

## **Written evidence submitted by Tenants Union UK, Garden Court North and Greater Manchester Law Centre [IOC 155]**

We write further to the invitation for written evidence issued by the Committee on 17<sup>th</sup> April 2020. Our response addresses the final point of your call – what action is needed to deal with the immediate post-lockdown impacts on those in the private rented sector. As a collective of organisations committed to protecting renters from homelessness in the wake of the pandemic, we have come together to set out pragmatic and realistic proposals for the reform of primary and secondary legislation. These reforms, we believe, will provide renters with a basic safety net and help to prevent a significant spike in evictions during the period of disruption caused by COVID-19.

The starting point of our paper is a shared belief that many renters will have accrued, and will continue to accrue, significant rent arrears during this period. Though we believe that further policy thought has to go into dealing with those arrears, our proposals have one central aim – to ensure that renters do not face eviction as a result of this public health crisis.

Our full proposals, including the legislative detail required to implement these measures, are detailed in the report below. Our main recommendations are:

- In line with continued assurances from the Government and MHCLG, press on with the abolition of section 21 of the Housing Act 1988.
- In the interim, an amendment to secondary legislation to include further information in the ‘How to Rent’ guide on the financial protections introduced by the Government in response to the pandemic.
- That the Housing Acts 1985 and 1988 be amended to provide a new definition of rent ‘lawfully due’ to exclude arrears arising as a result of the pandemic from grounds for seeking possession.
- Amendments to the pre-action protocol for possession proceedings to encourage landlords to work with tenants to resolve issues with arrears, and to encourage out-of-court resolution, including mediation.

### **Protection from eviction for private rented sector tenants following the Coronavirus pandemic**

#### **Background**

##### The Coronavirus pandemic

1. Before February 2020, England and Wales faced a homelessness crisis, in large part due to the rising number of people unable to pay their rent through welfare reform and the decline of social housing stock through Right to Buy.
2. The Coronavirus pandemic (‘the pandemic’) threatens to exacerbate this pre-existing problem exponentially.

3. As a result of the pandemic, over 1.5 million new benefits claims were made [between 1 March 2020 and 12 April 2020](#) alone. This means that an increasing number of tenants will rely, even temporarily, on benefits such as Universal Credit or Statutory Sick Pay and be entitled, at best, to the maximum rate of Local Housing Allowance (LHA) in their area.
4. Rents in the private sector are [prohibitively high](#) in areas of greatest demand and are often totally out of step with LHA<sup>1</sup>. The median rent in England is now [£700 per calendar month](#). Concerns were raised in 2019 that, without an effective means of controlling rents in the future, the abolition of no fault eviction would only solve half the problem.
5. Though steps have been taken by the Government to increase LHA in light of the pandemic through Regulation 4 of the Social Security (Coronavirus) (Further Measures) Regulations 2020, this remains capped at a maximum of 30% of the local market rent for an area.
6. According to a [poll conducted by Opinium on behalf of the Guardian](#) over Easter weekend, six out of 10 tenant households are already struggling financially as a result of the pandemic.
7. As a result, tenants are more likely than ever to accrue arrears and more likely than ever to face eviction.
8. Although the [Coronavirus Act 2020](#) mitigates this problem to some extent by introducing three-month notice periods, there is a well-founded fear among tenants' rights groups that this will only delay the inevitable, which is a surge in evictions post-pandemic.
9. According to the 2019 Homelessness Monitor, Local Housing Authorities were already struggling to rehouse people in housing need to suitable accommodation.
10. A surge in evictions will lead to a surge in homelessness on an unprecedented scale.
11. In addition, the courts are simply not going to be able to cope with the volume of new possession claims arising after the pandemic having stayed all current claims until 25 June 2020.

