



**UK COLLABORATIVE
CENTRE FOR
HOUSING EVIDENCE**

The pandemic arrears crisis:

Private landlord perspectives on the temporary
legislation impacting the Private Rented Sector

Andrew Robert Watson and Nick Bailey

University of Glasgow

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About the authors

Andrew Watson is a researcher at the University of Glasgow. His work is focused on understanding the investment behaviours of landlords and their impact upon investment returns and conditions within the sector.

Nick Bailey is Director of the Urban Big Data Centre and a Professor of Urban Studies at the University of Glasgow. His work is focussed on housing, urban policy and poverty. He has a long-standing interest in the role of the private rented sector within the housing system.

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Executive Summary

Despite an unprecedented array of social and economic protection measures, the economic impact of the pandemic has been widely felt, though young people and those with lower earnings have been disproportionately affected (Scottish Government, 2020d). The private rented sector (PRS) was particularly vulnerable since those groups are over-represented in the tenant body. Almost half (45%) of PRS tenants saw their income reduce in the first few months of the pandemic (Joseph Rowntree Foundation, 2020, p. 20) while 31% had no savings and 21% had savings of less than £1,000 (Scottish Government, 2019b).

A raft of temporary legislation for the PRS was brought in from April 2020 onwards, with the aim of minimising evictions through rent arrears and so preventing additional burdens being placed on health, housing and social services during the worst period of the crisis. This legislation included:

- the extension of notice periods for most eviction grounds including an increase from 28 days to 6 months' notice in the case of 'rent arrears over three consecutive months';
- the introduction of a new requirement for landlords to provide information to tenants, to make reasonable efforts to agree a payment plan and to consider the tenants circumstances before taking eviction action – the Pre-Action Requirements;
- making eviction grounds at the discretion of the Housing Tribunal that handles these cases;
- a ban on the enforcement of eviction orders¹ – the so-called 'eviction ban' – initially for all areas but later limited to areas at Levels 3 or 4 of the Scottish Government's COVID-19 levels system.

Initially put in place to September 2020², these temporary measures have been successively extended to March 2022, a duration of two years. The eviction ban was effectively lifted when all areas of the country were moved to Level 2 or below between May and June 2021 and subsequently revoked on the 9th August 2021.

The temporary legislation has clearly succeeded in preventing evictions and enabling tenants to remain in their homes. However, rent arrears for private – and social – landlords have risen substantially despite the many efforts to support household incomes. In effect, therefore, the legislation has transferred some of the costs of the pandemic from individuals and public bodies onto private landlords.

As restrictions on social and economic activity have begun to ease, policy makers have some difficult decisions to take around the removal of the temporary protections. On the one hand, concerns about tenant welfare and public service pressures remain. In particular, there is a concern that a rapid removal of the temporary legislation may lead to a "tsunami" (Lovett, 2020) or "tidal wave" (Paton, 2021) of evictions. On the other hand, it is unsustainable to ask landlords to continue to provide housing in cases where arrears are mounting. And it is not a simple dichotomous choice of ending or continuing the temporary legislation indefinitely. There may be elements of the legislation which should remain in place and there may be a requirement for additional actions to enable a return to more normal conditions within the sector. Unfortunately, while we have some insights into conditions for tenants, there is insufficient data at present on landlords' perspectives, attitudes and intentions to allow policy makers to make data-led decisions.

¹With the exception of anti-social behaviour and criminal conviction grounds.

²The ban on the enforcement of evictions came into force on the 11th December 2020.

To tackle this data shortfall, we issued an online survey to landlords in Scotland in order to identify how private landlords in Scotland view the current situation, their intentions at this time, and their likely response to a range of policies or incentives designed to tackle the arrears crisis. We received 1732 valid responses which were weighted to match the known geographical distribution of landlords in order to obtain a broadly representative dataset. The survey was supplemented by 15 qualitative interviews with landlords, which were used to provide context and support the framing of this report.

The experience of arrears is likely to influence landlords' participation in our survey, so we regard our estimates of arrears levels as likely to be an upper estimate. However, since we are most interested in the landlords with arrears, we believe our sample provides a good basis on which to try to understand the likely impacts of removing some or all of the temporary legislation.

Scale of arrears

Around one-in-five landlords (18%, N=315) reported current tenancies in arrears at July 2021, which scales up to around 45,000 landlords across Scotland. The arrears had a mean of duration of 5 months (median 3.4 months) and a mean value of £2,800 per tenancy (median £1,900). Between them, these landlords had 565 tenancies in arrears, an average of 1.9 tenancies in arrears per landlord (median = 1). This scales up to around 25% of tenants with arrears and would imply a total value of current arrears in the Scottish PRS in the region of £126m.

These figures are substantially higher than earlier estimates from tenant surveys which suggested around 8-10% of tenants were in arrears with an average arrears of £900-£1000³. Some of this may be accounted by the later timing of our survey. Some may be accounted for a proportion of tenancies with low, 'technical' arrears: where the landlord views the tenant as in arrears because a rent payment has not been received but the tenant views themselves as up-to-date with a payment pending. Some may be the result of some bias in responses to the survey which would tend to inflate the estimate to some degree. It is not possible to distinguish between these. None of these figures includes outstanding arrears for tenancies that ended during the pandemic.

Management of arrears

The temporary legislation included new requirements for landlords to provide tenants with information on sources of support or advice; to make 'reasonable efforts' to agree payment plans with tenants; and to take account of tenants circumstances before pursuing eviction action. The aim is to move away from an emphasis on legal action leading to eviction and to encourage early constructive dialogue over rent arrears. Overall, landlords reported managing arrears in line with legislative requirements. When asked if they had tried to engage with tenants regarding current arrears, 95% agreed, though when asked if tenants had engaged in return, 42% felt they had not.

In terms of support, 51% of landlords had offered their tenants some level of financial support, whether a rent holiday, repayment plan or other support. Whilst we are unable to quantify the net impact of these actions, there can be little doubt that they have helped to reduce the number and scale of arrears to some extent.

³The Joseph Rowntree Foundation (2021a) report that 18% of low-income households are in arrears across the social and rented sectors.

Intentions in regards to arrears and evictions

One third (32%) of landlords with current arrears intend to pursue evictions for tenancies that have arrears of three months or more. This amounts to 6% of landlords overall or around 15,000 landlords.

However, two-thirds (67%) of tenancies in current arrears do not appear to be presently at risk, either because landlords are not in a position to proceed to eviction in the short-term or have chosen not to do so at this time.

One in five (21%) landlords with current arrears (4% of all landlords overall) are at the stage where they have issued a Notice to Leave for one or more tenancies. A further 8% of landlords with arrears (2% of all landlords) have applied or are applying for an eviction order. Whilst risks remain for tenancies at other stages of the process, it is this group which can be viewed as the potential pipeline for evictions over the next six months. It should be noted, however, that not all will reach the eviction stage: some arrears will be settled while others will be ended by the tenant moving following receipt of a Notice to Leave.

One-in-seven (14%) landlords intend to write off arrears for continuing tenancies⁴. Most (59%) reported that it was 'unlikely' or 'very unlikely' that they would be able to recoup arrears due to the inability of tenants to settle arrears and challenges with the debt recovery process.

Knowledge of and views about the temporary legislation

Overall, two-thirds (68%) of landlords felt they understood the temporary legislation, though 16% felt they did not and the remainder were unclear. A majority of landlords (55%) agreed that the 'temporary legislation was necessary to safeguard tenants and protect public services' despite the fact that this conflicted with their short-term interests as landlords, while just a quarter (25%) disagreed. That said, many landlords were strongly dissatisfied with some aspects of the design of the temporary legislation with only a minority (38%) agreeing that it 'was fair and balanced the needs of both landlords and tenants'.

The dissatisfaction coalesced around three themes. First, there was a deep sense amongst some landlords that the temporary legislation, and more generally the Scottish Government, was biased against them. Second, some felt that the legislation was based on the oft-erroneous assumption that landlords could universally afford to sustain significant arrears. Third, some felt that the legislation not only enabled, but encouraged negative tenant behaviours, with some tenants accused of wilfully not paying rent in full knowledge that landlords could not evict them in the short term.

Landlords were also dissatisfied with the levels of support available to the sector throughout the pandemic. Just 33% agreed that the sector-specific support offered to landlords and tenants was fit for purpose. However, when presented with a list of UK and Scottish Government sector-specific support schemes, landlord awareness of them was patchy at best.

⁴Two-fifths of landlords intend to write off arrears for tenancies that have ended or will end soon.

Impacts on landlords' finances

Landlords are a very heterogeneous group and not all have the ability to easily absorb the resulting losses. Some have themselves been adversely affected by the pandemic in terms of their own employment and their health. Over one fifth (23%) of landlords report that their PRS income is 'critical' as it is their 'primary income'. For nearly half (46%), the PRS provides a 'secondary income' but is still viewed as 'semi-critical'. Of those impacted by arrears, one-in-three rated the impact of arrears as significant, and that included half (48%) of those who viewed their rental income as 'critical'.

As a result of arrears, many landlords have had to deplete savings (41%) and/or take on debt (30%). The latter included the use of credit cards (11%), borrowing from friends or family (7%) or personal or business loans (6% each). Despite these actions, almost one-in-ten (9%) landlords has themselves fallen behind in mortgage, credit card or loan payments. Ultimately, this may also put the tenancy at risk if the landlord decides to sell or is forced to do so through mortgage default. One-in-five (19%) landlords with arrears has cut costs by reducing planned investment on their properties.

Asked if they could sustain further arrears, 6% reported that they cannot, while a further 35% report that they can only sustain between one and three months of arrears for each property they own before being placed into financial difficulty.

Landlord perspectives on policy solutions

Evaluating policy solutions to resolve the arrears crisis, landlords were keen to support further financial stimulus to offset the impact of the accumulated arrears. There was very strong support for grants for tenants (82%) or landlords (81%) to combat arrears, as well as for a one-off tax break (71%) and housing allowance increases (59%).

Landlords had mixed views regarding recent and proposed extensions to the temporary legislation:

- 44% agreed that rental arrears should remain a discretionary ground for eviction until the end of March 2022,
- 35% agreed with the retaining extended notice periods to the end of March 2022 and
- 22% agreed with the proposal to extend the ban on the enforcement of evictions orders to level 1 and 2 areas⁵;
- 30% agreed with the extension of the temporary ban on the enforcement of eviction orders in level three and four areas indefinitely (until the 'public health emergency has passed')⁶; and
- 20% agreed that the Pre-Action Requirements should be made permanent.

Other policy interventions which got widespread support included the proposal to classify malicious non-payment of rent as a mandatory ground for eviction (92% agreement) and increasing resources to the First-tier Tribunal for Scotland (Housing and Property Chamber) to prevent backlogs from occurring (73%). Landlords also proposed a range of their own solutions which can be found within the main body of this report.

⁵This finding is now moot as the ban on the enforcement of evictions was revoked on the 9th August 2021 by the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021.

⁶As above.

Conclusions and Recommendations

The pandemic has had a significant impact upon the PRS (both tenants and landlords) and while UK wide fiscal support measures have allowed most tenants to continue to pay their rent as normal, this research shows that part of the burden of sheltering tenants and public services from the impacts of the pandemic has been borne by landlords in the form of unsustainable mounting arrears.

The data suggests that whilst arrears are considerably larger than pre-pandemic, the forecast 'tsunami' of evictions has yet to materialise. This is partly due to lag within the system caused by the temporary legislation (meaning that the arrears crisis will have a long tail), partly because eviction numbers are mediated by capacity at the Tribunal, and partly due to landlord reluctance to evict tenants for both moral and pragmatic imperatives. For the most part, landlords report complying with legislation and supporting tenants throughout the crisis.

Whilst the temporary legislation introduced by policy makers was successful in protecting tenants during the worst of the crisis, it did not recognise the heterogeneity of landlords and significant variations in their levels of financial resilience. This oversight has itself put tenancies at risk and has wider repercussions for both conditions within the sector and the stability of PRS investment patterns.

As the public health emergency abates, the temporary legislation has to be allowed to expire where it has run its course or is causing negative unintended outcomes, and extended where the risk to public health or public services remains, or where the legislation has long-term merit. To prevent large numbers of tenants being at risk high risk of eviction and landlords from shouldering substantial burdens of pandemic arrears moving forward, we would argue that the following measures would represent a reasonable balance.

Require and encourage better arrears management

To ensure continued early engagement with tenants in arrears and to ensure better arrears management overall, the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 should be extended indefinitely. However, we note that regulations require some improvement and that work is required to ensure that knowledge of both the regulations and of arrears management schemes are more broadly understood and used by both landlords and tenants.

Reduce notice periods but extend discretionary consideration of grounds

The extension of notice periods has meant that can take in excess of 12 months for a landlord to evict a non-paying tenant, leading to the accumulation of unsustainable arrears within the system. This appears disproportionately unfair to landlords. Given that extended notice periods have been suspended in England and will end in Wales in December 2021, we recommend that notice periods should return to their pre-pandemic position at the end of March 2022. However, to provide an extra layer of protection for tenants in difficult situations, there is an argument for the Housing Tribunal to continue to have discretion over repossession cases for arrears at least until September 2022, and we recommend this as a safeguard.

Maintain Housing Tribunal capacity

To ensure that arrears do not continue to increase due to potential delays with the tribunal system, we recommend monitoring the capacity within the system and increasing funding levels in response to any identified shortfalls, i.e., any significant increase in processing times for cases.

Grant support

This report finds a strong case for targeted grant support to reduce the need for evictions. At the time of writing, local authorities are developing procedures for administering the £10m of tenant grant funding announced in June 2021. The limited size of the fund and the fund criteria present challenges. However, at this early stage of development, our core recommendation is to include detailed monitoring and reporting of the fund's apportionment to allow the size of the fund to be regularly reviewed and supplemented as required. It is also imperative that the longevity of tenancies which benefit from grant funding are tracked to allow for analysis of the efficacy of the policy.

Additional Recommendations

As noted throughout this report, the situation remains fluid and we recommend that the survey of landlords is repeated in January 2022 to identify changes in the scale of arrears or landlord intentions.

More broadly, we note that policy debates with the PRS have become rhetoric-heavy. There is a need for improved communication between landlords, tenants and policy makers in order to build the trust and knowledge required to help the sector face up to the challenges ahead. The creation of a landlord panel to mirror the proposed tenant panel would be a good starting point, which would also help policy makers take cognisance of the heterogeneity of landlords when making policy decisions. Finally, there is a general requirement to improve the collation and dissemination of data within the private rented sector to support data-driven policy decisions and the routine publication of sector characteristics.

1. Introduction

Following the emergence of COVID-19 as a global threat to health, the UK and Scottish Governments introduced a range of measures to limit the spread of the virus including ‘National lockdowns’ and ‘Social Distancing’. This had substantial impacts on large sections of the economy and on livelihoods. An unprecedented array of social protection measures was introduced in response. Some 11.6 million jobs have been supported by the Coronavirus Job Retention Scheme and 2.9 million individuals by the Self-Employment Income Support Scheme (HM Revenue & Customs, 2021a) (HM Revenue & Customs, 2021b). Businesses also received grant funding, reliefs and access to loan schemes including the Bounce Back Loan Scheme and Recovery Loan Scheme. Despite this, many households saw sharp declines in incomes. Between February 2020 and February 2021, the number of households claiming Universal Credit grew by over 2.46 million (Department for Work and Pensions, 2021). The economic impact of the pandemic has been felt in many quarters but has disproportionality affected young people and those with lower earnings (Scottish Government, 2020d), many of whom were likely to have been “*struggling before coronavirus*” (Joseph Rowntree Foundation, 2020, p. 7).

The private rented sector (PRS) is not immune to these economic impacts, particularly given its increasing role in housing these same vulnerable groups (Bailey, 2020). In Scotland, almost half of PRS tenants (45%) saw their income reduce in the first few months of the pandemic, a far higher proportion than for owner occupiers or social tenants (Joseph Rowntree Foundation, 2020, p. 20). The precarity of PRS tenancies is exacerbated by low savings rates among tenants; 52% have no savings or savings of less than £1,000 (Scottish Government, 2019b) and they are more likely to have unmanageable debts than those in other tenures (Scottish Government, 2020h).

The UK and Scottish Governments sought to prevent the pandemic leading to a surge in tenant evictions in both the PRS and the social rented sector through a range of temporary legislation, including increasing the notice periods required before the start of eviction action and an effective ban on evictions (technically, a ban on the enforcement of eviction orders). The aim was to support tenants and prevent additional burdens being placed on health, housing and social services during the worst period of the crisis. While these appear to have been successful in the short term, they did nothing to address the underlying problem of tenants’ inability to afford their rent payments. As a result, significant levels of rent arrears have accumulated for private and social landlords.

As restrictions on social and economic activity have begun to ease, the temporary protections are being removed or are scheduled for removal. The ban on the enforcement of eviction orders within the Scottish PRS effectively ended when most local authorities in Scotland exited Protection Levels 3 and 4 of the Scottish Government’s COVID-19 levels system on the 17th May 2021. The passing of the Coronavirus (Extension and Expiry) (Scotland) Bill means that many other temporary measures such as extended notice periods could lapse at the end of March 2022⁷. It is not clear how landlords will respond to the expiry of the temporary legislation and there is intense debate as to the impact these changes may have in both private and social rented sectors. However, it is most critical in relation to the PRS where high levels of tenant vulnerability are brought together with short-term commercial pressures. The expiry of the legislation creates the potential for the eviction of substantial numbers of low-income households, including many with children. The consequences are clear: tenants would lose their homes, local authorities and the third sector organisations would bear the brunt of surges in demand for services to support homeless people, and landlords, some of whom rely significantly on property income, could also be adversely impacted. The damage to the sector could be significant with implications for the stability of investment patterns as well as impacts on property conditions and the future supply of rental property. These outcomes are not inevitable but depend on the actions of Government and the choices landlords make in response.

⁷There are differing timelines in the other home nations. In England, for example, the ban on evictions ended in May 2021 and the staged removal of notice periods meant that, from August 2021, notice periods were two months where less than four months rent was owed.

This report seeks to understand the scale of the problem, to identify how private landlords view the current situation and their intentions at this time, and to assess how they might respond to a range of policies or incentives designed to tackle the arrears crisis. The findings provide insights that will support policy makers, local authorities, membership and third sector organisations in data-driven policy creation and resource allocation decisions. It does this through a focus on Scottish PRS landlords, though the findings will have resonance in other parts of the UK and indeed other geographies, utilising an online survey and a series of qualitative interviews.

The report follows over the remaining five sections. Section 2 explores the research context, and includes an overview of the rise of the PRS within the UK, an exploration of the UK and Scottish Governments' legislative response to the crisis, and a review of the data published to date. This is followed in Section 3 by a description of the methodology used to obtain primary data from a broadly-representative sample of Scottish landlords. Section 4 presents the research findings and identifies: the volume and value of rental arrears in the system; the arrears management approach adopted by landlords; landlord intentions regarding evictions; the availability and efficacy of Government support schemes; the impact of arrears on landlord finances; and landlord views on a range of policy solutions. Section 5 and Section 6 present the research conclusions and recommendations respectively.

2. Context: Private renting in the pandemic

2.1 The rise of the PRS in the UK

Across the UK, the growth in the PRS has been the single largest change in the housing system over the last 25 years. In Scotland, the sector is now home to 14% of households, up from 5% in 1999 (Scottish Government, 2019a) (Gibb et al., 2019). In England, private renting now accounts for 20% of the total, outstripping social renting for the first time in more than 50 years (Ministry of Housing Communities and Local Government, 2021b). This growth is partly the result of conscious efforts by successive governments to encourage the expansion of the sector. It also reflects wider economic factors, with lower returns from alternative investments encouraging individuals to consider becoming landlords, supported by the growth in mortgage finance for the sector (buy-to-let mortgages). There are demand side factors too, with many households finding access to mortgage finance more difficult after the Global Financial Crash of 2008/9 and access to social housing limited by the dwindling supply there (Bailey, 2020).

