeks from 8 May.
- Project poster included on digital display boards in all council tower blocks from March to June.
- Article included in council's quarterly ebuletin 'Tenants Link' published 1 April and sent to 7,000 subscribers.
- Contacted all listed Southampton 'Warm Spaces' with poster.
- Contact with Southampton Tenants Union – they posted about the project on their FB page.
- Asda agreed to display our poster on their customer noticeboard.
- Publicity and short surveys delivered to Southampton Library.
- Postcards and short surveys provided to staff from Southampton City Council Customer Payments and Debt Team.
- Frontline Debt Advice agreed to include an attachment about the survey and inviting contact with their correspondence to clients.

Additional activity:

- A member of the research team attended a Tenant Resource Group meeting organised by the Tenant Engagement Officer at Southampton City Council.
- A member of the research team was invited by Wiltshire Law Centre to observe a court duty day with the Senior Solicitor and Managing Director.
- A member of the research team attended a drop-in centre at a local church attended by members of the local community and the Society of St James benefits advice desk.

Glasgow

- Royal Mail ‘drop a leaflet’ campaign targeting 17,748 households in postcode areas G22 5, G32 7, G45 9, G51 2 and G51 3. The same criteria were used to select these postcode areas as in Southampton. This campaign ran for two weeks from 19 June.
- Contacted all listed Glasgow ‘Warm Spaces’ with poster.
- The Scottish Federation of Housing Associations circulated information about the project to their 54 members in April. In June the SFHA posted information about the project to the housing management forum, in the weekly newsletter and on Twitter.
- 100 copies of the short survey and publicity were supplied to the Legal Services Agency. They also displayed the QR code for the survey at their help desk in Glasgow Sheriff Court and at their main reception.
- Social media copy supplied to Wheatley Homes for distribution on their channels together with digital versions of the project poster.

Additional activity:

- A member of the research team attended a meeting with members of the Legal Services Agency.
- A member of the research team met with the Service Delivery Manager at the Private Rented Sector Housing and Welfare Team Hub of Glasgow City Council.
- A member of the research team met with Shelter Scotland.

Birmingham

- Project poster mailed to 16,500 council tenants currently in housing debt. This mailing was made possible by the award of an additional £10,000 to the project by the University of Southampton.
- Posters were also sent for display in 14 Birmingham City Council office locations.
- Contacted all Birmingham ‘Warm Spaces’ asking them to display the project poster.
- Birmingham Citizens Advice Bureau agreed to display publicity and to distribute copies of the short survey to clients.

Additional activity:

- A member of the research team met with a member of Birmingham Citizens Advice Bureau.

Appendix C – Consent form

Title of project: Home Matters 2: Tackling Housing Debt and Eviction

Researchers: Professor Lisa Whitehouse, Project Lead, L.A.Whitehouse@soton.ac.uk and Tracey Varnava, Senior Research Assistant, T.Varnava@soton.ac.uk

Institution: Southampton Law School, University of Southampton, SO17 1BJ

This research concerns a nationwide investigation of the experiences of those in housing debt. The research, and its results, will result in a project report that will be submitted to the research funder, abrdn Financial Fairness Trust, and may also be published as articles in academic journals and books. Additionally, findings from the research may be presented at academic conferences and form part of comment pieces in the general media.

1. I understand that my participation in this project is voluntary. I have the right to decline to answer any question or to end the interview without an explanation.
2. I understand that my interview will be recorded for ease of reference when collating results. Recordings will be transcribed and will be subject to data analysis. Elements of the interview may be incorporated into the final text of the project report and in other publications.
3. If I request it, I will be sent a copy of the transcript prior to any publication and I understand that I can withdraw some, or all, of my statements from the research once I have had the opportunity to consider the transcript.
4. If I request it, I will be provided with summary of the research findings by email once the research is completed.
5. I have read and understand the explanation provided to me. I have had all my questions answered to my satisfaction, and I voluntarily agree to participate in this research.

If you have any further questions or concerns in relation to this matter, you may contact the project at: homematters@soton.ac.uk

Thank you for agreeing to be part of this research.

Please print your name in capital letters

Date

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Sign your name

Please return this form to:

Tracey Varnava at T.Varnava@soton.ac.uk

Appendix D – Participant information sheet

Please read the following information carefully and discuss it with others if you wish. If you have questions, a member of the research team can be contacted at homematters@soton.ac.uk. Take time to decide whether you wish to take part.

Purpose of the study

This study aims to find out more about the experience of people who have fallen behind with their rent or mortgage payments. The aim is to find ways to improve the processes involved and to assist people to keep their homes.

Why have I been chosen?

You might be able to provide valuable information on the issues raised by the project if you have ever missed a rent or mortgage payment.

Do I have to take part?

No. You can refuse to take part or change your mind about taking part at any time.

What will happen to me if I take part?

You will be asked to answer a series of questions about you and your experience of being in housing debt.

Are there possible disadvantages and/or risks in taking part?

There are no reasonably foreseeable disadvantages or risks.

What are the possible benefits of taking part?

You will not directly benefit from answering the questions, but the information you provide may help others who fall behind with their housing payments in the future.

Will my identity and the information I provide be kept confidential?

All information collected about you will be kept strictly confidential. All data collected will be coded and personal details will be kept in a locked file or on a secure computer only accessible by the research team.

What will happen to the results of the research project?

The results will be published in 2024 and you can ask for a copy to be sent to you. The findings of the study will be presented at conferences and written up in journals and books. The researchers will also share the project report with housing providers, debt advice services and policy makers. The data generated by this research will be presented in an anonymous format so you will not be identified in any report or publication.

Who is organising and funding the research?

The study is led by Professor Lisa Whitehouse who is a member of the Law School at the University of Southampton. The research is funded by the abrdn Financial Fairness Trust.

Ethical review of the study

The project has received ethical approval from the University of Southampton.

Contact for further information

For further information please email us at: homematters@soton.ac.uk. You can also follow us on Twitter at @homemattersEng, @homemattersCym and @Albahomematters.

If you have any concerns about the conduct of this research project please contact [name redacted] Co-Chair of the Faculty of Social Sciences Research Ethics Committee, University of Southampton SO17 1BJ, email [redacted] or phone the university switchboard on 023 8059 5000.

Thank you for taking the time to read this information.

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