### Section 21 evictions

12. [Section 21 of the Housing Act 1988](#) provides that landlords who rent their properties to tenants under an assured shorthold tenancy ('AST') can regain possession of their properties after the end of the fixed term of the tenancy agreement, usually 6 or 12 months, without specifying any ground for eviction. Although a landlord has to meet a number of requirements in order to serve a valid notice, the aim was for a landlord to be able to swiftly regain possession by

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<sup>1</sup> See, for example, the executive summary of the [Homelessness Monitor: England 2019](#). London: Crisis

serving two months' notice without needing to rely on or prove 'fault' on the part of tenant.

13. As at financial year ending 2017, the [Office for National Statistics](#) recorded that 62% of households in the private rented sector in the UK had spent under three years in the same accommodation and only a small proportion (4%) had been in the same residence for 20 years or longer.
14. Tenants' rights groups campaigned for the abolition of section 21 for many years. The section 21 regime creates an imbalance between landlord and tenant, denies private sector tenants long-term security of tenure and is estimated to affect 4.5 million UK households living in the private-rented sector; 19% of the population.
15. On 15 April 2019, the then Communities Secretary James Brokenshire MP announced the government's intention to [abolish section 21 evictions](#).

#### Alternative means of eviction on grounds of rent arrears

16. The section 21 regime is not the only means by which a private sector landlord can evict their tenant. If, for example, a tenant has accrued more than two months' arrears, their landlord can apply for possession on ground 8, [Schedule 2 Housing Act 1988](#). Ground 8 is mandatory because, as long as the notice is valid and the legal requirements contained in ground 8 are met, the court must grant possession.
17. A landlord may also seek possession under the discretionary grounds contained in Schedule 2 Housing Act 1988, which capture circumstances in which a tenant fails to pay some rent (Ground 10) or where rent is persistently paid late (Ground 11).
18. An equivalent discretionary ground for secure tenants of local authority landlords is found in Schedule 2 Housing Act 1985 (Ground 1).

#### **Recommendations**

19. In order to mitigate the impact of the pandemic on tenants and the economy, we make the following recommendations intended to protect tenants from arbitrary eviction at the end of the pandemic and to ensure that any claim for possession after the pandemic is subject to appropriate scrutiny.
20. Our recommendations align with the government's continued assurance that future section 21 evictions will be abolished, as outlined in the 2019 MHCLG consultations<sup>2</sup> and the [Queen's speech](#) on 19 December 2019.

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<sup>2</sup> ['Overcoming the Barriers to Longer Tenancies in the Private Rented Sector'](#) (April 2019) and ['A New Deal for Renting'](#) (July 2019)

21. In respect of future possession proceedings on rent arrears grounds, we recommend that the legal consequence of rent arrears which accrue during the period of the pandemic, should not be eviction but rather a money judgment.

### **Changes to primary legislation**

#### **The Rented Homes Bill**

22. The Rented Homes Bill provides for the abolition of ASTs and the creation of new grounds for eviction under Schedule 2 Housing Act 1988. It was tabled for second reading 2020. It goes further than the government objective to abolish section 21 evictions by removing the AST scheme altogether.

23. The Rented Homes Bill, if enacted, will not apply retrospectively to tenancies already in existence until three years after the date on which it is passed [section 3(4)]. In addition, it will not come into force until six months after the date on which it is passed [section 5(2)].

24. In order to protect those tenants who would otherwise be evicted following the pandemic, **we recommend that the Rented Homes Bill be amended to include provision for the immediate abolition of section 21 evictions from the date on which the Bill is passed.**

25. As previously stated, this aligns with the government's intention to abolish section 21 evictions and does nothing to prevent a landlord from regaining possession where they meet the criteria for doing so and the court considers it reasonable.