People become landlords by diverse routes. For some, it is a way of holding on to a property where there is an emotional attachment (e.g., the inherited family home) or as an insurance policy when starting a new relationship. More commonly, properties are purchased for primarily financial reasons, as investments to support incomes and/or provide capital gains. Landlords are partly drawn to the sector by the tangibility of 'bricks and mortar' which is perceived to offer a greater degree of capital protection than alternative investments. Most landlords are private individuals (Scottish Government, 2013), with 44% of all registered landlords owning just one property and the majority (73%) owning between one and four (Crook et al., 2009). The Scottish figures are in line with those for the rest of the UK and suggest that the PRS is largely 'a cottage industry' dominated by small scale investors (Rugg & Rhodes, 2018). These investors are often described as 'amateurs', a reference to the fact that investments are only a secondary source of income for most but also, from some quarters, due to a perceived lack of professional expertise and standards (Rugg & Rhodes, 2018).

For some time, the PRS has been emerging as a hybrid sector, which is no longer the preserve of largely young and transient populations, but increasingly houses vulnerable groups who spend longer periods in the sector. Across the UK, the PRS is home to 42% of adults under 40 who are in poverty and 36% of children in poverty (Bailey, 2020), although these proportions have fallen slightly in recent years (JRF, 2020). The "*pervasive view*" (Kemp & Rhodes, 1997, p. 119) of landlords as unscrupulous profit maximisers and real-world examples of criminality (Spencer et al., 2020) combined with the poor conditions in some parts of the PRS, means there are legitimate concerns over its suitability as a housing solution for some of these groups (Coulter, 2016; Ronald & Kadi, 2017).

In comparison to the social rented sector, however, the performance of the PRS is not as poor as is often assumed. For example, the large majority (84%) of PRS tenants in Scotland say they are 'fairly' or 'very satisfied' with their housing, compared to 81% in the social sector (Scottish Government, 2019a, p. 12). Elsewhere, it is reported that tenants are "*generally satisfied with their property and the service received in the PRS*" (Evans et al., 2020a, p. 7). Furthermore, though the Scottish PRS has the same number of dwellings below the tolerable standard as social housing, it has a lower number of dwellings categorised with 'any disrepair to critical elements' (Scottish Government, 2019c). This noted, both sectors have considerable room for improvement.

2.2 Pre-pandemic Legislative Context

The stated intention of the Scottish Government is to deliver balanced policy and legislation that “safeguards” tenants (Scottish Government, 2007, p. 30) but does “not constrain growth” (Scottish Government, 2013, p. 1). Over the last decade the pace of regulatory change has been brisk, particularly in comparison to England⁸, and there are longstanding concerns surrounding the efficacy of much of the legislation, landlord knowledge of it, and enforcement. (Gibb, 1994; Kemp & Rhodes, 1997; Mellish & Rhoden, 2009; Partington et al., 2006; Rugg & Rhodes, 2018; Scottish Government, 2009; Spencer et al., 2020).

It is within this legislative context that the temporary COVID-19 legislation has been introduced.

2.3 The Pandemic Response in Scotland

The coronavirus outbreak was declared a pandemic on the 11th March 2020. On the 23rd March, the UK Prime Minister issued a nationwide ‘stay at home order’. On the 24th March 2020, the Scottish First Minister put Scotland into ‘lock down’. Citizens were only permitted to leave their home to shop for basic necessities, to take exercise, for medical reasons or to travel to essential work. Non-essential businesses were told to close.

The measures brought much housing market activity to a halt. In-person viewings could not progress, surveyors could not carry out Home Reports, the Registers of Scotland temporarily closed the application record (Registers of Scotland, 2021) and the Scottish Government advised that house moves should be delayed wherever possible.

After these initial measures to slow the spread of Covid-19, governments across the UK moved to slow and then halt the process of households being evicted. In Scotland, this occurred in four stages.

First, the Coronavirus (Scotland) Act 2020, came into force on the 7th of April 2020. The Act introduced the temporary extension of notice periods for most eviction grounds and the consideration of all repossession cases at the First-Tier Tribunal (Housing and Property Chamber) on a discretionary basis. In the case of eviction for ‘rent arrears over three consecutive months’, notice was increased from 28 days to 6 months in the case of the Private Residential Tenancy (PRT) and from 2 weeks to 6 months in the case of the Short-Assured Tenancy⁹.

As the legislation applied to notices served on or after the 7th of April 2020, the legislation also covered arrears cases that did not result from the pandemic but had been accrued before.

The measures were slated to last until the 30th September 2020, but extended to the 31st of March 2021 and subsequently the 30th September 2021.

Whilst social justice was clearly the primary driver of the legislation, there was also a pragmatic economic imperative. The Bill’s Financial Memorandum (produced by the Scottish Government), suggests that the changes would not result in additional costs for local authorities, but rather may “assist in saving local authorities from costs relating to the provision of temporary accommodation by helping to reduce the number of private tenants who are at risk of homelessness.” (Scottish Parliamentary Corporate Body, 2020, p. 33). The memorandum goes on to describe that it costs local authorities between £319 and £494 a week to provide temporary accommodation, and up to £1,370 per week to provide emergency accommodation.

⁸ Gibb (2015, p. 1) describes Scottish housing policy as “hybrid of devolved and reserved powers”, which leads to areas of policy convergence and divergence between Scotland and England.

⁹ From this point onward this report refers to the PRT as this form of tenancy agreement is the most prevalent in Scotland. However, the temporary legislation also impacted upon Short Assured, Assured and Regulated tenancies.

On the flip side of the coin, it was anticipated that the extension of notice periods in cases of arrears would result in landlords losing an additional £3,340 on average due to the longer notice period¹⁰. The temporary legislation effectively shifted the financial risk faced by local authorities in providing temporary and emergency accommodation onto private sector landlords. This was justified by the Scottish Government on the basis that *“the financial support available to tenants should mean most tenants can pay their rent”* (Scottish Parliamentary Corporate Body, 2020, p. 46). In essence, there should be little reason for significant arrears.

In the second stage, the Coronavirus (Scotland) (No.2) Act 2020, and subsequently the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020, required that landlords provide more advice to tenants before pursuing eviction. To ensure compliance, the legislation linked the *“extent to which a landlord has complied with these requirements”* to the Tribunals discretionary decision *“to grant an eviction order”* (Scottish Government, 2020a). The legislation was slated to expire in line with the previous Coronavirus (Scotland) Act 2020 on the 30th September 2021.

The third stage was the introduction of temporary legislation¹¹ from the 11th December 2020 which, *“prevented a charge for removing from being served”* and *“decree being enforced”* except in some specific cases (Legal Services Agency, 2021, para. 2). This change effectively prevented the enforcement of eviction orders and has been widely reported as an ‘eviction ban’. This legislation was originally slated to expire on the 22nd of January 2021 but was subsequently incorporated into legislation¹² which linked the ban to the local Levels system for social distancing, so that it applied only to areas under Level 3 or Level 4 restrictions. Hence, the ban on the enforcement of evictions was effectively lifted when most of mainland Scotland exited Level 3 or 4 restrictions on the 17th May 2021. The provisions were set to formally expire on the 30th September 2021 but were revoked on the 9th August 2021 by the introduction of the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021. As such, the ban on the enforcement of evictions is no longer in place.

The fourth stage, the Coronavirus (Extension and Expiry) (Scotland) Bill, which became an Act on 4th August 2021, extended certain provisions of the previous three stages from the 30th September 2021 to the 31st March 2022 and potentially to the 30th September 2022 via further secondary legislation. This means that the *“temporary measures”* of pre-action requirements, extended notice periods and discretionary possession grounds will remain in place until at least the 31st of March 2022 two years after the start of the pandemic.

The legislative response also included some additional support for landlords and tenants beyond that provided by the Coronavirus Job Retention Scheme and Self Employment Income Support Scheme. For tenants, this included the increase in the Universal Credit standard allowance of £20 per week and the restoration of Local Housing Allowance (LHA) rates to the 30th percentile of local housing market rents, while landlords could benefit from the introduction of mortgage payment holidays. All were UK Government measures. The Scottish Government sought to go further by increasing its Discretionary Housing Payment (DHP) budget, creating both the Tenant Hardship Loan Fund and PRS Landlord (non-business) Covid-19 Loan Scheme and most recently, the Tenant Grant Fund.

¹⁰ It should be noted that this loss is in addition to arrears accrued prior to issuing notice and those normally accumulated in the time between issuing notice and securing an eviction. In reality, it currently takes around twelve months to evict a tenant for arrears and hence up to twelve missed rental payments.

¹¹ See the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020

¹² See the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 12) Regulations 2021.

2.4 The Rest Of the UK And Beyond

This legislative response was broadly similar across the UK. Extended notice periods and ‘eviction bans’ were enacted in England, Northern Ireland and Wales, though the details and timelines differed. For example, in England, the ban on evictions ended in May 2021 while in Wales it was June. Notice periods varied throughout the pandemic and have now returned to pre-pandemic lengths in England. However, temporary notice periods remain in place in Northern Ireland (12 weeks), Wales (6 months) and Scotland (6 months) until the 4th May 2022, 31st December 2021 and 31st March 2022 respectively (Wilson, 2021). Most, including Scotland, had exemptions including for anti-social behaviour, but England also had an exemption for cases with “*egregious rent arrears*” (Department for Levelling Up Housing & Communities, 2021, para. 7). As indicated above, there were also some notable differences in the levels of support on offer; Scotland and Wales both set up tenant loan schemes but England and Northern Ireland did not.

These challenges of protecting tenants during the pandemic were not unique to the UK and neither were the responses. Countries with some shared PRS characteristics such as Australia (Hulse, 2014) and America (Malpezzi, 2011) also relied upon financial stimulus to mitigate against the worst economic impacts of the pandemic and have countenanced some form of eviction ban to limit the spread of the virus and or protect tenants.

The Australian response is reported to have “*notable common themes, but also some significant differences*” (Pawson et al., 2021, p. 133) from the UK’s response. In most Australian states and territories, Governments introduced restrictions on evictions (‘eviction moratoriums’) and required landlords and tenants to “*to negotiate in ‘good faith’ a rent reduction or deferral before administrative tribunals would consider an eviction application*” (Evans et al., 2020b, para. 12). Though countrywide data on the scale of the problem is hard to come by, eviction moratoriums were reported to be “*generally easily understood and reasonably effective responses to the crisis*” (Pawson et al., 2021, p. 13).

In America, a temporary moratorium on evictions was put in place by the Centre for Disease Control and Prevention (CDC) principally to control the spread of the virus. The scale of the challenge in America is staggering. It is estimated that “*as of January 2021, over 10 million renters were behind on their rent and owed approximately \$57 billion in rental arrears.*” (National Low Income Housing Coalition & The Center For Law And Social Policy, 2021, p. 2). The federal moratorium ended recently resulting in a “*modest uptick*” in evictions (Parker, 2021, para. 2). However, some local level protections remain in place making it difficult to obtain a complete picture.

The use of eviction bans has not been limited to these geographies. The Organisation for Economic Co-operation and Development (2020) confirms that “*moratoria on evictions as well as rent and mortgage payment forbearance have been widespread*”. In fact, eviction bans and moratoria were countenanced in Germany, Spain, Canada, Ireland, Panama, and the United Arab Emirates amongst others¹³. As in the UK, there is broad concern within these countries regarding the potential impact of the cessation of eviction bans and support schemes. Though referencing Europe, World Habitats argues that the focus on “*short term fixes*”, have effectively kicked the can down the road and fallen “*short of truly addressing a broken housing system*” (Duce, 2020). It could be argued that this statement applies directly to Scotland and much further afield.

For most geographies, is not clear how landlords are coping with arrears, nor how they intend to respond moving forward. It is therefore suspected that this report will be of interest and have salience in multiple geographies.

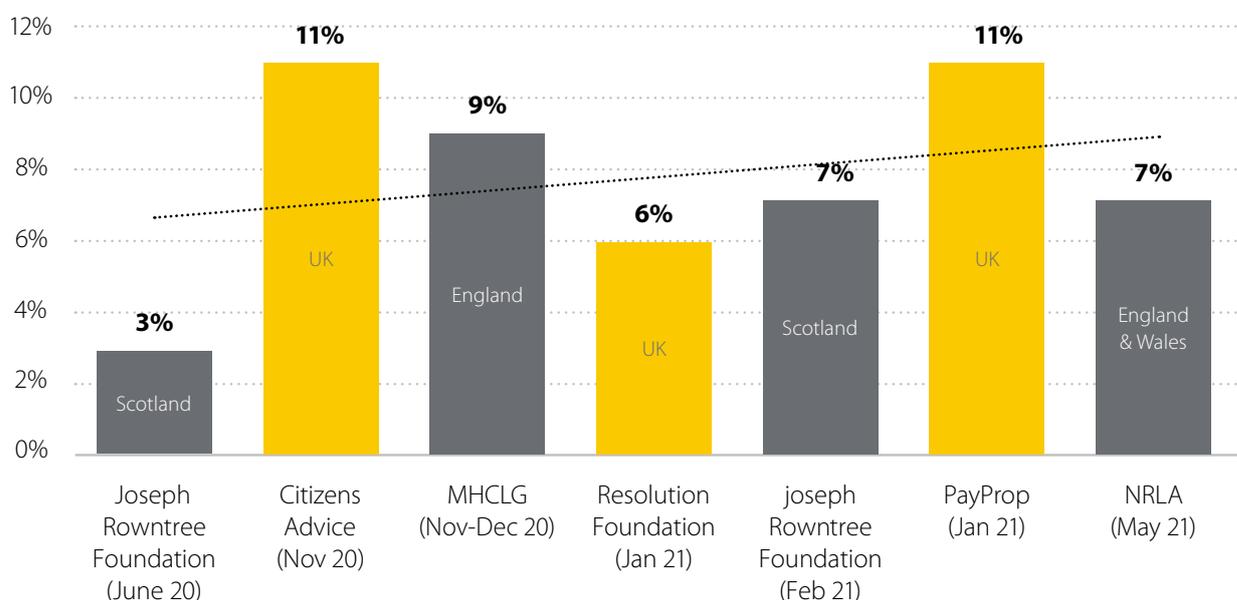
¹³ See International Monetary Fund (2021) for an overview of policy responses for key countries.

2.5 Evidence of arrears

While the Government's intention or hope was that rent arrears resulting from the temporary legislation would be minimal, there is evidence (albeit patchy) that the problem has become significant across the UK. This emerges in household surveys which give a picture from the tenants' perspective as well as surveys and other evidence from the landlords' view. The results are summarised in Figure 1 omitting one outlier. However, it should be noted that these surveys focus on different geographies, draw from different samples and use different sampling techniques. In addition, some aim to be representative of the entire population and others representative of private renters. As such studies are not directly comparable. They remain interesting none the less. The four most recent PRS focused surveys give values ranging from 6% to 11% of tenants in arrears, with the most likely current value 8-10%. As will be discussed in more detail in Section 4.1, this is several times the pre-pandemic position.

On the household side, an early report by the Joseph Rowntree Foundation for Scotland used polling in June 2020 to claim that *"almost half (45%) of private renting households had seen their incomes drop"* though only *"3%"* had fallen behind on their rents at that point (2020, pp. 20-21). In November 2020, a UK-wide online survey of 6000 people by Citizens Advice suggested that *"on average, 11% of private renters are currently behind on their rent"* (Derricourt et al., 2021, p. 10). With average arrears of £730, this equates to £360 million of arrears across the UK. In January 2021, the Resolution Foundation drew on data from a UK survey of 6000 working-age adults, concluding that just under 6% of those renting privately *"were behind with their housing payments"* (Judge, 2021, p. 3) with average arrears of £800 per tenancy. In February 2021, a further poll by the Joseph Rowntree Foundation for Scotland found that 6% of private renters were in arrears (Joseph Rowntree Foundation, 2021b). More recently, the National Residential Landlords Association (NRLA) commissioned a survey of 2000 private tenants in England and Wales in May 2021 which found that *"since 17th March 2020 7% of tenants had built arrears which they have yet to pay back"* (Hunter, 2021). The average arrears were £900 per tenancy. In November-December 2020, Wave 2 of the Housing Resilience study placed the number of tenants in arrears at 9%. Interestingly, the study also notes that *"a further 8% of private renters said they were very or fairly likely to fall behind with rent payments in the next three months"* and that *"22% of private renters reported finding it more difficult to keep up with rent payments since June-July 2020"* (Ministry of Housing Communities and Local Government, 2021a, p. 2). Most recently (October 2021), the Joseph Rowntree Foundation (2021a) reported that 18% of low-income renters are in arrears across the social and rented sectors.

Figure 1. Estimates of % of PRS tenants in arrears



On the landlord side, a survey of members by the Scottish Association of Landlords (2020, para. 6) found that 66% of landlords “reported losing income, with an average of almost £5000 each”. However, the figure also includes income lost via void periods and the provision of rent holidays and so we have omitted it from the summary.

A different insight comes from PayProp¹⁴, a rent management software provider used by some Scottish Letting agents. Their data from Q1 2021 suggests that 10% of PRS tenants in Scotland have rental arrears totalling £37m (PayProp, 2021). This equates to an average of £940 per household in arrears, which is larger than the £730 estimated by Citizens Advice a few months prior (Derricourt et al., 2021, p. 26). Taking a different approach in presenting the data, Paragon Bank (2021) report on a BVABDRC survey of 750 landlords, suggesting that in Q1 2021, affected landlords had on average 1.6 tenancies in arrears with average arrears of £2,376¹⁵. Although both of these approaches are interesting, the methodologies are not clear, and it is difficult to assess how representative the samples are.

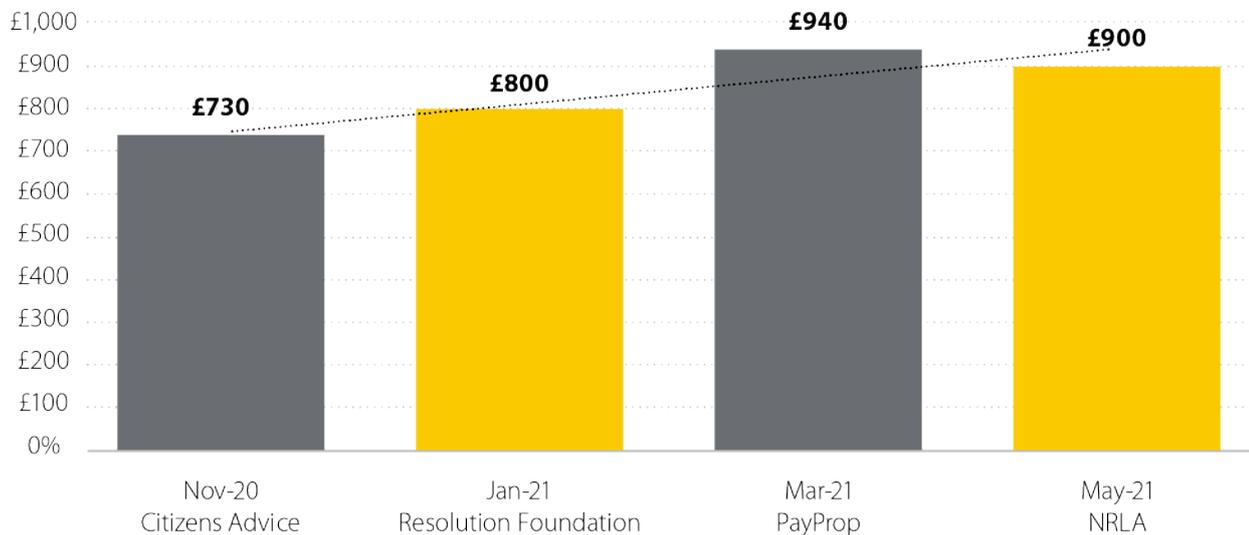
The estimates of total PRS arrears are more sporadic but include £200m for England (Judge, 2021), and between £360m and £728m for the UK (Derricourt et al., 2021) (PayProp, 2021).

