

Follow-up: Private rented sector report and the Renters (Reform) Bill – Oral evidence 10 July 2023

– Shelter supplementary evidence

How many tenants leave before a court date once served an eviction notice? (Question 31)

Committee members have asked Shelter if they are able to provide additional evidence on the proportions of tenants that leave their tenancy before the end of their notice period or court date, once they have received an eviction notice.¹

It is important to be clear that this does not mean that the proportions who do so under the new regime (post-Renters Reform Bill) will be the same as is currently the case, however, it is important for effective policy development to understand whether the numbers who do are significant.

In particular, the below estimations are important to the design of disincentives and penalties for abuse of the eviction grounds, as discussed by Tarun Bhakta in the oral evidence session this note relates to.²

Additional evidence:

According to our polling, conducted by YouGov, 3.86% of private renters received a section 21 notice in the last year. Using EHS data we can calculate that this is equivalent to around 170,000 private renting households. However, according to the latest MoJ evictions statistics, 24,553 section 21 claims have been heard by the courts in the last year.

The difference between these numbers indicates that most private renters move out of their home once they receive an eviction notice before being taken to court by their landlord. *

We believe this shows that the MoJ evictions statistics don't demonstrate the full extent of the disruption caused by Section 21 and show that it is important to design the new eviction grounds, and surrounding policies, with this in mind.

*This statistic is only indicative of the discrepancy. There are a few reasons why these numbers aren't perfectly comparable:

- The YouGov poll year window was June 2022 to June 2023 whereas the MoJ year window was March 2022 to March 2023.
- There may be some backlog in the courts, impacting the yearly MoJ section 21 claims figure.
- Some renters may have negotiated with their landlord rather than moving out. It's possible not all 170,000 move out at all.
- We've extrapolated our numbers from polling, whereas the MoJ figures count actual instances.

Because of these caveats we would avoid providing a definite percentage using these figures, but the discrepancy between the two numbers we believe is indicative that most do leave their tenancy before court.

The question of CCJs for tenants evicted under Section 8 (Questions 3 to 5)

Shelter would also like to give further comment that will be of interest to committee members regarding questions 3 to 5.

By 'CCJs', we assume the Committee mean a money judgment for rent arrears. The committee appears to believe that under the new tenancy system (Section 8), landlords will obtain more judgments for rent arrears, because the arrears will be the ground for possession, whereas currently they are more likely to use a section 21 notice and forego the arrears. *(They cannot get a money judgment if they use the*

¹ <https://committees.parliament.uk/oralevidence/13491/pdf/Q31>

² *ibid.* Q23

accelerated possession procedure for s.21 notices, only possession. They can still apply for a money judgement if they use the ordinary possession procedure, even with a section 21 notice.)

The term 'CCJ' can be confusing because it's often used to mean money judgments that are entered in the Register of County Court Judgments. However, the regulations state that judgments for rent arrears made in the course of possession proceedings are not to be entered in the Register unless the creditor, (ie. the landlord), takes steps to enforce the order. *(The authority for this is regulation 9(d) of the Register of Judgments, Orders and Fines Regulations 2005.)* The landlord may enforce the possession part of the order, but often/usually decides that it's not worth trying to enforce the money judgment, apart from keeping the deposit. The Register of Judgments only deals in money claims. There is no way that any order based on antisocial behaviour would end up on the Register.

Landlords

A judgment for rent arrears will only appear on the Register if (1) the landlord brings a separate money claim, not as part of possession proceedings; or (2) the landlord does try to enforce the money judgment by, for example, seeking an attachment of earnings order (whereby instalments towards the debt are deducted directly from earnings by a person's employer). A credit reference agency, such as the one operated by NRLA, will discover any other judgments, such as consumer or utility debts, which are on the Register, *but not most orders for rent arrears or ASB*. Court orders are not public documents, so landlords cannot find them online.

Landlords could (and can now) ask the prospective tenant about their rent history, and if the person doesn't disclose previous arrears, that would be a ground for possession (ground 17 – landlord induced to grant tenancy by false statement). This is unchanged in a post Section 21 world.

Local authorities

Further to landlord referencing, we understand the committee is concerned about a potential proliferation of intentional homelessness decisions. This scale of this risk should not be overstated in the move to a Section 8 evictions system.

From experience in our services and legal teams, when a person presents as homeless following a section 21 eviction the local authority will always ask whether the reason for the landlord's decision to evict was a 'tenant's fault' reason such as rent arrears or ASB, with a view to considering intentional homelessness.

They can't find that out from the s.21 notice itself or from the court order, so in the course of their enquiries they will contact the landlord and ask why they decided to seek possession. They may have done this already if the client presents when they have been served with the notice and before proceedings begin. The authority is in this situation, under the Prevention duty. As such, they will invariably contact the landlord to see why they have taken this step and whether they can be persuaded not to act on it. As above, this demonstrates that there will be little to no difference in treatment under the new regime, except that the reason for eviction will be spelt out on the face of the court order.

These may appear highly technical answers, but Shelter believes these insights are important for the committee to hear. They show that landlords and local authorities are little or no more likely to know about a CCJ for previous rent arrears or ASB under the new system than they are now.