26. This recommendation would require the amendment to be tabled as soon as practicable.

#### **Housing Acts 1985 and 1988**

27. In order to avoid tenants facing eviction because of rent arrears arising out of the coronavirus pandemic, **we recommend that the Housing Acts 1985 and 1988 be amended as follows so as to provide a consistent definition of rent 'lawfully due' from the tenant which excludes any rent arrears arising as a result of the pandemic:**

**(a) Ground 1, Schedule 2 Housing Act 1985:**

**Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed. For the purpose of this ground, "rent lawfully due" does not include any rent in respect of which arrears have arisen where those arrears arise from or relate to the period of disruption caused by coronavirus.**

**(b) Ground 8, Schedule 2 Housing Act 1988:**

**Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—**

**(a) if rent is payable weekly or fortnightly, at least eight weeks' rent is unpaid;**

**(b) if rent is payable monthly, at least two months' rent is unpaid;**

**(c) if rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and**

**(d) if rent is payable yearly, at least three months' rent is more than three months in arrears; and for the purpose of this ground:**

**(i) “rent” means rent lawfully due from the tenant; and**

**(ii) “rent lawfully due” does not include any rent in respect of which arrears have arisen where those arrears arise from or relate to the period of disruption caused by coronavirus.**

**(c) Ground 10, Schedule 2 Housing Act 1988:**

**Some rent lawfully due from the tenant—**

**(a) is unpaid on the date on which the proceedings for possession are begun; and**

**(b) except where subsection (1)(b) of section 8 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.**

**For the purpose of this ground, “rent lawfully due” does not include any rent in respect of which arrears have arisen where those arrears arise from or relate to the period of disruption caused by coronavirus.**

**(d) Ground 11, Schedule 2 Housing Act 1988:**

**Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due. For the purpose of this ground, “rent lawfully due” does not include any rent in respect of which arrears have arisen where those arrears arise from or relate to the period of disruption caused by coronavirus.**

28. Given the intention of these amendments is to provide immediate relief to tenants, it will be necessary to give the amendments retrospective effect so as to catch arrears that accrued at the outset of the pandemic. Consequential amendments will therefore be required to ensure that landlords are not prejudiced by any retrospective effect. For instance, amendments to the provisions requiring that notices specify the ground on which possession is sought (section 83(2)(b) Housing Act 1985; and section 8(1)(a) Housing Act 1988) would render such notices valid notwithstanding a failure to specify the wording of the grounds as amended, so long as the notice would otherwise (under the old law) have been valid.

29. We would also recommend that “coronavirus” be defined in the same way as in section 1 of the Coronavirus Act 2020. We do not see any need to further define “pandemic”, which should be readily understood by the courts.

30. The proposed amendments do not result in tenants avoiding any liability for rent during the period of the pandemic. Instead, they alter the consequences for a tenant of any failure to make rental payments during that period. The proposed amendments will mean that a tenant cannot face eviction on discretionary or mandatory grounds for rent arrears that arise out of the pandemic. The landlord is protected, to the extent that the rent remains payable and can be recovered if necessary through a money claim in the County Court. Under the proposed amendments, the burden would rest on the tenant to demonstrate a link between any rent arrears and the coronavirus pandemic.
31. For those reasons, the proposed amendments provide a sensible balance between protecting tenants in these difficult times while ensuring that landlords are adequately protected by altering only the legal consequences of rent arrears under the Housing Acts and not the contractual liability of tenants to pay their rent.

### **New notices: changes to secondary legislation and prescribed information**

#### Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015.

32. If section 21 evictions are not abolished, it may still be possible to protect tenants who have not yet been served section 21 notices from arbitrary eviction by amending the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015.
33. At present, a section 21 notice will not be valid unless a landlord provides their tenant with 'How to Rent: the checklist for renting in England' [section 21B Housing Act 1988].
34. The How to Rent Checklist can be provided at any time before service of the section 21 notice but must be the version that has effect at the time it is served [Regulation 3(2)].
35. There is no requirement for a landlord to serve a new copy of the How to Rent Checklist every time it is updated [Regulation 3(4)].
36. In order to protect those tenants who would otherwise be evicted without knowing their rights and responsibilities during the pandemic, **we recommend that:**
- (a) **the How to Rent Checklist is updated to include information on the financial protections afforded by the government to tenants and landlords during the pandemic, and the extension of the pre-action protocol to the private rented sector (see below);**
  - (b) **Regulation 3 is amended either by:**
    - (i) **removing Regulation 3(4); or**

- (ii) **inserting a new paragraph that requires a landlord to provide their tenant with a copy of any How to Rent checklist updated during the course of the pandemic; and**
- (c) **the prescribed information is further defined to include a precedent Early Notification letter and Early Notification Response to be sent alongside any How to rent checklist amended during the course of the pandemic (see Annex 1).**

37. These Regulations may be amended by the Secretary of State pursuant to section 21B Housing Act 1988 and can properly be laid using the negative procedure, subject to any motion for annulment once Parliament is reconvened.