The data suggests an upward trend in both the percentage of tenants in arrears (Figure 1) and the average value of arrears per tenancy (Figure 2).

¹⁴ This is one data source referenced by The Scottish Government (2021a) in their justification of the continued use of temporary legislation.

¹⁵ It is not clear if this figure is per landlord or per tenancy and so it has been omitted from Figure 2.

Figure 2. The average value of arrears per PRS tenancy



Within the social rented sector, the picture is easier to ascertain due to robust data from landlord management systems. Social landlords report arrears figures to the Scottish Housing Regulator, and there were combined arrears of £137m in March 2020, £148m in April 2020 at the outset of the pandemic (Scottish Housing Regulator, 2020), and £161m by March 2021 (the latest figures published (Scottish Housing Regulator, 2021)). This represents significant growth. Unfortunately, no such reporting mechanism or obligation exists within the Scottish PRS.

Table 1. A note on the definition of arrears

Classifying Arrears as Debt

In this report 'arrears' are defined as 'rent that is owed and should already have been paid'.

However, framing unpaid rent simply as a 'late payment' is limiting. It is helpful to also conceptualise arrears as a form of 'problematic debt'. Such debts can impact upon welfare and ultimately result in psychological impacts such as anxiety, depression, and suicide (Meltzer et al., 2010).

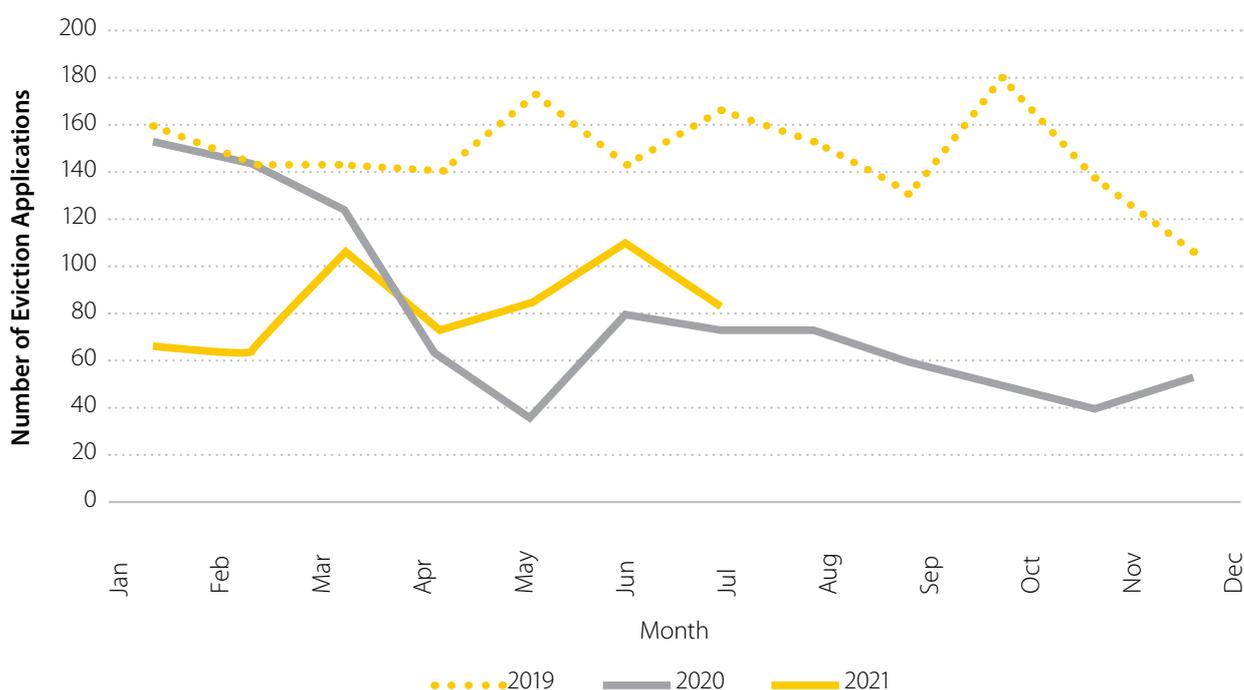
Viewed through this lens, there are three established routes out of debt, "*financial help, a shock and advice*" (Lea, 2020, p. 165), where 'shock', in this context, constitutes facing the legal implications of debt including eviction. As will become clear, current policy delivers on 'advice', the temporary legislation has insulated many from 'shock', but for many, policy has been short on direct 'financial help'.

2.6 Evidence of legislation and support scheme impacts

There is little evidence with which to judge the efficacy of the legislation and associated support schemes to date. The Scottish Government (2021a) cite data from the First-tier Tribunal which finds that there were 168 evictions orders issued citing arrears between July 2020 and June 2021. In the period 2019-2020, 827 eviction orders were granted, the “vast majority...were brought on the grounds of rent arrears” (The Scottish Tribunals, 2021, p. 34). Data on eviction order applications obtained for this report provides a more detailed insight.

In 2019 and 2020 there were 1775 and 947 eviction applications respectively and between Jan 2021 and July 2021 there were 592. Figure 3 clearly shows a downward trend in eviction order applications from April 2020 when the legislation was enacted. This points to the legislation having a positive impact, though it should be noted that this built upon an existing albeit slower downward trend. From April 2020 to July 2021 the number of monthly applications were considerably lower than equivalent months in 2019. Whilst some months in 2021 are higher in comparison to the last three quarters of 2020 and the dotted linear extrapolation line suggests an upward trend (see Figure 3), the figures remain well below average. The data suggests that the sector is currently facing a ‘ripple’ in eviction numbers but the forecast “tsunami” (Lovett, 2020), “tidal wave” or “ticking time-bomb” (Paton, 2021) has not yet materialised.

Figure 3. Eviction order applications by year



(Source: correspondence with Scottish Courts and Tribunals Service)

It should be noted that these figures relate to all ‘application for eviction order’ cases across Scotland, not simply arrears. Separate analysis by the Scottish Association of Landlords shows that in the period the 1st October 2019 to the 18th March 2020 and the same period the following year, just 59% and 33% of granted eviction orders were due to

rent arrears respectively (Elgar, 2021). However, a further 28% and 30% in each period related to Section 33 notices, the issuing of which may have been driven by arrears. Furthermore, around half of cases (49% between April 19 to March 20) were withdrawn, rejected or dismissed. To put these statistics in perspective, this suggests that on average, 0.06% of landlords sought to evict a tenant in each month of 2020 for any ground, and 0.03% in each month of 2020 and 2021. At point of writing, the Tribunal's 'Forthcoming Tribunal Hearing' schedule details just 94 cases with an eviction prefix ('EV') for the period 23/08/2021 to 23/09/21 (Housing and Property Chamber First-tier Tribunal for Scotland, 2021). Given these volumes, it is not clear why, with appropriate interventions and sensible planning, the need for evictions could not be removed entirely.

Although the temporary legislation has reduced the number of eviction applications, this correlates with an increase in the scale of individual arrears *"at the point the tribunal decided to grant an eviction order"*. This figure was 8.9 months pre pandemic and 13.3 months during the pandemic (Elgar, 2021).

For detailed data on the efficacy and impact of support schemes it is necessary to look further afield, as statistical updates for this topic are not routinely provided by the Scottish Government. It is reported by the Joseph Rowntree Foundation (2021b, p. 5) that the Tenant Hardship Loan Fund *"isn't working"* as large numbers of applications have been rejected due to low credit scores. Evidence that the scheme is not working can be found within Freedom of Information Request SCTS FOI/202100223752 (by others). It suggests that as of the 3 August 2021 1009 applications for the Tenant Hardship Loan Fund had been submitted, and just 207 had been approved with an average loan size of £2,697. Of these, only 159 were from tenants within the PRS. Furthermore, only a small number of applications (110) were in progress (Scottish Government, 2021f). Freedom of Information Request FOI/202100231407 (by others) states that as of the 6 September 2021, £460,000 of loans had been awarded via the fund. It also details £194,000 of loans paid to landlords through the PRS Landlord (non-business) Covid-19 Loan Scheme as of the same date.

2.7 What data is being used by policy makers?

Under the Coronavirus Acts, the Scottish Government committed to regularly reviewing and reporting upon the provisions of the Acts. We examined the eighth report¹⁶ (Scottish Government, 2021a) to identify the data on which policy makers are relying to reach policy decisions and in particular, the decision whether to retain the provisions of the temporary legislation or not. The report draws on a range of data including: socio-economic indicators (employment statistics, universal credit claims figures, resilience data); some of the data sources previously listed in Section 2.5; and additional sources such as enquiry volumes provided by Citizens Advice Scotland. The report reaches the following conclusion:

"The provisions remain necessary to ensure that tenants, including those who have become unemployed, or will become unemployed as the furlough scheme ends, have time to apply for, and receive, the available support in the short term and, if necessary, to give them time to plan for the longer term as we recover from this unprecedented crisis. The provisions also continue to be necessary in order to help mitigate any further pressure on housing, health and other public services." (Scottish Government, 2021a)

Considering the shortfall in robust arrears data, and an absence of data on landlord intentions, it would appear that important policy decisions are being made in the absence of a detailed understanding of the status quo.

¹⁶ The ninth report was issued as this report went to publication. The report provides some statistical and legal updates but does not materially differ from the eighth.

2.8 Summary and objectives

We are faced with a context of high and possibly rising arrears levels in the Scottish PRS, repeated extensions of legislation introduced on a temporary basis, and on-going concerns about the potential for mass evictions of vulnerable groups. Given the low levels of extant knowledge, this research seeks to urgently fulfil the following objectives:

- I. Identify the volume and value of COVID-19 related rental arrears within the Scottish PRS.
- II. Ascertain how landlords are currently dealing with arrears.
- III. Understand landlords' current intentions with regard to rental arrears, particularly around eviction action.
- IV. Determine the extent to which landlords understand the temporary legislation introduced during the pandemic.
- V. Identify landlord perceptions surrounding the availability and efficacy of Government support strategies and their take up rates.
- VI. Understand landlord resilience levels, pandemic impacts, and landlord financial tipping points.
- VII. Identify landlord views on potential policy solutions to the pandemic arrears crisis.

3 METHODOLOGY

3.1 Scotland as a case study

Scotland was selected as the locus of the research partly for pragmatic reasons. The research team have extensive knowledge of the Scottish PRS and contacts with key stakeholder groups. They were therefore able to quickly secure support from a broad range of networks within PRS stakeholder organisations, enabling various routes to access landlords. Scotland was also selected in the knowledge that research on the PRS here could shed light on the situation for the rest of the UK as well. While the details of the law are different, the overall nature of the legal system is very similar to that in England and Wales¹⁷. And while the PRS in Scotland may be slightly smaller proportionately than in England and Wales, Scotland is otherwise quite close to the UK average in terms of a range of socio-economic indicators such as incomes, employment or poverty (Bailey & McNulty, 2017). It does not have the highly-pressured housing market areas equivalent to London but otherwise it contains a range of urban and rural markets with more and less pressured housing markets.

3.2 Methods

Given the time-critical nature of the research, the online survey was selected as the principal primary data gathering method. Despite a “*remarkable decrease*” in online survey response rates, they continue to offer the ability to secure a speedier response than alternative methods and at lower cost (Saleh & Bista, 2017, p. 64) (Sue & Ritter, 2012) (Fan & Yan, 2010; Kaye & Johnson, 1999). Ethical approval was given by the University of Glasgow through the College of Social Sciences Ethics Committee. JISC Online surveys software was utilised as it has been approved by the University and is intuitive in use. Access to the survey was provided to respondents via URL, which led directly to the landing page for the survey.

The questionnaire was designed with reference to previous landlord surveys (Crook et al., 2009; Ministry of Housing Communities and Local Government, 2019) and best practice. On completion, the survey was piloted both within the University and via members of an advisory group created to support the project.

Responses were downloaded from the JISC Online site and uploaded to SPSS for data cleansing and analysis. Early analysis of free-text field responses pointed to significant landlord concerns around void periods and strong opinions surrounding the “*paternalistic*” treatment of landlords by the Scottish Government. Although not included within the project’s initial scope, the research team opted to include a series of semi-structured qualitative interviews to follow up on these “...*unanticipated results*” (Morgan, 2014, p. 54) and to enrich the quantitative data. As no budget had been allocated for transcription and analysis, the team adopted a ‘notes and quotes’ approach, subsequently utilising thematic analysis to identify key themes. Data from the interviews has not been directly cited herein but has instead been used to frame and provide context for the report.

3.3 Target population and achieved sample

Given their heterogeneity and the ‘cottage industry’ nature of the PRS, landlords are a relatively difficult group to reach. Data on the number and geographical distribution of landlords is not readily available, despite the requirement for (most) private landlords to register with their local authority since April 2016. We know there were around 250,000 landlords on the register at July 2020 (Scottish Government, 2020e), but there is no central means to access the register for research purposes.

¹⁷ It is important to note however, that differences in tenancy regimes and in particular the existence of the so called ‘no fault’ ground for eviction in England means that tenancies are less protected in England than they are in Scotland, although some legacy tenancies in Scotland retain this right. As a result, the pace of evictions following the cessation of the temporary legislation may differ significantly in England.

Due to the time-critical nature of this research, our intention was to issue the survey to a known and broadly representative sample of landlords via SafeDeposits Scotland (SDS), the largest of three Tenancy Deposit Scheme providers operating within Scotland. This method had provided a very positive response during a parallel research project investigating the investment behaviours of PRS landlords (results forthcoming). On this occasion, the initial response was poor, with just 170 survey responses received. SDS were unable to resource further mailshots and, in any event, follow-up mail calls did little to increase response rates in previously issued surveys.

Previous landlord surveys have used a variety of methods to identify their sample: tenancy deposit scheme records (Ministry of Housing Communities and Local Government, 2019) which we had already tried; getting landlord details from tenants participating in a household survey (Kemp & Rhodes, 1997) which we did not have time for; and going through local authorities to use landlord registration databases (Crook et al., 2009).

With time of the essence, we adopted a pragmatic approach, using a variety of channels to increase our response (Table 2).

Table 2. Recruitment streams

Stream	Organisation/Target	Details
1	<i>Tenancy Deposit Scheme Providers</i>	<i>All three Providers offered some support</i>
2	<i>Scottish Association of Landlords</i>	<i>Survey link emailed to membership</i>
3	<i>Local Authority Landlord Registration Units</i>	<i>16 out of 32 authorities offered some degree of support</i>
4	<i>Letting Agents</i>	<i>A few agents provided support</i>
5	<i>Social Media</i>	<i>The survey link was shared on Linked-in Facebook and other social media sites</i>

Each stream required a bespoke communications strategy and the resultant method of recruitment was dictated (in most cases) by the capacity and willingness of the individual organisations approached. For example, a second Tenancy Deposit Scheme provider, mydeposits Scotland, issued the survey link directly to their landlord database, whereas the third, Letting Protection Scotland, placed a link to the survey on their website. A similar potted approach emerged with local authority Landlord Registration Teams. It should be noted that not all streams reached all landlords potentially within that stream. For example, not all Safe Deposits Scotland landlords have consented to promotional emails. It is also possible that some landlords could have received the survey multiple times, though participants were asked to only complete the survey once.

This mixed approach was successful in generating a substantial response with 1745 landlords from 29 out of 32 local authority areas completing the survey. Thirteen erroneous entries were removed, leaving N=1,732. By providing a different copy of the survey (URL) for each group, we can disaggregate the responses by method of recruitment (Table 3).

Table 3 Recruitment stream completions

Stream	Organisation/Target	Total Reaching Survey	Drop Outs	Completions	Completion Rate (%)
1	Tenancy Deposit Scheme Providers	744	570	174	44%
2	Scottish Association of Landlords	160	112	48	30%
3	Local Authority Landlord Registration Units	3707	2266	1441	39%
4	Letting Agents	109	99	10	9%
5	Social Media	1135	1063	72	6%
Total		5855	4110	1745	30%

The most productive route by a long way, was local authority landlord registers (83% of the total completed). We contacted the Landlord Registration Teams of each local authority asking that they issue the survey link to landlords registered in their area. Whilst a number did not respond, 50% did agree to help, either sending the mailing out directly or placing a notice on their website. The response levels from the Tenancy Deposit Scheme provider mailings were generally disappointing, though the organisations themselves engaged positively with the research and this did generate the second largest volume of responses.

Very few responses resulted from letting agents circulating details to their clients. There are just under 900 registered letting agents in Scotland as of February 2020 (Scottish Government, 2020f). The registration team at the Scottish Government was unable to provide a list of registered business but it is possible to search the register based on common names. Using this method, we identified around 50% of registered letting agents. Contact emails were obtained either directly from individual agent websites or via letting agent listing on sites such as Rightmove and Zoopla, and two emails were sent to each letting agent requesting assistance. Only three letting agents responded, pointing to significant challenges in engagement. This is concerning given that letting agents in many respects can be viewed as gatekeepers. Responses through the use of social media and the Scottish Association of Landlords made up the remaining responses.

To recruit landlords for the qualitative element (semi-structured interviews), we added a request for participation, and our contact details to the final page of the online survey. A couple of dozen landlords responded and fifteen were selected for interview. Landlords were selected to include those with and without areas and void periods, as well as to ensure differing portfolio and geographical locations where possible. However, selection was also driven by timescales and participant availability.

3.4 Confidence intervals

Given a sample size of 1,732 landlords, confidence intervals for the full sample will be at most +/- 2.4% (assuming a 95% confidence and an estimated proportion of 50%). Given the many other factors that have influenced the construction of our sample, this should be treated as an indication of the minimum levels of uncertainty in our results. Where results are disaggregated by geographic area or type of landlord, confidence intervals may be considerably larger.

3.5 Geographic representativeness and weighting

The achieved sample represents around 0.7% of landlords in Scotland. A key question for any survey is the extent to which the sample can be considered representative of the target population, particularly as a limitation of our approach is the potential for self-selection (i.e., volunteering to take the survey) to bias the results. One means of making some assessment of this is to look at geographic coverage; we examine other characteristics below. Following Crook et al. (2009), we use four groupings: the major cities, Edinburgh & Glasgow; the next two cities by size, Aberdeen & Dundee, the rest of the Central Belt¹⁸; and remaining (largely rural) areas.

In Table 4, we compare our sample with the known distribution of registered landlords, both based on location of properties rather than landlord's place of residence. Our sample has a degree of over-representation in the 'Aberdeen and Dundee' grouping and under representation elsewhere. The dataset was therefore weighted (column D) to correct for this geographic imbalance. Unless stated otherwise, weights are used throughout this report.

Table 4. Response weighting

<i>Column A</i>	<i>Column B</i>	<i>Column C</i>	<i>Column D</i>
Geographical Grouping	% Survey Response	% Registered Landlords	Weighting
<i>Edinburgh & Glasgow</i>	27.0	33.3	1.235
<i>Aberdeen & Dundee</i>	24.2	12.1	0.500
<i>Rest of the Central Belt</i>	12.6	14.2	1.128
<i>Rural Areas</i>	36.3	40.5	1.117

3.6 Landlord and property characteristics

We can get some further insights into the representativeness of our (weighted) sample by comparing our estimates of landlord and property characteristics with previous surveys of the Scottish PRS. In Table 4, we compare the types of landlords in our survey with Crook et al.'s (2009) survey, which relied on recruitment through local authority landlord registers (the bulk of our sample). In both cases, the great majority are private individuals or couples with our sample recording a slightly higher fraction here (Table 5).

