

Illegal Eviction:

Experiences of CAB clients in Scotland

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Contents

Executive Summary	3
Introduction and literature review	4
Data analysis	9
SPF analysis	25
Conclusion and recommendations	33
Appendix 1 – Further detail on research methodology	35

Who we are

Citizens Advice Scotland (CAS), our 59-member Citizen Advice Bureaux (CAB) and the Extra Help Unit, form Scotland's largest independent advice network. Scotland's Citizens Advice Network is an essential community service that empowers people through our local bureaux and national services by providing free, confidential and independent advice. We use people's real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help and we change lives for the better.

During 2020-21, the entire Citizens Advice network provided advice and assistance to over 171,000 individuals; this equates to one in every 26 adults living in Scotland. The network put almost £147 million back into people's pockets during this time, with every £1 invested in core advice funding returning £14 in gains for people. Our extensive footprint is important in helping us understand how issues impact locally and nationally across the country and the different impacts that policies can have in different areas.

Executive Summary

This report looked at data about illegal eviction from the Citizens Advice network in Scotland dating from 1st April 2019 to 31st December 2022 (Q1 2019/20 to Q3 2022/23) inclusive.

Our analysis showed that:

- > Advice on harassment and illegal eviction was a small yet persistent proportion of all housing advice.
- > Demand for advice on harassment and illegal eviction did not noticeably decrease during the pandemic, despite the public health orders in place.
- > Clients who experienced illegal eviction during this time found it very difficult to find alternative accommodation.
- > A large proportion of the harassment and illegal eviction cases related to people living in informal housing arrangements: many clients did not have written tenancies, rented from an acquaintance, or their landlord was not registered. This indicates that there is likely to be a “shadow” rented sector operating across Scotland.
- > Illegal eviction exposes people to homelessness: many clients who approached their local bureau for this type of advice had to apply as homeless to their local authority.
- > Local authorities have an inconsistent approach to dealing with households who are experiencing illegal eviction and often ask for paperwork which clients do not have as their landlord has not provided them with it.
- > Redress and compensation are rare, and clients are often unwilling to pursue these. This appears to be for reasons of time, complexity or lack of awareness of the process.
- > There are likely to be more clients who have experienced harassment or illegal eviction than our data suggests. Several clients sought advice on a different matter but also received illegal eviction advice through discussion with an adviser. This underlines the importance of the holistic advice approach of bureaux.

CAS recommends that:

- > Scottish Government develops, monitors and evaluates more effective routes for redress for people affected by illegal eviction, such as retaining the new approach to civil damages.
- > Scottish Government and local authorities introduce mandatory training for landlords before being able to register.
- > Scottish Government introduces harsher penalties for landlords who illegally evict, including temporary removal from the landlord register if applicable, and/or fines if they continue to let out property without undertaking the above mandatory training and paying damages.
- > Scottish Government explores ways of collecting better data on illegal eviction, so hotspots for this type of activity can be identified and better enforced against.
- > Local authorities review their homelessness procedures where people are at risk of or have been illegally evicted and develop a consistent approach so that people in this situation can access the assistance they require.

Introduction and literature review

Illegal or unlawful eviction is not a widely researched nor written about area of housing policy in Scotland, possibly due in part to its complex and often misunderstood nature. As to why illegal eviction is so badly understood and rarely challenged, Spencer et al (2020) summarise this as “the complex regulatory framework, the nature and scale of the problem, local authority inability to respond effectively, political will, and police ambivalence”. The Scottish Government considers itself to have a “distinctive approach” to housing policy compared to the rest of the United Kingdom, particularly in regard to its progressive homelessness legislation, and strengthened security of tenure for private tenants, namely through the removal of no-fault evictions.¹ However, illegal eviction is characterised by Soaita et al (2022) as a form of “hidden power”,² and notes that it is a familiar experience and fear among tenants alongside substandard property conditions or harassment. It is therefore valuable to better understand the scope and scale of illegal eviction in Scotland, and how it risks undermining the otherwise relatively strong rights that renters in Scotland have.