38. Any amendment under these regulations will not take effect retrospectively. Tenants who have already been served with section 21 notices may be protected from arbitrary eviction by amendments to the Civil Procedure Rules ('CPR'), pre-action protocol and relevant HMCTS court forms, as outlined below.

**For all notices where proceedings have not yet been issued: pre-action protocol for possession claims**

39. We welcome the government's commitment to [extend the pre-action protocol requirement to the private rented sector](#) and echo the recommendations of the JUSTICE Working Party on Solving Housing Disputes that the housing pre-action protocols must be simplified and amended to include a greater emphasis on Alternative Dispute Resolution ('ADR')<sup>3</sup>.

40. As is the case with social landlords who seek possession on mandatory grounds, **we recommend that landlords in the private rented sector who seek possession on grounds of rent arrears or section 21 Housing Act 1988, be required to take steps which include the following:**

- (a) **If a tenant falls into arrears, the landlord should contact them as soon as possible to discuss:**
  - (i) **the cause of the arrears;**
  - (ii) **the tenant's financial circumstances and their entitlement to benefits; and**
  - (iii) **how the tenant can repay the arrears in a way which is affordable to them.**
- (b) **A landlord should work with their tenant(s) to resolve any Housing Benefit or Universal Credit (housing element) problems.**

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<sup>3</sup> ['Solving Housing Disputes'](#) (JUSTICE, March 2020) at §3.29

- (c) Bearing in mind that rent arrears may be part of a general debt problem, a landlord should direct their tenant(s) to seek assistance from the CAB or other debt advice agency.**
- (d) In any case where a notice of eviction is served and a more recent version of the How to rent checklist takes effect before proceedings are issued, the landlord must:**

  - (i) provide their tenant(s) with the most recent How to Rent checklist; and**
  - (ii) comply with paragraphs (e) and (f) below. Any letter sent in compliance with (f) may take the same form as the Early Notification Letter to be provided alongside the How to Rent Checklist.**
- (e) After serving a notice of eviction, a landlord should:**

  - (i) continue to communicate with their tenant(s) about the matters outlined in (a) and (b);**
  - (ii) agree to postpone issuing court proceedings where current rent is being paid and a reasonable amount towards the arrears.**
- (f) Before issuing proceedings, a landlord must:**

  - (i) write to their tenant(s) to explain their reasons for seeking possession;**
  - (ii) offer their tenant(s) the opportunity to tell them about any personal circumstances or matters that they wish to be taken into account, and give them at least 14 days to do so;**
  - (iii) offer advice and assistance to their tenant(s) to enable them to sustain their tenancy drawing on the advice contained in the How to rent checklist;**
  - (iv) consider any representations their tenant(s) make; and**
  - (v) explain their reasons for continuing to seek possession.**
- (g) When issuing proceedings, a landlord must include with the claim form a schedule stating:**

  - (i) whether they invited their tenant(s) to make representations;**
  - (ii) whether and how those representations were considered, and with what outcome; and**
  - (iii) brief reasons for bringing the proceedings.**