Table 5. Landlord types

Type of Landlord	Survey %	Crook et al. (2009)%
<i>Individual or couple</i>	90	84
<i>Company, partnership or property trust</i>	9	14
<i>Institution / other</i>	1	2

(N=1734)

In terms of portfolio size (Table 6), we are again very similar, with the largest proportion owning just 1 property and the great majority having 4 or fewer. It is worth noting, however, that the Scottish Government report that 94% of all registered landlords own just one property (Scottish Parliamentary Corporate Body, 2020). Since landlord registers underpin all these figures, it is not clear how this discrepancy arises. One possible explanation is that both our sample and that in Crook et al (2007) over-represents landlords with more properties, because they are more likely to respond to survey requests as they have a greater stake in the sector. This would be a useful area for future research to examine since it might have quite a significant impact on findings.

¹⁸In this case, the central belt refers to the "small central" belt or "lowland triangle" i.e., it incorporates local authorities which have no extensive unpopulated areas.

Table 6. No. of properties owned

No of Properties Owned	Survey %	Crook et al %
<i>1 property</i>	48	39
<i>2-4 properties</i>	35	34
<i>5-19 properties</i>	15	20
<i>20-99 properties</i>	2	5
<i>100 or more properties</i>	0	1

(N=1734)

The Scottish PRS appears to be broadly similar to the English in terms of these characteristics. The English Private Landlord Survey found that 94% in England let property as an individual or couple while 45% owned just one property and 38% owned 2-4 properties (Ministry of Housing Communities and Local Government, 2019). It is clear from the data that the PRS in both countries continues to be a cottage industry dominated by small-scale landlords.

Landlords in our survey tended to have acquired their most recent PRS property via loan or mortgage purchase (56%), with others using cash purchase (34%), or inheritance (7%). In the 2009 survey by Crook et al. the cash purchase proportion was much lower (19%).

The vast majority of landlords (92%) in our survey identify as 'part-time' landlords and most (69%) viewed their most recent PRS acquisition as an investment. The former again compares favourably against Crook et al. (2009) who reported 92% and 72% respectively. In 1997, just 43% of Scottish landlords viewed the PRS as some form of investment (Kemp & Rhodes, 1997). In our sample, the remaining 30% of landlords had a range of reasons for holding PRS properties: 2% viewed their property as a safety net whilst 'cohabiting with a partner', 2% had let out their property to 'cover costs during a temporary relocation', 4% used the PRS to house a relative, while 6% planned for the property to be their future home. Representing a risk to existing tenancies, 5% are landlords because they own a property that they would *"like to sell, but can't"*. Demonstrating non-financial motivations, 5% have a sentimental attachment to their property and do not wish to sell it. These differing motivations have clear implications for the operation of the sector and the stability of investment patterns therein.

3.7 Average rents

The survey asked landlords to detail the monthly rent they charged for their PRS property. Where landlords owned multiple properties, they were asked to estimate the average monthly rental value of all properties. The mean rental figure was £657 (Table 7) with the highest rents in the major cities of Glasgow and Edinburgh as expected.

Table 7. Average rents by geography

Geographical Area	Mean Monthly Rent Charge	
<i>All</i>	£	657
<i>Edinburgh & Glasgow</i>	£	784
<i>Aberdeen & Dundee</i>	£	609
<i>Central Belt (Small)</i>	£	677
<i>Rural Areas</i>	£	559

(N=1734)

The survey did not identify characteristics of the properties such as number of bedrooms. However, most Scottish PRS properties have two bedrooms (49%) (Scottish Government, 2019d) and the average price for a two-bedroom property is £689 per calendar month (Scottish Government, 2020g). The sample will inevitably include rents for properties with different bedroom configurations. However, the rental figure obtained provides a sensible benchmark, and is utilised in calculations (e.g., of arrears levels) throughout this report.

4. Findings

4.1 The volume and value of rental arrears

Around one-in-five landlords (18%, N=315) reported current tenancies in arrears at July 2021. This would scale up to around 45,000 landlords across Scotland. The arrears had a mean duration of 5 months (median = 3.4) and a mean value of £2,800 (median = £1,900) per tenancy (N=300). These landlords had 565 tenancies in arrears between them, which is an average of 1.9 tenancies in arrears per landlord (median = 1). Paragon Bank (2021) reported average arrears of £2,376 in 2021 Q1 and an average of 1.6 tenancies in arrears per landlord.

The highest mean arrears were found in 'Edinburgh & Glasgow' due to higher rent levels than most central belt and rural arrears (Table 8). 'Individual or Couple' landlords had higher mean arrears than companies, perhaps suggesting either a less effective or 'professional' response to arrears management, or a decision not to prioritise arrears minimisation to the same extent. Similarly, those with fewer properties tended to have higher mean arrears with single property landlords carrying the largest mean arrears overall. This is unexpected in some ways since a greater number of tenancies should increase the risk of experiencing sizeable arrears but it reflects the link between company ownership and portfolio size.

Table 8. Mean arrears by landlord characteristic and location

		Mean Arrears by Tenancy	Median Arrears by Tenancy
All		£ 2,800	£ 1,900
Geographical area	<i>Edinburgh & Glasgow</i>	£ 3,645	£ 2,400
	<i>Aberdeen & Dundee</i>	£ 2,584	£ 1,687
	<i>Central Belt (Small)</i>	£ 2,893	£ 2,000
	<i>Rural Areas</i>	£ 2,388	£ 1,600
Landlord type	<i>Individual or Couple</i>	£ 2,862	£ 2,000
	<i>Company, partnership, trust</i>	£ 2,517	£ 1,260
Portfolio size	<i>1 property</i>	£ 3,166	£ 2,474
	<i>2-4 properties</i>	£ 2,744	£ 2,000
	<i>5-19 properties</i>	£ 2,726	£ 1,843
	<i>20 or more properties</i>	£ 2,495	£ 1,168

The great bulk of these arrears arose during the pandemic. Of landlords with current arrears, 79% of their arrear's cases had commenced on or after April 2020 and 33% had commenced before. This supports the Resolution Foundations claim that the vast majority of arrears represent "Covid-19 excess', that is over-and-above the number we would expect to be in arrears in 'normal' times"(Judge, 2021, p. 7). However, it is somewhat at odds with the Scottish Government's earlier claims that "the financial support available to tenants should mean most tenants can pay their rent" (Scottish Parliamentary Corporate Body, 2020, p. 46).

Around one third (33%) had arrears that commenced before the pandemic (some reporting both) but the fact that these persist as current arrears can be attributed in part to the pandemic 'eviction ban'.

Previous research suggests that between 6% and 11% of tenants are in some form of arrears (Section 2.5)¹⁹. Our figures are for the proportion of landlords with arrears. If we assume these 45,000 landlords have just a single property in arrears, this would equate to 13% of the 340,000 households living in Scotland's PRS. However, some landlords have multiple properties in arrears, with an average of 1.9 in our sample. This suggests that the figure could be as high as 25% of Scottish PRS households in rental arrears. This may initially appear high, however, our data is recent and it is feasible that arrears have risen in the interim as forecast by some²⁰ and/or were previously under-represented. It should also be noted that our data is focused on Scotland and not the whole of the UK, and there is little data with which to directly compare our findings. However, given the flux currently within the system, the potential for the inclusion of technical arrears²¹ within landlord responses, and the possibility of selection bias²², we would suggest that the latter is likely to be an upper estimate.

Figures on rent arrears from the period pre-pandemic are available from household surveys, including the UK-wide Family Resources Survey (FRS). This is a longstanding survey managed by the Department for Work and Pensions which is used as the basis for official statistics on household incomes, inequality and poverty. Combining data for the three years 2016/17 to 2018/19, 1.8% of PRS tenants in the UK reported current arrears on their rent, with a figure of 1.4% for Scotland (authors' calculations, weighed data; unweighted N=9250 for UK and N=994 for Scotland). A further source of data is the English Housing Survey which reports that in 2016/17 3.8% of private renters were in arrears at the time of the survey and a further 5.3% had been in arrears earlier in the period. No data is available for 2018/19, but for 2019/20 the figures were 2.6% and 4.9% respectively (Ministry of Housing Communities and Local Government, 2020).

The total value of current arrears in the Scottish PRS can be estimated to be in the region of £126m across 45,000 landlords²³ (i.e., 18% of landlords with arrears averaging £2,800 per tenancy). This does not include outstanding arrears for tenancies that ended during the pandemic. The implications for the affected tenants and the potential implications for local authority services are significant. There are also significant implications for landlords and for the sector as a whole. We explore the potential impact of these arrears on landlords and the extent to which they have the financial resilience to cope with this debt burden in Section 4.6.

In addition to current arrears, around one-in-six landlords (17%, N=299) had tenancies which had ended between April 2020 and May 2021. And of these, two thirds (67%, N=199) had tenancies which had ended in arrears (some 11% of landlords overall). On average, these tenancies ended with arrears of £2,860 (median = £2,025). Three quarters (78%, N=154 of 199) reported that the arrears associated with these ended tenancies remain outstanding.

Using a multiple-choice question, landlords were asked how, in the main, these tenancies came to an end. 42% said that the tenant left having given notice, 18% said the tenant left after being served notice by the landlord, and 10% said the tenant left after being served an eviction order. However, 29% selected the 'Other' category. Analysis of free-text comments suggested that, in the majority of these cases, the tenant abandoned the property without serving notice.

¹⁹ The Joseph Rowntree Foundation (2021a) report that 18% of low-income households are in arrears across the social and rented sectors.

²⁰ As previously noted, the Ministry of Housing Communities and Local Government (2021a) found that 9% of private renters in England were in arrears and that a further 8% were likely to fall behind in the next three months, though these figures are not necessarily cumulative.

²¹ Technical arrears are arrears arising from delays in receiving Universal Credit and Local Housing Association payments, which some tenants may not view as tangible arrears.

²² Selection bias may result from landlords with arrears being more motivated to participate in the survey than those who do not.

²³ Based on a single tenancy in arrears per landlord rather than the mean of 1.9.

4.2 Dealing with arrears

4.2.1 Arrears management

To identify how landlords are managing current arrears, we used the Rent Arrears Pre-Action Requirements (introduced as part of the temporary pandemic legislation²⁴) as a guiding framework. This allowed us to understand the extent to which landlords understand and are complying with the current legislation. Here we present responses from all landlords who had current arrears (around N=315). These responses show that overall, landlords appear to be trying to manage arrears in conformity with the Requirements.

The Scottish Government (2020b, p. 2) note that “early intervention is a crucial element in helping to sustain tenancies and prevent homelessness”. It is important as “the ill effects of debt, even in its early stages, include behaviours that avoid contact with the problem and thus allow it to become worse” (Lea (2020, p. 164). It has long been recognised that it is in the best interest of both parties for landlords to engage early with tenants in arrears to prevent debts spiralling (Bailey & Taylor, 1993).

The majority of landlords with current arrears (95%) agreed that they tried to engage with tenants over these. Just 2% of landlords with current arrears disagreed to a greater or lesser extent, suggesting little or no effort to engage (Table 9)²⁵. It is suspected that, in some instances, these arrears were small and landlords were giving tenants the ‘benefit of the doubt’. However, it also possible that in some cases landlords wished to avoid a confrontation with tenants.

Table 9. Arrears management statements

Statement	(N)	Level of agreement (%)						
		Strongly Agree	Agree	Somewhat Agree	Neither Agree or Disagree	Somewhat Disagree	Disagree	Strongly Disagree
<i>I/my letting agent have tried to engage with tenants regarding arrears.</i>	290	68.8	22.6	3.8	2.4	1.0	0.2	1.2
<i>In the main, tenants engaged constructively in discussions about arrears.</i>	308	17.8	19.4	14.4	5.9	8.0	6.3	28.2
<i>I provided tenants with advice on their rights and where they can go to for advice and financial support.</i>	286	50.3	24.1	7.3	10.1	1.5	3.3	3.4
<i>In the main, I have managed to agree interim payment/repayment plans with tenants.</i>	293	24.1	20.0	11.2	8.3	6.3	11.6	18.5
<i>Most tenants are adhering to the agreed interim payment/repayment plans (if none select 'Not Applicable').</i>	238	14.0	24.8	12.6	7.1	7.8	10.8	22.9
<i>I understand the personal circumstances of most of my tenants.</i>	302	41.0	32.9	9.7	7.9	3.4	1.3	3.9
<i>Where possible, I have considered my tenants' personal circumstances when making decisions regarding tenancy arrears.</i>	305	54.9	32.7	6.2	2.8	2.3	0	1.2

²⁴Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020

²⁵'Not Applicable' and 'Don't Know' responses were removed.

Citizens Advice Scotland (2021) and Shelter Scotland (2021) both encourage tenants to engage with landlords regarding arrears. Given this, it is concerning that 42% of landlords did not agree that tenants had engaged. This suggests that a large number of tenants are ‘burying their heads in the sand’ rather than facing up to arrears. Numerous landlords confirmed this to be the case. For example:

“When our agent repeatedly contacted them [the tenant] they ignored all correspondence until we sent the Sherriff officer’s letter. If they had spoken with our agent or to us, we may not have had to take the current action we propose.”

Some reported that tenants were engaging in a threatening and aggressive manner. For example:

“I am living with long Covid and the stress of trying to work with my tenant, who has now become very hostile and aggressive, is causing my health to suffer further.”

And:

“They [the tenant] have been sent me threatening and hugely upsetting email, Police contacted, tenant given official warning to be held on criminal register.”

Under the Rent Arrears Pre-Action Requirements, landlords have an obligation to provide tenants with advice on their rights, and where they can go to for advice and financial support. A majority of landlords said they had provided this information though around 8% did not appear to have done so.

Agreeing a payment plan is an important step in facing and addressing debt. Just over half of landlords (55%) agreed that they had managed to make an interim payment plan with their tenants, broadly similar to the percentage of landlords who reported constructive engagement with tenants. In total 36% of landlords did not agree with this statement suggesting that arrears in those tenancies will continue to be problematic and hence more likely to result in eviction proceedings.

Agreeing a payment plan is not the same as adhering to a payment plan. Circumstance and intentions can and do change. Whilst 51% agreed that tenants were adhering to the agreed payment plan, 41% disagreed. This represents a sizable repayment plan failure rate. As one landlord commented:

“It is very time-consuming expediting arrears from my one set of tenants that are in arrears. They agree to a repayment plan, then don’t stick to the plan and don’t reply to emails or WhatsApp messages.”

Four-in-five landlords (83%) agreed that they understand the personal circumstances of their tenants and 93% agreed that they considered their tenants personal circumstances when making decisions about arrears. This was higher than expected, especially as many landlords rely on letting agents to provide a buffer between themselves and their tenants.

4.2.2 Help & assistance offered to tenants

All landlords (not just those with arrears) were asked if they had offered tenants a rent holiday (a reduction in rent or waiver of rent for a period) or a repayment plan (deferral of rent) at any time during the pandemic. Though 56% selected that they had not, 46% overall had offered one or more of these forms of support with 23% selecting the former and 23% selecting the latter. This compares with 36% reported by Paragon Bank (2021), 33% reported by Shawbrook Bank (2020) and 44% reported by the Scottish Association of Landlords (2020).

The support offered by landlord was reasonably consistent across geographical areas though in city regions (Edinburgh and Glasgow and Aberdeen & Dundee) the proportion of landlords offering rent holidays was higher than in the Central Belt and Rural Areas. A higher percentage of companies selected that they had offered either rent deferrals or rent holidays than individuals and perhaps unsurprisingly, the more properties a landlord owned, the more likely they were to have offered some form of assistance (Table 10).

Table 10. Help and assistance offered by landlord characteristic and location

		Rent Deferment (% of Cases)	Rent Reduction/ Holiday (% of Cases)	None (% of Cases)	Other (% of Cases)
All		23	23	56	5
Geographical Area	<i>Edinburgh & Glasgow</i>	19	28	54	7
	<i>Aberdeen & Dundee</i>	23	27	52	6
	<i>Central Belt (Small)</i>	28	19	55	4
	<i>Rural Areas</i>	23	19	60	4
Landlord Type	<i>Individual or Couple</i>	21	22	58	5
	<i>Company, partnership, trust</i>	36	28	45	6
Portfolio Size	<i>1 property</i>	13	15	70	5
	<i>2-4 properties</i>	25	27	50	6
	<i>5-19 properties</i>	42	35	36	4
	<i>20 or more properties</i>	65	46	11	4

A small percentage of landlords overall (5%) selected the 'Other' category but indicated actions which could have been captured by the preceding categories or were variations on the same theme. For example, instead of a rent holiday, some landlords offered tenants a rebate:

"I gave each of my tenancies £100 per month back for two or three months, in gratitude for them continuing to pay as usual."

"Paid tenants a "thank you" of £100 per month for three months in appreciation that they had continued to pay despite government's misleading announcement that landlords were to be offered a payment [mortgage] holiday."

Landlords with mortgages on their PRS properties were able to apply for deferral of mortgage payments (interest and capital). Some said they had claimed this and then passed on the short-term benefit of their 'mortgage holiday':

"I applied for a mortgage holiday and was granted this. I didn't have to pay the mortgage so I decided that my tenant did not have to pay rent. He was a self-employed barber and had no income. I told my tenant not to worry and that he didn't owe me anything. I have no intention of pursuing him for arrears because the mortgage holiday meant I was not severely impacted by the fact that he couldn't pay his rent."

Others offered more direct support:

"Gave a small cash amount to each tenant at the start of the pandemic."

"Gave our tenants gift vouchers for food shopping at a well-known supermarket, we did this each time there was a lockdown."

A number of landlords had offered support which, at the point of the survey, had not been taken up:

"I asked them to tell me if they needed any of the assistance above, and each of the two tenancies said they didn't, and they haven't so far. I generally am in contact about once a month, passing on relevant info."

"Advised tenant that they could agree a reduced rent if they were furloughed or impacted in any other way during pandemic. Offer wasn't taken up."

"It wasn't needed, but had offered to discuss options for reduced or break in payments should the tenant have issues with paying."

"Told tenant not to worry, we would come to an agreement if she was struggling."

"I offered both a rent holiday and deferred payment, but they said they did not need either."

Reflecting some landlords' difficulties in engaging with tenants (see Section 4.2.1), several landlords had tried to support tenants, but had not received any response:

"Tried to communicate with tenant in arrears to try to arrange something but to no avail due to lack of response from tenant."

"Tried to engage with the tenant but they refuse to answer the phone or allow access to the property and refuse to answer letters."

Although the support offered was motivated to a greater or lesser extent by altruism, pragmatism was also a factor, recognising common interests:

"I also offered to reduce the rent if it wasn't affordable as I prefer the property to be occupied and cared for."

"If they had stopped paying, we would have been in trouble with our monthly outgoings."

"In order to support furloughed tenants, we had to reduce our rental income. There was no support for us, it was our own goodwill. We did not want to lose tenants and have to bear the brunt of paying council tax and expenses on a vacant property."

Overall, the evidence suggests that a substantial number of landlords have responded positively to tenants' plights. Whilst we are unable to quantify the net impact of these actions, there can be little doubt that they have helped to reduce arrears cases and arrears levels.

4.3 Landlord intentions

4.3.1 Overall intentions for tenancies in arrears

Due to the extent of arrears, it was suspected that a large percentage of landlords with current arrears would intend to evict tenants from tenancies when arrears reached three months or more. However, when asked about their general intentions, just 32% of landlords with current arrears said they intended to do so. This equates to 6% of the sample overall or around 15,000 landlords. The mean number of tenancies in current arrears for these landlords is 2.5, which is higher than the mean number for current arrears in general (1.9). This suggests a potentially large number of future evictions is likely. However, this figure is very much an upper estimate of the number of tenancies likely to lead to evictions. Eviction action is frequently a spur to arrangements for repayment being made, so not every case will reach the eviction stage.

There was a broad spread of responses by geographical area and portfolio size. However, a higher percentage of landlords in the 'Company, partnership or trust' category intended to evict tenants with three months of arrears or more, than those in the 'Individual or Couple' category (Table 11).