41. The pre-action protocol for possession claims by social landlords contains a number of sanctions for failure to comply with the pre-action protocol, which include an order striking out or dismissing the claim [§§2.14-2.15]. **We recommend that the same sanctions be extended to the private rented sector. In addition, we recommend that, if a landlord unreasonably fails to comply, provision be included for the court to direct that the proceedings be stayed for a period of one month to allow the parties opportunity to negotiate.**
42. In order to reduce the inevitable pressure on the courts after the pandemic, **we recommend that there be a greater emphasis on ADR in the pre-action protocol.** While we do not recommend compulsion to ADR, the language used in the pre-action protocol ought to be mandatory i.e. ‘the parties *must* consider whether it is possible to resolve their issues by discussion and negotiation without recourse to litigation’.
43. A greater emphasis on ADR aligns with the recommendations of the Civil Justice Council (‘the CJC’)<sup>4</sup> and the JUSTICE Working Party on Solving Housing Disputes. The CJC report, in particular, was [commended](#) by the Master of the Rolls Sir Terence Etherton.

### **Changes to the Civil Procedure Rules**

#### **Sanctions for failure to comply with the pre-action protocol**

44. As outlined above, if a landlord fails to comply with the pre-action protocol, the court may direct that the proceedings be stayed for a period of one month to allow the parties opportunity to negotiate and/or take any unreasonable failure to comply with the pre-action protocol into account when considering the appropriate costs order. **We recommend that Part 55 CPR is amended to reflect the court’s powers to impose sanctions for failure to comply with the pre-action protocol.**
45. This recommendation aligns with the court’s duty to give effect to the overriding objective under CPR Part 1 and its case management powers under CPR Part 3.

#### **Presumption in favour of ADR in section 21 claims**

46. Under Part 3 of the Family Procedure Rules (‘FPR’), any person applying to the family court for a contact or residence order or for a financial remedy in private law proceedings (that do not involve the Local Authority), must provide confirmation that they have attended a Mediation, Information and Assessment Meeting or that they are exempt from doing so before issuing proceedings [FPR 3.7].

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<sup>4</sup> [‘ADR and Civil Justice’](#) (December 2018)

47. The exemptions include where there is evidence of domestic violence [FPR 3.8(1)(a)] and where the mediator confirms that the applicant attended the MIAM but the respondent(s) did not [FPR 3.8(2)(b)].
48. If the court finds that a MIAM exemption was not validly claimed, the court will direct the parties to attend a MIAM unless the court considers that, in all the circumstances of the case, the requirement should not apply to the application in question [FPR 3.10(2)].
49. As a result of this requirement, the parties are compelled to consider ADR. They are not, however, compelled to agree settlement before issuing proceedings, which would violate their Article 6 ECHR rights to a fair trial.
- 50. We recommend that Part 55 CPR be amended so that any section 21 claim may not be issued unless the landlord has attended an initial mediation meeting or is exempt from doing so.**
51. In its 2018 report, the CJC rejected a similar proposal for the civil courts stating that it would be impossible to apply across the board, as the efficacy of the MIAM scheme relies on there being a pre-existing relationship between the parties. The CJC also expressed concerns that the civil courts would not be willing to adopt the scheme without similar rules on accreditation.
52. We suggest that the same difficulties do not apply to section 21 claims, as there tends to be a pre-existing relationship between landlord and tenant. In addition, the need for accreditation is not as great as it is in family proceedings where the relationships tend to be closer and the issues more keenly sensitive.
53. The benefits of introducing a MIAM-type scheme are many and include the following:
- (a) it increases the chances of preserving the landlord-tenant relationship and producing a satisfactory outcome to everyone;
  - (b) it is a much cheaper alternative to litigation if successful;
  - (c) it reduces pressure on the courts at issue stage;
  - (d) it does not prevent either party from accessing the courts should agreement not be possible;
  - (e) it prevents arbitrary evictions where the issues between the parties could have been amicably resolved; and
  - (f) in doing so, it reduces the pressure on Local Housing Authorities to find suitable alternative accommodation where demand far outweighs supply.
54. As the CJC sets out, there are a substantial number of civil mediators trained and available to take up this work. The Centre for Effective Dispute Resolution ('CEDR'), for example, is continuing to offer its services during the pandemic.

55. This recommendation would, however, require a change to the 2018 Standard Civil Contract to include legal help for mediation in housing disputes.

The court's duty to consider whether non-court dispute resolution is appropriate

56. Under the FPR, the court has a duty to consider, at every stage in proceedings, whether non-court dispute resolution is appropriate and can direct the parties to consider it [FPR 3.3(1)].

57. At present, there is no equivalent provision in the CPR; instead the onus is on the parties to consider ADR throughout proceedings. **We recommend that Part 55 CPR be amended to enable the court to direct the parties to consider non-court dispute resolution in section 21 claims, in line with the above recommendations.**

**Changes to HMCTS court forms**

Claim form

58. In addition to the extension of the pre-action protocol to the private rented sector and in line with the recommendations made by the JUSTICE Working Party<sup>5</sup>, **we recommend that the claim forms for possession proceedings be amended to include the following:**

- (a) **all claim forms for possession which involve a pre-action process should be strengthened to require applicants to demonstrate that they have engaged with their tenant(s) to attempt to resolve the issues giving rise to the prospect of eviction; and**
- (b) **all claim forms that may be used for the purposes of section 21 claims should be amended to require the claimant:**
  - (i) **to append the Early Notification Letter and/or pre-issue correspondence to the claim form, and any response; and**
  - (ii) **to provide a statement addressing the matters outlined in paragraph 35(g) above; and**
  - (iii) **to confirm whether they have engaged in or are willing to consider ADR and, if not, why not.**

**The claim form should make clear that there is a presumption in favour of ADR and provide a non-exhaustive but limited list of acceptable reasons why ADR might not be appropriate.**

Defence form

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<sup>5</sup> 'Solving Housing Disputes' at §3.31

**59. We recommend that the defence form be amended to require tenants to certify whether:**

- (a) they have received the Early Notification Letter and/or pre-issue correspondence;**
- (b) they responded and, if so, whether their response is appended to the claim form;**
- (c) in their view, their landlord has complied with the pre-action protocol; and**
- (d) they have engaged in or are willing to consider ADR and, if not, why not.**

**60. In addition, we recommend that the defence form be amended to require tenants to provide details of any other person living in their household and any known vulnerabilities, medical conditions or disabilities for the purposes of section 6 Equality Act 2010. As recommended by the JUSTICE Working Party<sup>6</sup>, this could be done using tick boxes.**

#### Directions Questionnaire

**61. As recommended by the JUSTICE Working Party<sup>7</sup>, we recommend that the directions questionnaire for all tracks be amended to require parties to state the reasons whether they have engaged in or are willing to consider ADR and, if not, why not.**

#### Existing court proceedings

**62. In order to further reduce the pressure on the courts following the pandemic, following the lifting of any stay under CPR Practice Direction 51Z we recommend that the court issues a direction to the parties notifying them of the relevant amendments to the CPR, including the court's duty to consider non-court dispute resolution, and requiring the landlord to:**

- (a) confirm whether they wish to continue with their claim;**
- (b) outline the steps they have taken to ascertain the current circumstances of the tenant and/or to reach settlement;**
- (c) confirm whether they are willing to engage in ADR; and**
- (d) provide any other relevant information, including any exceptional hardship that they will suffer if the claim does not proceed.**

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<sup>6</sup> 'Solving Housing Disputes' at §3.33