Table 11. Intentions regarding arrears by landlord characteristic and location

		% of Each Category Intending to Evict
All		32
Geographical Area	<i>Edinburgh & Glasgow</i>	34
	<i>Aberdeen & Dundee</i>	26
	<i>Central Belt (Small)</i>	24
	<i>Rural Areas</i>	35
Landlord Type	<i>Individual or Couple</i>	30
	<i>Company, partnership, trust</i>	43
Portfolio Size	<i>1 property</i>	37
	<i>2-4 properties</i>	29
	<i>5-19 properties</i>	26
	<i>20 or more properties</i>	52

(N=315)

4.3.2 Detailed intentions for tenancies in arrears

In order to gain a more granular understanding of landlord intentions and to obtain deeper insight into the pipeline of potential eviction actions within the system, we asked landlords to indicate how many of their tenancies were at each stage of the arrears eviction process²⁶. In simplified form, once rent arrears have reached three months in duration, the landlord would issue the tenant with the six months' notice to leave required under the temporary legislation²⁷. Thereafter, assuming arrears remained outstanding, the landlord would apply to the First-tier Tribunal for Scotland (Housing and Property Chamber) for an eviction order.

Table 12 highlights the percentage of landlords with current arrears (N=315) who have one or more tenancy at each stage. In a large number of these cases (41%), landlords have one or more tenancies which are less than three months in arrears. For a further significant proportion of cases (43%), landlords have tenancies with arrears that are above the threshold for issuing a Notice to Leave, yet the landlord has no plans to issue one. In 3% of cases, landlords have tenancies where notice has expired, but 'have no current plans to apply for an eviction order'. This means that the majority of landlords are either not in a position to take eviction action or have elected not to do so at this time. Viewed in terms of the percentage of tenancies in current arrears, 67% of tenancies are not currently at risk for the same reasons. It is clear that there is process inertia due to landlord reluctance, but also process lag caused by the temporary legislation, which will need to be worked through the system.

One in five (21%) landlords with current arrears (4% of all landlords overall) are at the stage where they have issued a Notice to Leave for one or more tenancies. A further 8% of landlords with arrears (2% of all landlords) have applied or are applying for an eviction order. Whilst risks remain for tenancies at other stages of the process, it is this group which can be viewed as the potential pipeline for evictions over the next six months. Again, not all of these tenancies will reach the eviction stage.

Table 12. % of landlords/tenancies at key stages of the eviction process

Key Stages in the Process to End a Tenancy	% Of Landlords with One or More Tenancies	% Of Tenancies with Current Arrears
<i>Arrears are not yet above the threshold (e.g., 3 months for a PRT) for issuing notice to leave.</i>	41	32
<i>Arrears are above the threshold, but I have no current plans to issue notice to leave.</i>	43	32
<i>Arrears are above the threshold and I have issued notice to leave.</i>	21	15
<i>Notice to leave has expired or is due to expire and the tenant is moving out.</i>	5	4
<i>Notice to leave has expired, but I have no current plans to apply for an eviction order.</i>	3	3
<i>Notice to leave has expired and I am in the process of applying/have applied for an eviction order.</i>	8	7
<i>I have applied for an eviction order and it was rejected.</i>	1	1
<i>An eviction order has been granted and the tenant has elected to move out.</i>	2	1
<i>An eviction order has been granted and eviction is pending.</i>	5	3
<i>An eviction order has been granted and my tenant has recently been evicted.</i>	2	2

(N=315)

²⁶Based upon the Private Residential Tenancy (PRT)

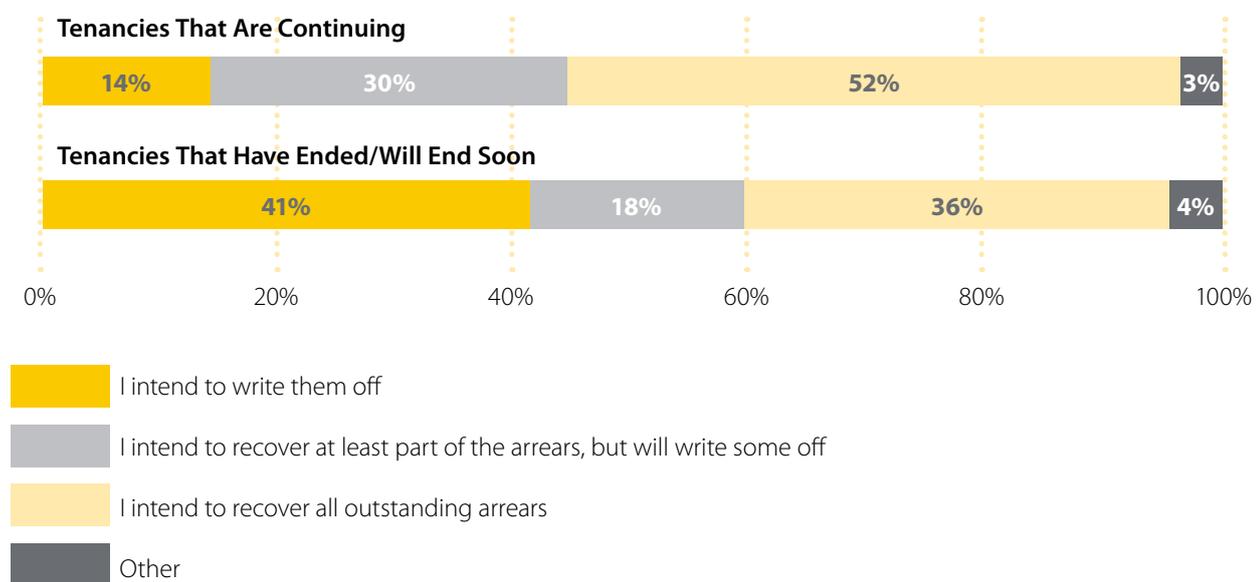
²⁷Prior to the pandemic, just 28 days' notice was required.

4.3.3 Intentions for recouping arrears

Section 4.1 of this report identified significant arrears within the system. It is not generally known how private landlords deal with arrears. More broadly, levels of debt repayment are recognised to be contingent on a number of factors, though the debtor’s level of disposable income is more important than sociodemographic factors (Livingstone & Lunt, 1992). In essence, the ability of landlords to recoup arrears will in part be determined by a tenant’s ability to pay. This is likely to mean that landlords housing low-income groups are likely to be disproportionately impacted by arrears and those groups will be at greater risk of eviction.

Landlords were asked what they intend to do about arrears for tenancies that have ended or will end soon. Ignoring ‘Not applicable’ category responses, the data revealed that 41% of landlords intend to write off arrears, 36% intend to try to recover all outstanding arrears, and 18% have a hybrid approach (Figure 4).

Figure 4. Landlord intentions regarding arrears



Landlords were then asked what they intend to do about arrears for tenancies that are continuing. A much higher proportion of landlords (52%) said they were seeking to recover all these arrears. Just 14% intended to write these arrears off, and 30% had a hybrid approach (Figure 4).

Overall, it is perhaps surprising how many landlords have chosen to write off arrears entirely, particularly as the average level of arrears reported earlier amounts to a significant sum. One reason for absorbing the losses was a lack of confidence in being able to recoup arrears. When asked, regardless of their intentions, how likely it was that they would be able to do so, over half (59%) stated they were ‘Unlikely’ or ‘Very Unlikely’ to be successful.

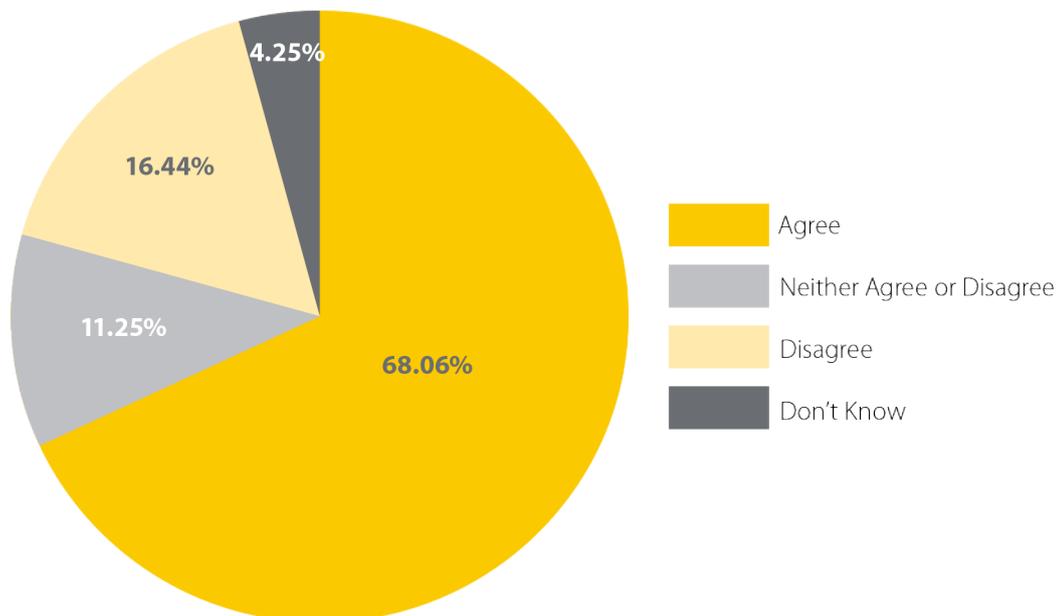
It is reasonable to assume that the appetite of individual landlords for pursuing debt will not only be influenced by an assessment of the tenant’s ability to pay, but also additional factors including the efficacy and efficiency of the debt reclamation process. The latter will be discussed in more depth in Section 4.7.2.

4.4 Temporary Legislation

4.4.1 Awareness and understanding of the temporary legislation

UK and Scottish governments responded to the pandemic through the introduction of temporary legislation, as summarised in Section 2.3. Given earlier concerns surrounding landlords' awareness of PRS legislation in general, the survey sought to identify the extent to which landlords understood this temporary legislation. It was encouraging that 68% of landlords overall felt like they did understand, but 16% did not and the remainder were unclear or did not know (Figure 5).

Figure 5. Extent to which landlords agree that they understand the temporary legislation



The level of understanding was relatively consistent across all geographical areas, landlord types and portfolio sizes (see Table below).

Table 13. Level of understanding by landlord characteristic and location

Category	Description	Level of agreement (%)							
		Strongly Agree	Agree	Somewhat Agree	Neither Agree or Disagree.	Somewhat Disagree	Disagree	Strongly Disagree	Don't know
All		13	30	24	11	7	5	5	4
Geographical Area	<i>Edinburgh & Glasgow</i>	14	30	27	11	6	6	4	3
	<i>Aberdeen & Dundee</i>	12	33	25	12	7	5	4	3
	<i>Central Belt (Small)</i>	14	32	26	10	7	4	6	2
	<i>Rural Areas</i>	14	30	21	12	7	5	5	6
Landlord Type	<i>Individual or Couple</i>	13	31	25	11	6	5	5	4
	<i>Company, partnership, trust</i>	16	28	19	11	8	8	7	4
Portfolio Size	<i>1 property</i>	13	29	25	11	6	5	4	6
	<i>2-4 properties</i>	12	34	24	11	8	4	4	4
	<i>5-19 properties</i>	16	27	24	13	6	6	6	2
		25	20	18	3	8	5	23	0

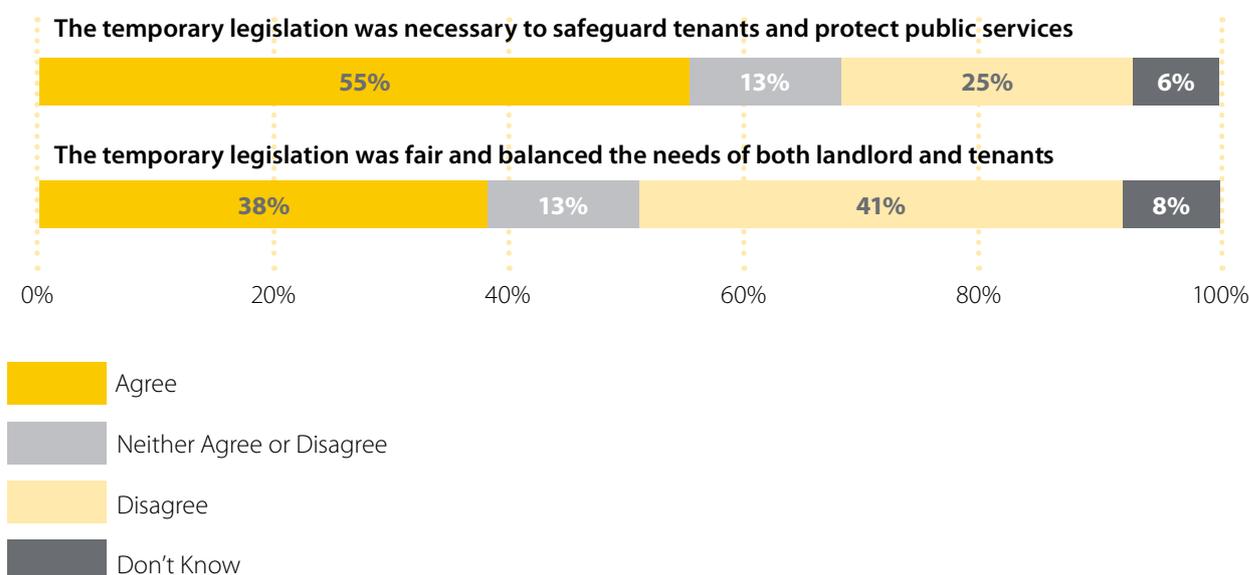
When asked specifically about the Rent Arrears Pre-Action Requirements²⁸, slightly fewer landlords (58%) were confident that they understood the law.

4.4.2 Views on legislation necessity and fairness

A majority of landlords (55%) agreed that the 'temporary legislation was necessary to safeguard tenants and protect public services' while a quarter (25%) disagreed. Despite the fact that this would conflict with their interests as landlords, the majority saw and supported the wider arguments for this intervention. That said, only a minority (38%) felt that the temporary legislation 'was fair and balanced the needs of both landlords and tenants' (Figure 6).

²⁸Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020

Figure 6. Fairness and necessity of the temporary legislation



Landlords could expand on their views on the suitability and effectiveness of the temporary legislation through a free-text field within the survey. Though not mandatory, over 600 landlords provided a written response here. This is a higher response than other free-text fields offered pertaining to the impact of the pandemic (190 responses), support mechanisms (404 responses), and policy ideas (245 responses). Though principally focused on the temporary legislation, landlord responses often included commentary on the general approach of the Scottish Government towards the sector. A wide range of views and opinions were expressed though four key categories emerged.

First, there was a minority of landlords who felt that the legislation did not go far enough:

"I don't think the legislation went far enough to protect tenants. They were, and continue to be vulnerable to losing their home."

Second, there were those who offered unqualified support for the UK and Scottish governments' approach:

"Regardless of financial income, the priority during covid should have always been about protecting the people. I supported all decisions to protect renters, including delaying and stopping any evictions."

"Everyone needs a roof over their head. Especially in recent times. We fully support government initiatives to protect those who are vulnerable."

"I agree that it was necessary to provide tenants with additional protection over this period."

Third, there was a larger number of responses which saw the need for legislation but with caveats:

"The legislation was necessary to safeguard tenants. However, the needs of landlords who depend on rental income to support their family or pay a mortgage were ignored."

"It was necessary, but basically gave a huge amount of power to tenants. Most were fair. One totally abused the situation to live rent free for most of the year."

"I broadly agree with temporary legislation to protect tenants & have no problem with it whatsoever. However, it should have been introduced with some kind of "Secure rent scheme" where the landlords were protected as well. It always just seems to be very much one sided and hardworking, honest landlords are penalised for doing the right thing."

Fourth, the majority of written responses were comments expressing strong dissatisfaction with the temporary legislation because of the impacts it had on their business:

"It nearly bankrupted us - big landlords might be ok but for us it made things impossible and we had to sell the property to keep our heads above water."

"Totally ridiculous expecting landlords not to evict tenants not paying rent and damaging properties as well in some cases. To expect a landlord to support tenants without any income is ridiculous. Maybe restaurants should feed the tenants as well."

"The tenant was evicted eventually via tribunal owing over £8,000 and wrecked the property costing over £15,000 in repairs in addition to legal bills of several thousand. all due to the ban on evictions during covid."

4.4.3 Key themes of dissatisfaction

Across these critical views, several key themes of dissatisfaction emerged.

First, there was a deep sense amongst a number of landlords that the temporary legislation, and more generally the Scottish Government, is biased against landlords:

"Temporary covid legislation in property sector all geared towards tenants and very anti-landlord. ScotGov policies very poor for landlords."

"The measures were heavily biased in favour of tenants and against landlords, there was nothing remotely balanced about them. It is not the responsibility of landlords to fund housing during a pandemic, rather that is supposed to be the responsibility of government, clearly then a major failing by the government."

"The legislation is truly terrible and disgusting. It is in constant favour of the tenant with no protection or thought towards the landlord, some of whom rely upon such income to live."

"SNP stop attacking landlords! There is no balance in legislation now. Everything is geared in favour of tenants even when they behave dishonestly or criminally. Eventually buy to let's will dry up then housing crisis will develop."

"The Scottish government SNP are grossly discriminatory against private landlords and do not take a fair view of how the situation should be handled."

Others reported feeling "demonised", "abandoned", "hung out to dry", and "victimised", amongst others. Though some of

these views are undoubtedly politicised, the breath and volume of the concerns raised is significant and the strength of feeling clear.

Second, the perception of bias was underpinned by a sense that the Scottish Government does not fully understand the sector, nor the landlords within it. One landlord went so far as to suggest that the Scottish Government was *“utterly naive as to the real challenges facing small landlords”*. In particular there was a concern that the temporary legislation does not consider landlords who rely upon the rental income from their properties to live, and that the legislation was based on the oft-erroneous assumption that landlords could universally afford to sustain significant arrears.

“The legislation assumes that all landlords can carry tenants’ costs. How did they arrive at this assumption? More anti-landlord bullshit from the Scottish Government.”

“Whilst I understand tenants’ predicaments, I do feel that landlords have been dealt with as though we all have sufficient funds. We are not all property magnates - I only still have the property because I can’t sell it!”

“I totally understand the ethos behind the temporary legislation, however the assumption that landlords can afford to bear the brunt of non-payment is false and damaging to the longevity of the private rental market and the retention of fair landlords.”

“Unfortunately, no-one considered the impact of the Regulations on private, independent landlords who were already struggling themselves financially due to the pandemic to then have to suffer again because they could not indefinitely support a non-paying tenant. Wholly discriminate against landlords.”

“The legislation assumes that landlords have deep pockets and are not completely dependent on income from properties. There was no reprieve on Landlord obligations to maintain the property so why should the requirement to pay rent on time have been relaxed. Balance has swung too far in favour of tenant.”

Others pointed to broader non-financial assumptions they believe underpinned policy decisions:

“The Scottish Government assumes corporations or organisations as Landlords with time and knowledge. It also assumes cities and central belt and particularly flats in tenements or blocks. These assumptions do not always apply.”

Though landlords are assumed to be wealthier on average than the mean, the responses suggest that not all are sufficiently wealthy to carry substantial arrears over long periods. In fact, little is known about landlord resilience levels, although some new evidence is offered in Section 4.6.1.

Many responses noted dissatisfaction at the suitability of the help afforded to landlords and reported a sense of abandonment:

“The Scottish Government have never offered any help to landlords. We have been totally ignored and left in terrible situations.”

“I don’t feel there’s any attempt to meet landlords’ needs in this or some other areas of PRS legislation. I feel the needs of responsible small landlords are being disregarded.”

“There was no help for landlords. Mortgage holidays are a deferment - the interest is still payable it is simply a holiday that increases the loan term. there is no advantage, there is a disadvantage.”

“Landlords were simply expected to carry on covering the costs of their own family and their tenancy expenses from their own resources, if they were fortunate enough to have reserves or savings. If not, too bad, they were on their own, with no support whatsoever.”

"The laws protected councils and tenants and left landlords to foot the bill. No financial help offered or given from councils. If I had defaulted on the loans, it was my credit score which would be affected. Landlords left to rot. Disgusting."

A more detailed analysis of the availability and efficacy of the support offered can be found in Section 4.5.

The third theme to emerge centres on concern from some landlords that the legislation not only enabled, but encouraged negative tenant behaviours. Landlords pointed to the existence of "rogue tenants" who choose not to pay the rent in full knowledge that landlords could not evict them in the short term. Levels of dissatisfaction were heightened where tenants who had gone into arrears before the pandemic were protected by the legislation. Landlords may not possess full knowledge of their tenants' circumstances leading to questions over the veracity of some of these claims, but most believed they did understand (see Section 4.2.1):

*"It's been absolutely catastrophic. The tenant is absolutely taking the piss out of the whole pandemic situation, and although is working and had received redundancy payment. He did not make any attempt to pay rent. It's a f*cking sham!"*

"The tenant has taken advantage of the situation to live rent free and is hanging on to the very last moment, they have paid no rent for 21 months now. We were awaiting a court date prior to covid and the closing of the courts played into the hands of the tenants who have abused the situation. I am most upset at the situation and lack of support from government which has allowed this situation to go on for too long."

"This protected blameless tenants, but provided an opportunity for mine (fully employed throughout) to simply stop paying rent without consequences."

"While protection for tenants affected by Covid and Covid restrictions was understandable and necessary, the broad-brush approach to safeguard all tenancies (including those who were delinquent prior to the pandemic) was unnecessary and enabled opportunistic tenants to exploit it. In some cases, benefit tenants continued to collect and pocket HB knowing landlords could do little to stop them."

"Although I agree to the necessary ban on evictions, it should be borne in mind that there is a minority of Tenants who have no intention of paying rent, Council Tax, Utility's and are serial non payers, this behaviour impacts on both Landlords and the Taxpayers. This lost revenue invariably goes on to finance criminal enterprise and should be carefully monitored."

A number of landlords pointed to concerns around the communications strategy associated with the temporary legislation. Whilst the Scottish Government and service providers stated that tenants should continue to pay rent, some messages were confused. The Chartered Institute of Housing Scotland (2020) suggested that:

"...clearer messaging is needed from the media and the Scottish Government in relation to evictions in the social and private rented sector. Giving the impression that no tenant will be evicted for any reason during the Coronavirus outbreak is not helpful. Tenants must be made aware that non-payment of rent or behaviours that are harmful to others will have consequences."

In fact, the ban on the enforcement of evictions orders was widely interpreted and reported on as a 'ban on evictions'. Even the Scottish Government (2021c) website had a news article headlined "Eviction ban extended".

Again, some landlords argued that tenants appeared confused by the messaging. As one landlord reported:

"The legislation only helped tenants and gave them a green light to stop paying rent "cause Nicola said I don't have to pay my rent" - Direct quote".

There was considerable anger that deliberate non-payment was not taken more seriously with several landlords proposing harsh penalties for abuse:

"Arrears accrued when a tenant received direct housing costs from the welfare state and did not make their rent payment to their landlord should be charged with misuse of public funds."

"Tenants on benefits who claim housing and then don't pay their rent should be sent to prison for theft not ignored and allowed to carry on from property to property."

"Intentional non-payment of rent should be viewed as a criminal offence."

"Malicious non-payment should be classed as theft."

"Criminal conviction for malicious withholding of rent."

The scale of the arrears, the perceptions of bias and the suspected abuses of the system by some tenants have impacted the attractiveness of the sector, causing a number of landlords to review their position. Some have sold their properties and others are considering doing so:

"The temporary legislation did nothing to address issues in the housing sector. It was a political posture to gain votes. The government will now have to face an impending increasing shortage as landlords like me who have maintained properties to a good standard and charged a fair rent withdraw from the sector as a direct result of legislation biased against landlords."

"My view is that time will evidence that many small landlords will just "give up" after having such a harsh financial & worrying time - which I suspect is what many in Government actually want. . . Many landlords will be thinking of selling up and utilising capital from sale of rental property towards other less difficult & time-consuming income investments. I know I am. . . I suspect this will be the "last nail in the coffin" for many who will now be planning to sell up."

"It is truly a worrying state of affairs that makes me consider selling my own properties, and in doing so would make several families homeless and unable to find similar accommodation nearby for a similar price."

"Yet again landlords have been vilified and made the scapegoats. We are responsible landlords and in the first 18 months of retirement have lost nearly half our income. We like others fell between the stools and no help was available. Like many others we can't wait to leave the market as private landlords. When we go what will fill the void."

"Government policy. Government should finance it. It's not up to Landlords to take the hit. In my case it stopped my pension and caused financial hardship to me despite the tenant receiving support from the public purse in the form of furlough and universal credit. Due to this experience, I sold the property and no longer have the appreciating asset. In both the short and long term, we lose."

Landlords leaving the sector is challenging both in terms of the sectors supply characteristics and levels of

professionalism. As both entry barriers and property management complexity continue to increase, the sector would benefit from retaining experienced landlords.

4.5 Support availability and efficacy

The preceding section highlighted that many landlords were dissatisfied with the levels of support available to them throughout the pandemic. In fact, just 33% agreed that the support offered to landlords and tenants was fit for purpose and just 31% agreed they were happy with the support offered. The UK and Scottish governments might respond by pointing out the scale of the effort to support tenant incomes through furlough, support for the self-employed and increases to Universal Credit amongst others.

Landlord criticism was focused on the perceived lack of direct or sector specific support. However, when presented with a list of UK and Scottish Government sector specific support schemes (Table 14), landlord awareness of them was patchy at best. In 25% of cases, landlords were not aware of any of the schemes available, and in just 24% and 27% of cases were landlords aware of the Scottish Government's flagship 'PRS Landlord (non-business) Covid-19 Loan Scheme' and 'Tenant Hardship Loan Scheme' respectively. Awareness rates were higher amongst those who had suffered arrears in the period, suggesting some landlords had been able to find information when they needed it. This also suggests that some landlords tend to seek out information as required as opposed to more generally keeping abreast of legislation within the sector. A few landlords noted that they did not keep up with legislation as they relied on their letting agents to do this for them.

Table 14. Landlord awareness of support schemes

Support Scheme	Landlord Awareness (Percent of Cases Overall)	Landlord Awareness (Percentage of cases landlords with Arrears Between April 2020 and May 2021)
<i>The Scottish Government's Landlords Short-term Emergency Loan Scheme.</i>	24%	33%
<i>The Scottish Government's Tenant Hardship Loan Fund.</i>	27%	38%
<i>Mortgage Payment Holidays.</i>	60%	67%
<i>The Scottish Government's increase in the Discretionary Housing Payment (DHP) budget.</i>	11%	17%
<i>The UK Government's £20 per week increase to Universal Credit.</i>	54%	58%
<i>The UK Government's increase of LHA rates to the 30th percentile of local rents.</i>	7.7%	11%
<i>None of these.</i>	25%	19%

(N=1734 and N=533)

The overwhelming majority of landlords (92% of cases) said they had neither participated in nor benefited from any of the schemes listed, though it is likely that a proportion had indirectly benefitted from some of the measures (Table 15). The most popular scheme (6% of cases) was the 'Mortgage payment holiday' which enabled landlords to apply to their lender for a three-month mortgage holiday (deferment)²⁹. This was also the most well-known scheme. However, as one landlord noted "loans just add to debt" and several were not keen on extending and increasing their subsequent loan payments. Others were concerned that participation in the scheme would adversely affect their credit score.

²⁹Subsequently extended to six months.

Table 15. Landlord participation in support schemes

Support Scheme	Landlord Participation/ Benefit (Percent of Cases Overall)	Landlord Participation/ Benefit (Percentage of cases landlords with Arrears Between April 2020 and May 2021)
<i>The Scottish Government's Landlords Short-term Emergency Loan Scheme.</i>	0.6%	1.5%
<i>The Scottish Government's Tenant Hardship Loan Fund.</i>	0.5%	1.4%
<i>Mortgage Payment Holidays.</i>	5.7%	10.8%
<i>The Scottish Government's increase in the Discretionary Housing Payment (DHP) budget.</i>	0.9%	2.4%
<i>The UK Government's £20 per week increase to Universal Credit.</i>	1.0%	1.3%
<i>The UK Government's increase of LHA rates to the 30th percentile of local rents.</i>	0.5%	0.9%
<i>None of these.</i>	92.2%	85.2%

(N=1734 and N=533)

Evidently, not all landlords had arrears or required support. Furthermore, amongst those with arrears, many were likely to have at least some resilience to them (e.g., savings and access to debt financing - see Section 4.6). Regardless, these are extremely low adoption rates and given the prevalence of arrears, this would appear to represent either a failure in communication, support scheme design, or both.

We asked landlords how they and their tenants could have been better supported. In the main, landlords stated that they would have preferred grant funding rather than loans and deferments³⁰:

"The Scottish Government Landlord (non-business) COVID-19 Loan Scheme is unfit for purpose - grants, not loans, are required."

Some were frustrated that they "fell between the stools" neither able to obtain grants for being self-employed nor being a business:

"I am self-employed and this is my only source of income yet despite losing thousands of pounds needed to support my own family and pay my own mortgage, when I sought financial help, I was told I didn't qualify for any of the self-employed grants because my income was derived from property. It's disgusting."

"At one point all my properties were empty and I had to pay Council Tax and Mortgages on ALL THE PROPERTIES. Whilst a friend, in another type of business, got business rates and grant benefits. The Scottish Government do not seem to recognise that many landlords operate as a business, pay taxes as a business."

³⁰It should be noted that the tenant grant fund was not in place at the point of survey.

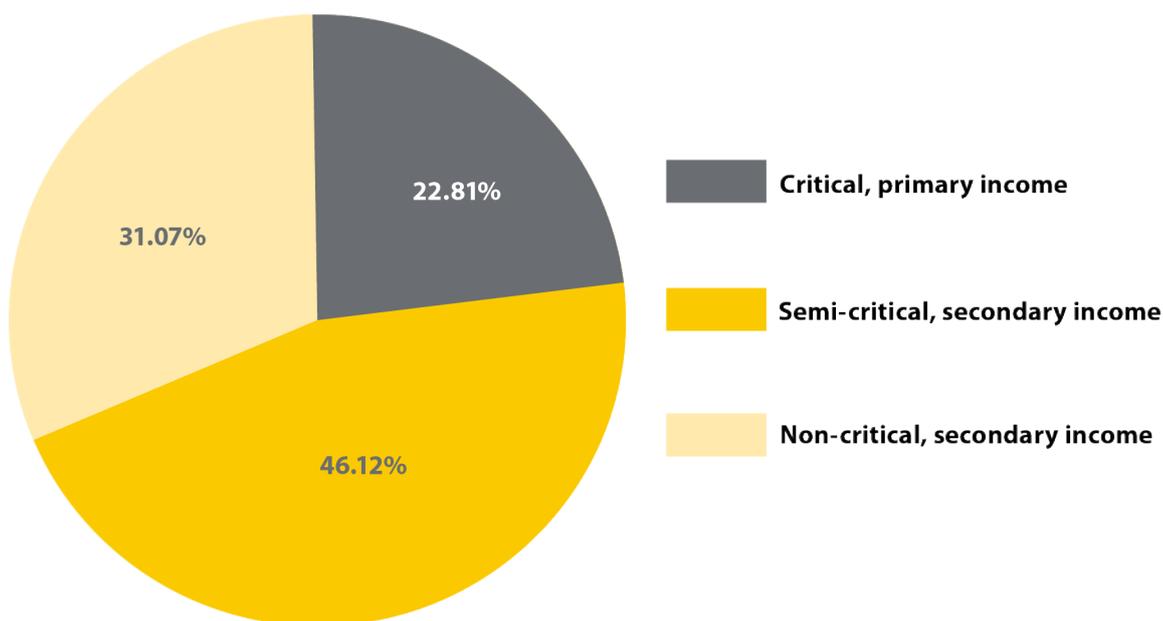
4.6 Arrears impact, Landlord resilience & tipping points

4.6.1 Landlord resilience

While much is known about the characteristics of landlords, very little is known about their investment behaviours, financial literacy or financial resilience. The temporary legislation implicitly assumed that landlords were resilient and could sustain some arrears³¹. In Section 4.4.3, we reported that many landlords disagreed with this assessment. Whilst landlords might be considered as ‘asset rich’ in comparison to some, most own just one property and the majority are basic rate tax payers (Agnew, 2021). For many, investment returns are relatively low with the majority realising net yields between 3% and 5% (Scanlon & Whitehead, 2016), which does not appear sufficient enough to sustain significant arrears. When capital gains are taken into account, return levels generally improve but these gains are neither guaranteed, nor readily accessible.

In order to make some headway into understanding the resilience levels of Scottish PRS landlords, we asked them to select the statement that best describes the importance of their rental income to their personal finances. As can be seen in Figure 7, over one fifth (23%) of landlords overall report that their PRS income is ‘critical’ as it is their ‘primary income’. For the majority (46%), the PRS provides ‘secondary income’ that is viewed as ‘semi-critical’. This leaves just one third (31%) of landlords for whom PRS provides ‘secondary income’ which is ‘non-critical’. While landlords are rarely poor in relative terms, neither are they universally wealthy.

Figure 7. The overall criticality of rental income to landlord finances



³¹ As noted earlier, it was anticipated that “where a tenant was unable or did not pay rent for the extended period, a landlord in these circumstances would lose an additional £3,340 over the longer notice period.” (Scottish Parliamentary Corporate Body, 2020, p. 44).

The criticality of rental income to landlord finances was largely evenly spread by geographical area (Table 16). However, a higher percentage of companies (37%) viewed rental income as critical than individuals (21%) and similarly, landlords with larger portfolios were more likely to view rental income as critical than those with smaller portfolios.

Table 16. The overall criticality of rental income to landord finances by category

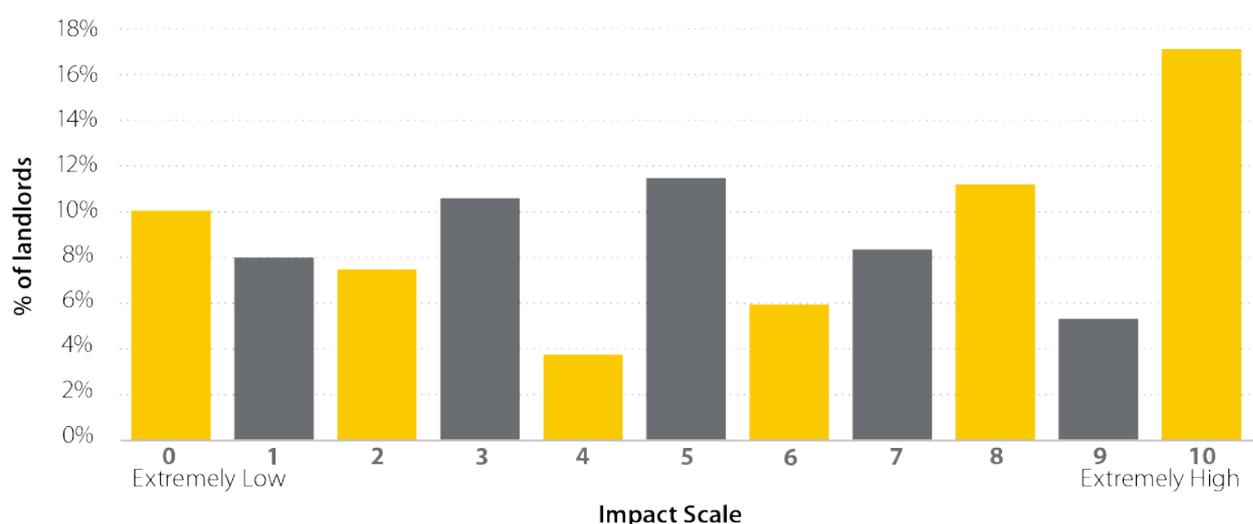
Category	Description	Critical- Primary income (%)	Semi-Critical- Secondary income (%)	Non-Critical- Secondary income (%)
All		23	46	31
Geographical Area	<i>Edinburgh & Glasgow</i>	25	44	31
	<i>Aberdeen & Dundee</i>	20	45	35
	<i>Central Belt (Small)</i>	21	48	32
	<i>Rural Areas</i>	22	48	30
Landlord Type	<i>Individual or Couple</i>	21	47	32
	<i>Company, partnership, trust</i>	37	40	23
Portfolio Size	<i>1 property</i>	11	46	44
	<i>2-4 properties</i>	28	49	23
	<i>5-19 properties</i>	41	45	15
	<i>20 or more properties</i>	76	22	2

(N=1734)

4.6.2 The scale of financial impacts

Landlords who had been impacted by arrears on current or former tenancies (N=533) were asked how they would rate the overall impact on their personal or company finances, on a scale of one to ten. As can be seen in Figure 8, there is a considerable spread in responses. One in three rated the impact at 8 or above. Furthermore, 48% of those who viewed their rental income as 'critical' also rated the impact at 8 or above.

Figure 8. The impact of arrears on landlord finances



The temporary legislation is causing some landlords to deplete savings (41%) and/or take on debt (30%, using credit cards (11%), friends or family (7%) or personal or business loans (6% each)) (Table 17). Examples are provided below:

"I already made a loss on the property pre-Covid but am only receiving 50% rent so I am having to use savings!"

"I have had to borrow money; I couldn't afford childcare and I am at risk of losing my own home. There has been no support whatsoever available to me and the arrears plus damages have come to thousands of pounds. This process of not being able to go near the tenants has ruined mine and my family's life."

"I have had to borrow a lot of money as tenants don't pay rent and I can do nothing because of eviction ban. I am now in serious debt. Eviction ban a total disaster!"

"These arrears mean our own finances are severely depleted and we are struggling to make payments on our personal mortgage. Seems wrong that we have to struggle so much to pay our bills or we will lose our home, whilst our tenant picks and chooses when to pay bills and won't let us in to the property to carry out repairs and maintenance that We are Required to do."

Some have also responded by cutting costs. Within the Coronavirus (Scotland) Bill, the Scottish Government countenanced that a "loss of rental income could potentially affect a landlord's capacity to contract work", though concluded that most tenants would be in a position to pay their rent as a result of the financial support available (Scottish Parliamentary Corporate Body, 2020, p. 46). Whilst this is largely the case (18% of landlords have current arrears), 19% of landlords with arrears reduced planned investment on the property (Table 17). As one landlord noted: "We are covering our overheads at the moment. No profits. This will have an impact if any major repairs required to be done". Another simply declared: "borrowed money to keep our heads above water, cut back on maintenance and repair work." This is concerning in view of misgivings around existing conditions within the sector and impending costs associated with legislation such as The Energy Efficiency (Private Rented Property) (Scotland) Regulations 2019³².

Despite these various actions, 9% of landlords have themselves fallen behind in mortgage, credit card or loan payments. It is worth noting that despite lender forbearance, buy-to-let mortgage arrears have seen a "continued small increase" throughout the pandemic with "6,020 buy-to-let mortgages in arrears of 2.5 per cent or more of the outstanding balance in the second quarter of 2021".

Table 17. Actions taken as a result of the impact of rental arrears

Action Taken	% Of Cases
<i>Drawn from savings.</i>	41
<i>Borrowed on credit cards.</i>	11
<i>Borrowed money from friends or family.</i>	7
<i>Taken out a personal loan.</i>	6
<i>Taken out a business loan.</i>	6
<i>Reduced planned investment on the property.</i>	19
<i>Successfully claimed on rent guarantee/loss of rent insurance.</i>	1
<i>None of the above.</i>	41
<i>Other.</i>	3

(N=533)

³²Forthcoming requirement

Though this report has largely focused on the financial impact of arrears, many landlords also commented on the physical and mental health impact of arrears:

"My tenant has continued to work for the whole period he has been living in my flat but for the majority of this time he has only paid £50 a month. I have been paying £450 per month for the loan & £35 to a factor. As a pensioner it has been so stressful, I had a heart attack."