<sup>7</sup> 'Solving Housing Disputes' at §3.47

**If the landlord fails to respond within a set time, the proceedings will be struck out automatically.**

### **Summary of recommendations**

63. In summary, we make the following recommendations:

- (a) That the Housing Acts 1985 and 1988 be amended so as to provide a consistent definition of rent 'lawfully due' from the tenant which excludes any rent arrears arising as a result of the period of disruption caused by the pandemic, as drafted in paragraph 27 above.
- (b) That the Rented Homes Bill be amended to include provision for the immediate abolition of section 21 evictions from the date on which the Bill is passed.
- (c) Alternatively, that the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015 in the following ways:
  - (i) the How to rent checklist is updated to include information on the financial protections afforded by the government to tenants and landlords during the pandemic, and the extension of the pre-action protocol to the private rented sector;
  - (ii) Regulation 3 is amended either by:
    - (A) removing Regulation 3(4); or
    - (B) inserting a new paragraph that requires a landlord to provide their tenant with a copy of any How to rent checklist updated during the course of the pandemic; and
  - (iii) the prescribed information is further defined to include a precedent Early Notification letter and Early Notification Response to be sent alongside any How to rent checklist amended during the course of the pandemic.
- (d) That the pre-action protocol for possession claims by social landlords be extended to the private rented sector and require private-rented sector landlords to take the steps outlined at paragraph 40 above.
- (e) That the sanctions that may be imposed on social landlords for failure to comply with the pre-action protocol apply equally to private-rented sector landlords and include provision for the court to direct a stay for a period of one month to allow the parties opportunity to negotiate.
- (f) That there be a greater emphasis on ADR in the pre-action protocol.

- (g) That Part 55 CPR be amended to reflect the court’s powers to impose sanctions for failure to comply with the pre-action protocol.
- (h) That Part 55 CPR be amended so that any section 21 claim may not be issued unless the landlord has attended an initial mediation meeting or is exempt from doing so.
- (i) That Part 55 CPR be amended to enable the court to direct the parties to consider non-court dispute resolution in section 21 claims.
- (j) That the claim forms for possession proceedings be amended to strengthen the requirement on landlords to engage with the pre-action process and, in section 21 claims, to require the landlord to append and/or include the information outlined at paragraph 58(b) above.
- (k) That the defence forms be amended to require tenants to confirm the steps taken by their landlord to comply with the pre-action protocol, as outlined at paragraph 59 above, and to provide details of any other person living in their household and any known vulnerabilities, medical conditions or disabilities for the purposes of section 6 Equality Act 2010.
- (l) That the directions questionnaire for all tracks be amended to require parties to state the reasons whether they have engaged in or are willing to consider ADR and, if not, why not.
- (m) That the court issues a direction following the lifting of any stay under PD51Z requiring the landlord to provide details of the progress of the claim, any correspondence between the parties and/or change of circumstances as outlined in paragraph 62 above.

**Annex A: Early Notification Letter and Early Notification Response**

**Example Early Notification Letter**

*Dear [Tenant],*

*I am writing to inform you that I am considering serving you with Notice Seeking Possession. My reason is*

.....  
 .....  
 .....

*I enclose an updated version of the How to Rent Booklet which contains information for tenants about assistance available to tenants who have had difficulties paying their rent or face other hardship as a result of the COVID-19 crisis.*

*I also enclose a reply for you to send back to me that will enable me to consider your current circumstances and any alternative suggestions you would like me to consider.*

*Please send the Reply form back to me within 14 days.*

*Yours sincerely,  
[Landlord]*

**Example Early Notification Response**

*Dear [Landlord],*

*Thank you for your letter, which I received on .....*

*I am writing in response to tell you about my financial circumstances and the circumstances of my family.*

*As a result of the Coronavirus pandemic, I am having additional difficulties making rent payments because*

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.....  
.....  
.....

*My household income is ..... [per week/ per month]*

*I have to spend money on*

.....  
.....  
.....  
.....

*The amount of money I am having to spend on these items is ..... [per week/per month]*

*I have taken the following steps to try to improve my financial circumstances*

.....  
.....  
.....  
.....

*I have made the following applications for help:*

.....  
.....  
.....  
.....

*I live in the property with [give details of the people you live with and the impact that eviction would have on them]*

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.....  
.....

*In order to avoid court proceedings, I would like to reach an agreement with you [set out details of any payments that you can make now, whether you expect to be able to increase payments in the future and how you will be able to repay the arrears over time]*

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.....  
.....  
.....  
.....

*I hope that you will consider my circumstances and that we can agree a way forward.*

*Yours sincerely,  
[Tenant]*

*April 2020*