"I was made redundant from my day job due to covid. However, one tenant decided to stop paying her rent money. This money she'd been given by the council in her benefits. Her choosing not to pay rent has caused me stress and other mental problems."

"The legislation was unfair on landlords and has destroyed my life. It has almost cost me my livelihood and has had a massive negative effect on my mental health. I watched my pride and joy of a flat be lived in for 10 months' rent free and be absolutely destroyed in the process."

"My stress level is sky high; I jump every time my phone rings or open my email, anxiety causing stomach problems, lost all confidence, detrimental effect on family life, taking huge amount of emotional resource and time."

"Massive reduction in income, bills still to pay, stress of dealing with tenants who claim they can't pay. And press portraying landlords are exploitative thieves. I can't meet my commitments, loose sleep, have become ill."

The majority of landlords operate as such on a part-time basis and rely upon other sources of income. We asked whether, outside of their renting business, the pandemic had impacted on their personal or company finances (loss of income, care costs etc.) resulting in financial difficulty. Almost one-in-three (30%) been impacted, notably by job losses:

"Due to the restrictions, I have been unable to sell my property. Both my partner & myself lost our jobs to covid and have struggled financially."

"Having been made redundant and requiring to move away for work it means living in an unsuitable property and going through hardship, whilst the tenant's comfort is fully protected and supported by the government and the landlord."

"I was made redundant, I have a family to support, I put all my savings as deposits when I purchased the properties, the rental income is my only income and regardless of the present situation with covid, I have to feed my family and pay my bills."

4.6.3 Financial tipping points

As highlighted, there are significant arrears within the Scottish PRS system already and it will take some time before the situation returns to something like normal levels. It is, therefore, helpful to understand how landlords are placed to cope with further arrears, and to identify the tipping point past which landlords can no longer sustain their PRS investments. Landlords were asked, based upon their existing financial position, how many months of rent arrears they could sustain on average before being placed into financial difficulty (Table 18).

Table 18. Months of arrears sustainable before being placed into financial difficulty

No of Months	%
0	6
1	6
2	13
3	16
4	6
5	1
6	11
More than 6.	27

(N=1734)

As it currently takes up to twelve months to secure an eviction, it is concerning that 6% of landlords report that they are already at a point where they cannot sustain any further arrears, while a further 35% report they can only sustain between one and three months. The fact that one-in-four (27%) are able to sustain more than six months of arrears without being placed into financial difficulty, further highlights the discrepancy in landlord resilience levels.

4.7 Policy directions

In forming the policy responses to date, the Scottish Government has drawn upon evidence from Shelter Scotland, Citizens Advice Scotland, the Resolution Foundation, Joseph Rowntree Foundation, the Scottish Association of Landlords and other interested parties. However, given the challenges of running consultations mid-pandemic, landlords have not been consulted directly. We sought to address this by asking landlords to what extent they agreed with a range of policy solutions designed to ‘tackle arrears and evictions during the pandemic’. The solutions included extensions to existing temporary legislation as well as ideas proposed by one or more stakeholders within the sector. The survey also included a free-text field which allowed landlords to provide their own policy ideas.

4.7.1 Landlord views on policy proposals

The extension or permanent adoption of existing temporary legislation was not popular with landlords, though not as unpopular as might have been expected. Taking responses of ‘somewhat agree’ to ‘strongly agree’ as agreement (Table 19):

- 44% agreed that rental arrears should remain a discretionary ground for eviction until the end of March 2022
- Slightly fewer (35%) agreed with the extension of extended notice periods to the end of March 2022
- Only 22% agreed with the proposal to extend the ban on the enforcement of eviction orders to all levels of the Scottish Governments COVID-19 levels system³³
- 30% agreed with the extension of the temporary ban on the enforcement of eviction orders in Level 3 and 4 areas indefinitely (until the ‘public health emergency has passed’)³⁴
- Just 20% agreed that the Rent Arrears Pre-Action Requirements should be made permanent

³³ This finding is now moot as the ban on the enforcement of evictions was revoked on the 9th August 2021 by the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021.

³⁴ As above

Table 19. The extent to which landlords agree with policy proposals

Statement	Level of Agreement (%)							
	Strongly Agree	Agree	Somewhat Agree	Neither Agree or Disagree	Somewhat Disagree	Disagree	Strongly Disagree	Don't know
<i>Tenants should be able to apply for grants to allow them to re-pay their arrears.</i>	31	34	17	8	3	3	2	2
<i>Landlords should be able to apply for grants to clear tenant arrears.</i>	34	30	16	8	3	3	2	2
<i>A one-off tax break should be implemented for landlords to mitigate against the impacts of the pandemic.</i>	32	26	13	15	3	4	2	5
<i>Extended notice periods should remain in place until the 31st March 2022.</i>	7	17	12	15	10	11	23	6
<i>Rental arrears should remain a discretionary ground for eviction until 31st of March 2022.</i>	9	19	16	16	8	8	17	7
<i>Temporary pre-action requirements should be made permanent.</i>	3	7	10	23	9	11	19	17
<i>The temporary ban on the enforcement of eviction orders should be extended to apply to all Tiers, not just Tiers 3 and 4.</i>	4	9	9	15	10	13	27	12
<i>The temporary ban on the enforcement of eviction orders should continue in Tier 3 and Tier 4 areas until the public health emergency has passed.</i>	5	12	13	17	8	10	24	12
<i>The Scottish Government Landlord (non-business) COVID-19 Loan Scheme should be extended.</i>	12	17	17	28	4	3	4	16
<i>The Scottish Government Tenant Hardship Loan Fund should be extended.</i>	16	24	21	19	3	2	4	11
<i>Local Housing Allowance rates should be increased to support the repayment of arrears.</i>	17	24	18	18	5	3	4	12
<i>First-tier Tribunal resources should be increased to prevent backlogs in processing eviction applications.</i>	28	28	17	13	2	1	1	10
<i>Malicious non-payment should be made a mandatory ground for eviction.</i>	63	21	8	3	1	1	1	3

(N=1734)

Looking at potential sources of financial support for the sector, landlords were asked about a range of initiatives which might be taken. Given earlier comments (see Section 4.4.3 and 4.5), it is not surprising that there was very strong support for grants for tenants (82%) as well as grants direct to landlords (81%) to clear arrears. There was significant support (71%) for a one-off tax break while 59% agreed that Local Housing Allowance rates should be increased to support the repayment of arrears. The latter appears unlikely with the UK Government stating that rates in 2021-222 will be maintained at April 2020 levels (Ministry of Housing, 2021).

An alternative would be the extension of existing support schemes. Though take-up rates have been low (see Section 4.5), the majority of landlords agreed that these should be extended, presumably 'just in case': 45% agreed with the extension of the PRS landlord loan scheme and 61% with the extension of the tenant hardship loans.

One of the proposed policy solutions was to increase the capacity of the First-tier Tribunal for Scotland (Housing and Property Chamber) to prevent backlogs in processing eviction applications. Some landlords expressed concern that delays were already occurring. For example, it was claimed that the tribunal *"was meant to be quick, efficient, and save eviction costs. Yet almost straight away it had a huge back log on evictions. Many landlords waiting 8 months just to find out if they could get a hearing."* It was also suggested that *"the legislation has been hopeless and the delays at the First Tier Tribunal excessive"* and one landlord was *"very disappointed with the tribunal procedure and time scale"*.

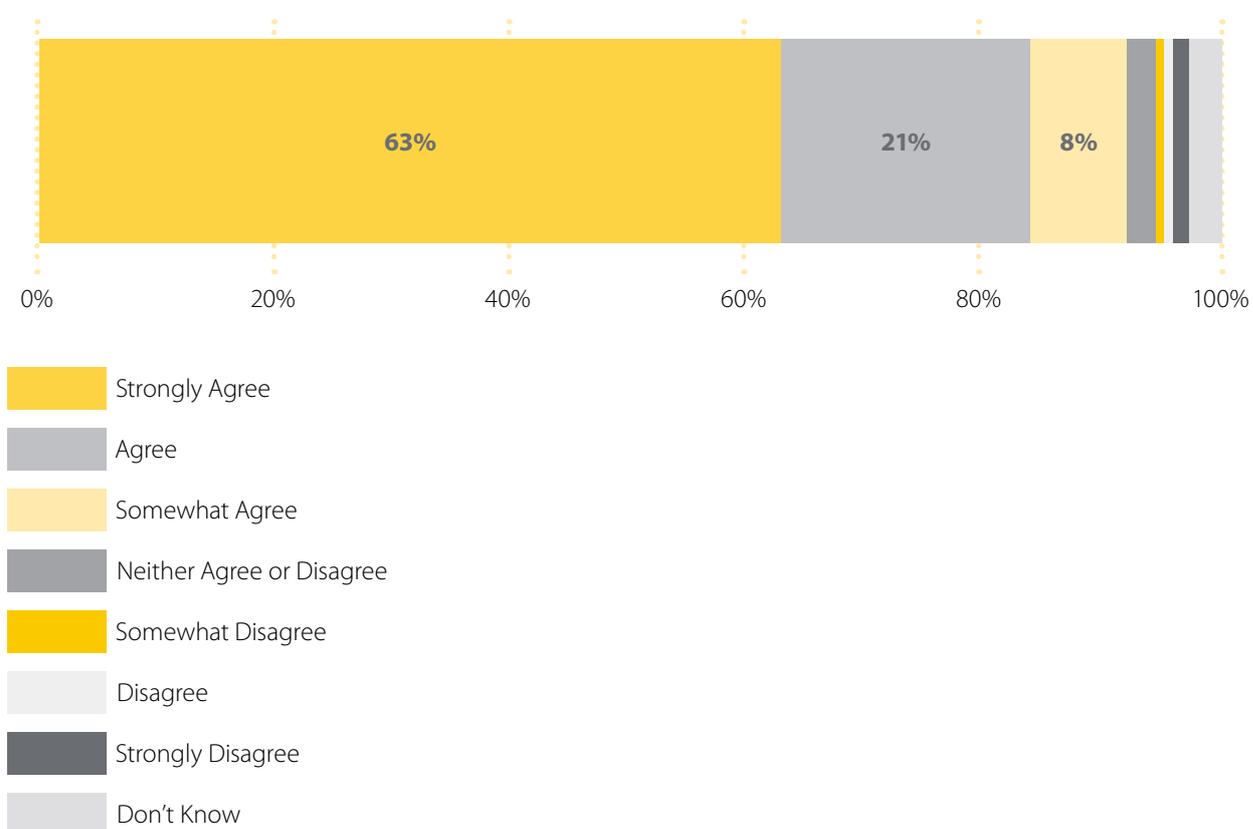
The presence of delays was confirmed in research by the Scottish Association of Landlords, which found that between 1st October 2019 and 18th of March 2020, it took on average 95 days to receive the decision to grant an eviction order from point of application. For the same period a year later, this had increased to 134 days (Elgar, 2021). The Tribunal's own figures suggest that between April 19 and March 20, the process took on average 92 days from date of application to the decision to grant an order (The Scottish Tribunals, 2021). This provides credence to the notion that it takes twelve months to evict a tenant due to arrears. That is, three months of arrears prior to serving notice, followed by six months' notice under the temporary legislation, followed on by around three months (though sometimes more) to go through the tribunal process. This is a significant period to forgo rent and, unsurprisingly, 73% agreed that tribunal resources should be increased.

This situation presents a dilemma for policy makers. An increase in resources could increase the speed of evictions, but not increasing resources could risk allowing arrears to increase to unsustainable levels. Given the length of the statutory eviction process, increasing resources alone will not resolve the arrears crisis.

To be fair to The Scottish Tribunals (2021, p. 27), they *"received more than three times the projected number of private rented sector applications in its first year of operation"* and note that a range of factors have contributed to the time taken to process eviction applications, including the requirements of the Private Residential Tenancy, minimum timescales and new sifting processes. This is to say nothing of the impacts of the pandemic, which caused the cancellation of face-to-face hearings and the temporary shutdown of the service.

By far the most popular policy solution (92% agreement) was the proposal to classify malicious non-payment as mandatory ground for eviction (Figure 9). This was not unexpected in light of landlord concerns that some arrears cases have resulted from deliberate non-payment (Section 4.4.3). The challenge, of course, would be finding a definition of 'malicious non-payment' which courts could actually work with. However, the challenges posed by malicious non-payment suggest that it is worthy of further consideration.

Figure 9. Policy solution- malicious non-payment a mandatory ground



4.72 Landlord proposed policy solutions

Landlords were presented with the opportunity to provide details of policy solutions they would like to see moving forward to tackle arrears. There were 245 individual responses which can be grouped into five key themes: 'malicious non-payment' (which was covered earlier), 'direct payment', 'streamlined arrears processes', 'tenants register' and miscellaneous others. As might be expected, the proposals are skewed towards preventing the occurrence or growth of arrears rather than preventing evictions, though in some cases the latter is tackled either as a by-product or directly. Whilst not every suggestion is fleshed out, feasible or palatable, and the reporting here is not an endorsement, there are, nonetheless, some interesting solutions.

In some circumstances, landlords can apply to local authorities for direct rent payment for Local Housing Allowance recipients, and to the Department for Works and Pensions for Universal Credit recipients. Some landlords advocate direct payment as standard to prevent evictions. Although this solution could have a significant impact on arrears for some tenants, it would be at the cost of tenant empowerment and could also exacerbate landlord-tenant power imbalances.

The fact that so many landlords simply give up and write off arrears (see Section 4.3.3) points to major challenges in reclaiming debt. Landlords noted that the debt reclamation process was difficult, lengthy and costly. This problem risks creating a negative behavioural loop for both creditors and debtors, which has broad socioeconomic implications and is therefore an area that warrants further review.

The creation of a register for tenants was raised by a number of landlords. Like the previous two solutions, this is not a new idea. While some viewed the solution as an equivalent to the landlord registration scheme, others (more problematically) saw it as a form of 'black list'. The general notion is that it is difficult to vet tenants and a national database would make this process simpler thereby preventing the occurrence of problematic tenancies.

Whilst the creation of such a register would be a significant challenge on a number of fronts, it is suspected that landlords themselves would be an impediment to such a system by failing to provide the regular data updates required to make it work. This is suggested by the current failure to pursue arrears (see Section 4.3.3), which means that the credit history of tenants does not reflect non-payment and therefore, somewhat ironically, cannot be used by subsequent landlords. It is currently possible for landlords to search the decisions of the Housing and Property Chamber First-tier Tribunal for Scotland for 'Eviction and Civil Proceeding Decisions', but again, only cases that have proceeded through the Tribunal will be recorded. There are also concerns that such a system would be cost prohibitive and open to abuse.

This miscellaneous category is a catch-all for a variety of ideas, some with more support than others. Though mentioned earlier in this report, reducing the length of the notice periods and reducing perceived backlogs within the housing tribunal were all popular ideas. Several also suggested the need for earlier engagement and closer partnering with local authorities to combat arrears. One possible way of achieving this, would be for Section 11 notices³⁵ to be issued at the same time as a 'Notice to Leave'.

Other proposals included; a moratorium on further legislation; larger rent deposits; grants for private renting as a business; a lower arrears threshold to trigger a Notice to Leave; and the cancellation of Council Tax payments for empty properties where vacancies were caused by the pandemic.

4.8 Additional insights

The free-text fields offered within the online survey generated a significant volume of data, which presented additional themes for further investigation. Many of these are beyond the scope of this research and would suit alternative future study, e.g., the incidence and cost of malicious damage. However, two issues emerged which were deemed pertinent to this research, namely 'void periods' and 'representation and communication'. These are explored below.

4.8.1 Void periods

Though the research is focused on understanding arrears levels and landlord intentions toward those arrears, a number of landlords pointed to other unforeseen problems caused by the temporary legislation. These included the inability of some landlords to sell or move into their rental properties as intended/required. However, a larger number of landlords pointed to financial difficulty resulting from the significant growth in void periods during the pandemic. Void periods are essentially the gaps between tenancies when properties are vacant. Whilst landlords prefer to minimise void periods, they can be used strategically for renovation and improvement projects that might otherwise be difficult to deliver in a tenanted property. However, when not planned for, void periods result not only in a loss of income, but also additional costs that would normally be covered by a sitting tenant such as Council Tax and utilities (where not included in the rent). An empty house also presents a number of property risks and has implications for the validity of landlord insurance policies. By way of example:

"It's crazy that a tenant can give 28 days' notice and move out, and then the landlord has to pay council tax on a vacant property until they find new tenants - which is hard to do in 28 days... a double whammy for landlords."

³⁵ Under Section 11 of the Homelessness Etc (Scotland) Act 2003, landlords must notify the local authority when they raise proceedings for possession of the property at the First-Tier Tribunal (Housing and Property Chamber).

Several landlords reported that the problem of voids was being overlooked. For example:

"It's not all about arrears. Some landlords are truly struggling to survive. Landlords like myself (fairly new to renting & not well off) with student accommodation lost almost all their income within a month as students returned home. Yet we still have all expenses. It has been a crippling year financially & probably added 4 years to my working life."

As per the example above, a large portion of the growth in voids coalesce around landlords who let to students:

"I lost student tenants who gave the required 28 days' notice as they had no classes to go to so were going back to family homes. I did not end up with rent arrears but empty properties I still had to pay mortgages and council tax and management costs and heating over winter etc etc."

However, examples were found across other tenant types and included extended void periods *"due to job losses"* and other factors.

The reported increase in voids does not result specifically from the temporary legislation, but rather from existing legislation. Under the Private Residential Tenancy regime, tenants have to provide landlords with at least twenty-eight days-notice to end their tenancy. Some landlords argue that this is too short a time period to find new tenants and to prepare for carrying out any required pre-tenancy works. For example:

"Tenants can leave with one months' notice but no heed or care is taken about how long it takes landlords to replace with suitable tenants."

In many cases landlords were unable find alternative tenants due to lockdown constraints. Others pointed to vacancy issues caused by excess capacity in the holiday let sector, which resulted in those owners *"flooding the PRT sector"*.

Whilst we are unable to quantify the average length and cost of void periods from the data collected, some of the examples provided by landlords were significant. Whilst unoccupied and unfurnished residential property is subject to a 100% council tax reduction for six months from the date it was last occupied for three months, many properties did not appear to meet these criteria. Others were vacant for longer than six months and received tapered reductions.

4.8.2 Representation & communication

In a now-aged quote, the Scottish Government (2013, p. 2) assert that they *"do not have a monopoly on good ideas"* and go on to recognise that *"in order to deliver on the vision for the sector"* that they will have to engage with all of their partners *"on their innovative ideas."* However, there were a few concerns that the Scottish Government does not consult effectively with the sector. This is despite landlords seeking *"much better communication and consultation"*, particularly to avoid *"knee jerk reactions"* to events.

During the pandemic, for justifiable reasons, the Scottish Government leant on representative bodies in lieu of broader consultative processes. However, this approach is viewed by some as skewed toward those advocating for tenants.

The Scottish Government did consult with the Scottish Association of Landlords (SAL) during the pandemic and throughout this and parallel research, SAL were generally held in high regard by landlords. However, while SAL endeavours to represent all landlords, its membership base consists of *"almost 5000 members"* (Scottish Association of Landlords, 2020) which is just 2% of Scottish landlords.

The heterogeneity of landlords referenced at various points in this report undoubtedly makes direct consultation challenging. To combat a similar challenge with tenants, the Scottish Government (2021e, p. 38) has committed in 'Housing to 2040'³⁶ to the creation of a "Tenant Participation Panel", yet no equivalent panel has yet been proposed for landlords.

There are also tangible examples where consultation and engagement with landlords in the sector has not quite hit the mark. For example, during the pandemic a Private Rented Sector Resilience Group was set up to "tackle a wide variety of private rented sector housing issues arising from the COVID-19 pandemic" (Scottish Government, 2020c). It might be expected that such a group would rely heavily on the input of landlords. Though SAL jointly chaired earlier meetings, it appears from minutes published by the Scottish Government, that none of the 2021 meetings were attended by anyone designated as a landlord or as a landlord representative. However, the last meeting on the 19th of April 2021, was attended by three representatives from Shelter Scotland (a handover was taking place), as well as representatives from Citizen's Advice Scotland, Glasgow City Council, Public Health Scotland, the Association of Local Authority Chief Housing Officers, the Convention of Local Authorities and the Scottish Government.

These are sporadic examples and should of course be considered in the wider context of the pandemic. However, they appear to offer some credence to claims that the Scottish Government is not engaging optimally with landlords. This may help explain some of the erroneous assumptions underpinning current policy decisions (see Section 4.4.3).

³⁶ Housing to 2040 is the Scottish Governments long-term national housing strategy which sets out its vision for the future of Scottish housing.

5. Conclusions

Though the pandemic has had a significant impact upon the PRS, the unprecedented range of fiscal support measures brought in to support households and the wider economy has undoubtedly had a positive impact on both tenants and landlords. Temporary schemes such as the Coronavirus Job Retention Scheme and the Self-Employment Income Support Scheme, along with existing welfare benefits such as Universal Credit, have allowed most tenants to continue to pay their rent as normal. In addition, though not directly explored in this research, it is recognised that many tenants will have gone to great lengths to ensure that their rent continued to be paid despite significant financial challenges caused by the pandemic. Nevertheless, this research shows that part of the burden of sheltering tenants and public services from the impacts of the pandemic has been borne by landlords in the form of mounting arrears.

The report finds that almost one-in-five landlords (18%) had current tenancies in arrears at July 2021, while 11% had tenancies which had ended in arrears during the pandemic. The overall current arrears in the Scottish PRS can be estimated to be in the region of £126m. This figure is far higher than expected on the basis of previous research during the pandemic and way above pre-pandemic levels. For individual landlords, the levels of arrears vary considerably, though the current mean is £2,800. This does not include the arrears written off by landlords for tenancies that ended during the pandemic. In addition, in many cases the current arrears are sizable and those reaching tribunal now will have grown to 13.3 months on average by the time an eviction order is granted (Elgar, 2021). This is far higher than pre-pandemic levels (8.9 months), and this is directly due to the temporary legislation successfully slowing the eviction process. It equates to an average of £8,700³⁷ in lost rent being accumulated per tenancy prior to eviction. However, the temporary legislation has undoubtedly protected some tenancies, with eviction rates during the pandemic lower than pre-pandemic levels.

A more fundamental problem with the temporary legislation is that it inherently assumes that landlords would be able to sustain additional arrears. This report finds that landlords have quite different levels of reliance on their PRS income and have differing levels of financial resilience. Most landlords own a single property, managed on a part-time basis and have alternative primary sources of income (employment etc.) which were potentially at risk during the pandemic. In fact, nearly one in three (30%) landlords lost income from other sources during COVID-19. Some rely heavily on their PRS rental income. Almost one-in-four landlords (23%) identified rental income as critical and as their primary source of income. In terms of resilience, 6% of landlords report that they cannot sustain any further arrears while 35% can sustain only one to three months of arrears before being placed into financial difficulty. As arrears levels are likely to rise in the short-term and new cases will continue to emerge, it is concerning that some landlords have little capacity to sustain income loss, with some struggling to sustain even moderate/low levels of arrears that would be feasible in ordinary times. The temporary legislation itself may result in evictions where landlords decide to exit the sector.

Where current arrears exist, their impact on the finances of landlords has been mixed, but in 41% of cases, landlords have drawn from savings as a direct result of the arrears while a further 30% have had to borrow. Many questioned if this was fair, particularly given disappointment with the support afforded to landlords throughout the pandemic. Just one third agreed that the 'support offered to landlords and tenants was fit for purpose' and just under one third (31%) agreed that they were 'happy' with the support offered to landlords and tenants'. However, as with other types of legislation, landlords were not universally aware of all of the support schemes on offer and take up was correspondingly limited. In the majority of cases (92%), landlords reported that they had not participated in, nor benefited from any of the schemes, suggesting poor scheme design, communication or both. However, landlords wanted to retain these schemes, presumably as a safety net.

³⁷ Utilising our average rent figure. See Section 3.7.

At present landlords are absorbing arrears as if it was a business risk. Though they have not been directly supported in the same manner as employees, the self-employed or the incorporated, it is right that landlords carry the bulk of the risks associated with their investment decisions, including for example, risks associated with political decisions concerning the regulation of the sector. It is less clear how the government can justify leaving landlords to cope with the financial impacts of the wholly-unforeseeable pandemic-related measures. The Scottish Government appear to have recognised this in June 2021, when they committed to the creation of “a £10 million grant fund” (Scottish Government, 2021g, para. 3). This was around the time that the survey was issued and it is therefore unlikely that many landlords were aware of the proposed fund when completing the survey. During the creation of this report, it has emerged that the fund will be available until the 31st of March 2022 for arrears occurring between the 23rd of March 2020 and the 9th of August 2021. The Scottish Government has set some eligibility criteria such as targeting tenants at risk of homelessness with no other way of paying off arrears, and allowing direct payment to landlords on the condition that proceedings are halted. However, administration of the fund has been passed to local authorities who will “use their discretion to determine whether a grant payment is appropriate in individual circumstances” (Scottish Government, 2021d, para. 14). Given these criteria and the fact that neither tenants nor landlords can directly apply for support, it would appear that the Scottish Government rightly view the fund as a backstop for the worst cases of arrears. However, it is suspected that some landlords with 12 months or more of arrears will prefer to see these tenancies end, even it means forgoing a lump sum payment. Overall, the scheme is unlikely to meet the aspirations of many landlords, particularly as it appears to be under resourced, £10m is equivalent to less than ten percent of the private sector current arrears estimated by this survey and has to be shared between both private and social sector tenants.

Overall, it could be suggested that the pandemic has highlighted to landlords the significant levels of legislative risk associated with investment in the sector.

With some exceptions, landlords were found to be broadly managing arrears in line with the required pre-action protocols although a significant proportion felt that tenants were not engaging constructively in the process. Many landlords had provided financial support, deferring or waiving some rent payments, while others had made offers of such support which tenants had not yet taken up. It is clear that many felt that it was entirely appropriate to offer support given the unprecedented times and it appears overall that landlords have been trying to do the right thing, though there will inevitably be exceptions.

In both the short and long term, a failure to recognise the impact of the pandemic on landlords will ultimately impact upon tenants. The unintended consequences of the temporary legislation and the scale of arrears faced by landlords, will likely include a reduction in supply as landlords sell up and to a deterioration in standards as others reduce capital expenditure in properties. Compliance with legislation which requires capital outlay, such as the Energy Efficiency (Domestic Private Rented Property (Scotland) Regulations 2020³⁸, will inevitably become more challenging. Some may welcome a reduction in the size of the PRS, believing its re-growth has gone too far, and that it has contributed to the unaffordability of owner occupation. However, as landlords are likely to evict tenants before attempting to sell, this process will further contribute to short-term pressures. Many of those losing their homes will not be in a position to access home ownership so pressure on social housing and on homelessness services is likely to rise.

³⁸Forthcoming requirement

Despite this concern and the extent of arrears, landlords appeared on the whole to be reluctant to try to evict tenants in arrears; only one in three (32%) landlords with current arrears intended to instigate proceedings. Given that the majority of landlords (55%) agreed that the temporary legislation was ‘necessary to safeguard tenants and protect public services’, we suspect that moral and pragmatic imperatives will see this reluctance continue in the short term. The data suggests that a proportion of landlords will also continue to offer support and write off arrears. However, these intentions will evolve, mediated by policy responses, levels of tenant engagement, landlords individual circumstances and resilience levels, and unfolding events such as the recent cessation of the Coronavirus Job Retention Scheme. The data suggests that there is currently a significant arrears lag in the system, meaning that the pandemic evictions timeline will have a long tail. As a large proportion of arrears cases have not yet reached three months in duration (41% of landlords with current arrears), it is likely that any evictions resulting from the current arrears measured, would not fall until the end of Q1 2022 and onwards, assuming of course that these tenancies continue and arrears are not cleared in the interim. In the immediate short term, just 94 tribunal hearings for eviction cases were scheduled between 23/08/21 and 23/09/21 and just 64 are scheduled between 04/10/2021 and 01/11/2021. These figures do not currently suggest that a “tidal wave” of evictions will reach land mass any time soon. In any case, any increase in eviction numbers in the interim will be moderated by the capacity of the Housing Tribunal as well as through the process of arrears being cleared and tenants moving on. Therefore, there remains a window in which action can be taken to improve the situation for both landlords and tenants alike.

To reduce arrears and evictions moving forward, the Scottish Government will have to work more closely with landlords than it is currently doing. This will be challenging, given the nature of the Scottish PRS, the observation that landlord disenfranchisement has led to a siege mentality, the dominance of tenancy advocacy groups in policy discourse, and the fact that many landlords are concerned that the Scottish Government is biased against them. It is, however, necessary to reduce arrears and evictions, to stabilise the sectors investment patterns and minimise the risk of deteriorating conditions within the sector. More broadly engagement with landlords and the resolution of some of the issues raised within this report will go some way to realising the goodwill that will be required to navigate ‘Housing to 2040’ and changes in the sector likely to result from the Scottish Nationalist Party’s recent power-sharing deal with the Scottish Green party.

The recommendations that follow are designed to reduce the quantum of arrears and evictions within the sector, and to improve communication and practices in general.

6. Recommendations

It is important to recognise that the arrears crisis and, more broadly, the pandemic may be seen by some as a “*focusing event*” and “*window of opportunity*” for realising major policy reforms. We would urge caution. Stakeholders on all sides will inevitably portray the arrears crisis “*in ways that favour their objectives*” resulting in “*framing contests*” (Nohrstedt, 2008, pp. 258, 260-261). Whilst the crisis creates opportunities for learning and fixing “*weaknesses in the previous status quo*” (Pawson et al., 2021, p. 42), it can also result in the emergence of “*the politics of blaming*” (Boin & Hart, 2003, p. 548). In fact, the PRS debate has become rhetoric-heavy, and there is a danger that stakeholders lose site of the critical role of the PRS within the Scottish housing mix and the fact that, in normal times, despite a number of important challenges, it operates effectively for the majority of tenants and landlords.

Our recommendations seek to navigate a return to more normal operating conditions for the sector but retaining those elements which appear beneficial. As it stands, the remaining temporary legislation cannot be continued indefinitely as the mounting arrears demonstrate but there are elements within these measures which could be retained to try to ensure a more positive approach to rent arrears management by landlords in the longer term.

We caveat our recommendations by noting that, whilst this report has shed light on the scale of arrears and landlord intentions as at July 2021, the arrears crisis continues to evolve around us. As we write, the Coronavirus Job Retention Scheme which was supporting up to 1m workers (Tomlinson, 2021) has just expired and the £20 “*temporary increase*” to Universal Credit has been removed. It will be important to update the picture on arrears and on intentions in relation to eviction as the impacts of those changes unfold.

6.1 Dealing with the pandemic arrears crisis

The objective here is to find a way to permit the sector to return to the ways of operating before the pandemic, without leaving large numbers of tenants at high risk of eviction, and without leaving large numbers of landlords shouldering substantial burdens from pandemic arrears as well as income lost through voids. Just as was the case with the emergency regulations, tenant welfare and the sheltering of public services remain central concerns. The aim is not to shelter landlords from all the consequences of the pandemic for their business, but rather to ensure they are not disproportionately affected. Now that the regulations enabling the ban on the enforcement of evictions have been revoked, the remaining temporary legislation has to be allowed to expire where it has run its course or is causing negative unintended outcomes, and extended only where the risk to public health or public services remains, or where the legislation has long-term merit.

6.1.1 Require and encourage better arrears management

Despite the majority of landlords (60%) agreeing that the pre-action requirements could ‘help tenants and reduce evictions’, a large minority (39%) did not agree that they should be extended indefinitely. However, we believe that there is merit in doing so to allow a much greater emphasis on the effective management of arrears aimed at minimising the need for evictions.

To achieve this, the regulations need to be updated to provide greater prescription around timescales and external support pathways. Landlord awareness of the temporary support schemes on offer was patchy, and there is evidence that neither landlords nor tenants fully understand the benefits system, or the rules around direct payment (Scottish Government, 2021b, p. v and vi). Moreover, the fact that tenants find out about arrears arresting schemes such as Discretionary Housing Payments by “*word of mouth*” (Joseph Rowntree Foundation, 2020, p. 15) needs rectified. To ensure that landlords can offer the best advice and that tenants are better aware of their welfare rights, advice services and existing welfare support provisions need further promotion. Improvements in the awareness levels of both landlords and tenants would undoubtedly reduce arrears.

Landlords noted some concerns over the operation of both housing allowance and universal credit administration mirroring longstanding concerns over the efficacy of these systems (Crook et al., 2009; Reeve et al., 2016; Watts & Stephenson, 2017). Whilst some progress has been made, for example via Scottish Choices, improvements here would further support better arrears management.

To allow local authorities more time to engage with tenancies at risk, landlords could be required to issue Section 11³⁹ notices concurrently with a Notice to Leave, i.e., at a much earlier stage in the eviction action process. This would require an increase in resources within local authority teams which might be difficult at the current time, but given the social and economic costs of evictions, particularly the cost of providing emergency accommodation, this could be money well spent.

6.1.2 *Reduce notice periods but extend discretionary consideration of grounds*

The extension of notice periods has presented a variety of challenges for landlords. In particular the increase from 28 days to 6 months' notice for 'rent arrears over three consecutive months', has led to arrears of around 13.3 months on average by the time an eviction order is granted (Elgar, 2021). This appears disproportionately unfair to landlords and does not encourage tenant engagement. Indeed, for a small minority of tenants, it appears to have encouraged non-payment of rent. It is worth noting that a large minority of landlords (44%) disagreed with continuing with the extended notice periods to March 2022 and that extended notice periods have been suspended in England and will end in Wales in December 2021. We recommend therefore that notice periods should return to their pre-pandemic position at the end of March 2022.

Although there will be some concerns around the impacts on tenant welfare, tenants will still have up to 7 months to make arrangements with landlords to address arrears (e.g., in the case of the PRT, 3 months of arrears followed by 28 days' notice, followed by up to 3 months for the eviction process). To provide an extra layer of protection for tenants in difficult situations, there is an argument for the Housing Tribunal to continue to have discretion over repossession cases for arrears at least until September 2022, and we recommend this as a safeguard.

6.1.3 *Maintain Housing Tribunal capacity*

Given concerns expressed within this report, there is a need to monitor the capacity within the tribunal system and to be ready to increase funding levels in response to any shortfall in capacity, i.e., any significant increase in processing times for cases. The goal here is not to speed up evictions but rather to ensure that potential delays with the Tribunals do not result in still further accumulation of arrears.

³⁹Under Section 11 of the Homelessness Etc (Scotland) Act 2003, landlords must currently notify the local authority when they raise proceedings for possession of the property at the First-Tier Tribunal (Housing and Property Chamber).

6.1.4 *Grant support*

It is clear that, in some cases, tenants will be unable to remedy arrears accrued during the pandemic and landlords will be unable or unwilling to simply absorb them or write them off. These tenancies will be at risk if landlords choose to pursue evictions, or to sell properties or if the properties are repossessed by lenders. There is a case for the Government to provide financial support, to protect both tenant welfare and public services. Loan schemes do not appear to have worked and instead there is a case for targeted grant support to reduce the need for evictions.

However, as noted in Section 5, the recently launched tenant grant fund appears underfunded. Although, at time of writing, local authorities are still in the process of developing procedures for administering the funds, the limited size of the funds, the differing approaches and priorities of individual local authorities and the complexity of individual cases will make it challenging to deliver a fair distribution. At this early stage of development, our primary recommendation is to include detailed monitoring and reporting of the funds apportionment to allow the size of the fund to be regularly reviewed and supplemented as required. However, it is also imperative that the longevity of tenancies which benefit from grant funding is tracked to allow for analysis of the efficacy of the policy.

6.2 **Wider points emerging from the survey**

In this section we explore broader issues that have emerged from the survey and which have relevance for longer-term policy discussions in relation to private renting.

6.2.1 *Heterogeneity of landlords*

This report has clearly identified that private landlords are heterogeneous. Stark differences were identified amongst landlords with regards the perceived criticality of PRS rental income and levels of financial resilience. Furthermore, we identified concerns that these factors were not fully understood or considered during the policy creation process. There is scope for policy makers to better recognise this heterogeneity, for example by considering variances in financial resilience levels when undertaking policy impact assessments. Improved and direct communication with landlords could be achieved by broadening existing plans to create a “*Tenant Participation Panel*” (Scottish Government, 2021e, p. 38) to encompass a Landlord Participation Panel. The creation of an additional combined panel may also be fruitful in arriving at joint solutions to the challenges faced by the sector.

6.2.2 *Make better use of the Landlord Registration Scheme*

Several surveys have raised concerns regarding landlord legislative knowledge. In some cases, this has been reflected in this survey and we have discussed gaps in landlord awareness surrounding benefits system and support schemes. Whilst we understand there are regulatory, data management and system challenges, the landlord registration scheme could be developed and leveraged to offer the centralised dissemination of information to landlords, as well as the collection of data which can support better policy making and enable the routine publication of sector characteristics.

6.2.3 *Landlords’ perspectives*

As previously noted, landlords expressed a number of strong policy views which they would like to see taken forward. The first was the extension of tenant notice periods from 28 days to 56 days to reduce the potential for void periods. The second was to identify and evaluate mechanisms which would enable malicious/deliberate non-payment to be considered as mandatory grounds for summary eviction by the First-Tier Tribunal (Housing and Property Chamber). The third was to introduce council tax exemptions for void periods caused by the pandemic and which were not covered under existing exemption criteria. The fourth was to introduce a tenants register. The fifth was to review the efficacy of existing debt reclamation procedures, with a view to ensuring the process is fair and expeditious for all parties.

These proposals have differing levels of merit, plausibility and practicability but should be known by policy makers seeking to improve dialogue within the sector.

6.2.4 *Issues for landlords*

Legislative risk has always been present within the PRS. Examples include increasing compliance costs with each new regulation or the unexpected removal of mortgage interest rate relief. However, for some, the pandemic has thrown legislative risk and perhaps the broader risk associated with investment within the PRS into sharp relief. Landlords with low rental yields, leveraged properties and low levels of financial resilience are most at risk. More could be done by policy makers to encourage sustainable investment in the sector while discouraging inappropriate investment that puts capital and tenancies at risk. This will require a clear vision for the sector and clarification on the type of investment sought. It is clear that in some cases landlords have underestimated the level of investment risk within the PRS and arrived at investment decision that do not fully take account of their resilience levels. Landlords may need to be encouraged to take a more detailed review of their investment goals, the alternatives available for meeting these goals and their investment constraints prior to embarking on sizeable capital investments within the PRS.

6.3 Recommendations for Further Research

The research has highlighted a number of areas for future study. Firstly, this report has provided a snapshot of arrears levels and landlord intentions as of July 2021. As the situation continues to develop, it is recommended that the survey of landlords is repeated in six months (January 2022) to allow progress to be monitored and recommendations updated if necessary. Secondly, we have noted an urgent need to better understand the quantum and impact of pandemic-related void periods within the sector. Thirdly, we have made tentative steps into understanding landlord resilience levels. However, this is an understudied area that would benefit from increased academic focus. Fourthly, the research points to the need to more fully understand the behaviours of landlords and tenants within the sector, particularly in terms of investment and debt management behaviours.

7. References

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