In order to do this it is important we understand the current legislative context. Looking to the existing guidance and legislation on legal eviction, the Scottish Government (2021) summarises that “in Scotland, tenants can usually only be legally evicted from their homes by order of the Sheriff Court...or the First-tier Tribunal for Scotland... Evicting someone, without obtaining such an order, has been a criminal offence for more than half a century”.³ Section 22 of the Rent (Scotland) Act 1984⁴ also remains a key part of legislation which sets out that “if any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof or attempts to do so he shall be guilty of an offence”. This law is applicable to most types of residential tenancy types, as well as including protection for both tenants and occupiers.

Further to domestic law, the Legal Services Agency (LSA) points out in their 2020 briefing on illegal eviction⁵ that the United Kingdom as a whole is obliged to observe international covenants, including those relating to housing. This includes Article 11(1) of the International Covenant on Economic, Social and Cultural Rights 1966 which gives rise to the human right to adequate housing. It also includes Article 17 of the International Covenant on Civil and Political Rights 1966 which protects against “arbitrary or unlawful interference with... privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation”. Illegal eviction, or failure to effectively prevent illegal eviction from happening, can be seen as a dereliction of these obligations.

¹ Scottish Government (2021) [Housing to 2040](#) p.12

² Soaita, A., Simcock, T. and Mckee, K. (2022) [Housing challenges faced by low-income and other vulnerable privately renting households](#)

³ Scottish Government (2021) [Draft Rented Sector Strategy](#) p.57

⁴ [Rent \(Scotland\) Act 1984](#)

⁵ LSA (2020) [Briefing on reform of the law on damages for unlawful eviction](#)

Introduction and literature review

The eviction process in Scottish housing law

Generally speaking, if a landlord wishes to evict a tenant, the landlord must begin the process by selecting a reason for the eviction (the “ground”).^{6,7,8} If the landlord is evicting for rent arrears, they are expected to have taken steps (the “pre-action requirements” or “protocols”) to attempt to remedy the issues leading to the eviction. This prescribed list of steps includes communicating with the tenant and attempting to establish a repayment plan if rent arrears are owed. Pre-action requirements have been in place in the social rented sector since 2012⁹ and in the private rented sector since 2020 (albeit currently on a temporary basis as part of the Coronavirus Acts). Once the pre-action requirements are completed, the landlord then completes the correct legal documents, which again depend on the type of tenancy the tenant has. These documents include important details such as the proper notice period, which the landlord must then give to the tenant. This process and paperwork are generally known as giving “Notice to Quit” or a “Notice of Proceedings”.

At this point, the tenant can opt to “agree” with the eviction notice and leave the property on or before the day the notice period expires or choose to challenge the eviction. In the latter circumstance, this usually leads to the landlord having to seek an order for possession through the First-tier Tribunal (Housing and Property Chamber) for private rented sector properties, or the Sheriff Court for social rented sector properties. The case is brought to the relevant tribunal or court, queued, checked for legal competence and then considered and “heard” by either tribunal members or a sheriff. The tenant and the landlord (and their representatives) have the option to appear in front of the Tribunal or Sheriff Court and speak to the case, for example if they believe that the Tribunal should be aware of additional important information about their circumstances. Prior to the pandemic, an eviction order would mandatorily be granted if the case met certain requirements (for example, the tenant owed over a certain amount of rent in arrears, or the case was brought on other mandatory grounds). In cases where the ground for eviction was “discretionary”, the relevant body could decide whether it was reasonable to evict the tenant. If an eviction order was granted, then the landlord must inform the tenant (through serving a “Charge for Removal” notice) and the order may be enforced, meaning that the tenant must legally leave within a certain timeframe or be removed by sheriff officers.¹⁰ The landlord cannot physically remove a tenant from the property themselves.

⁶ Shelter Scotland (no date) [Grounds for eviction if you rent from the council or a housing association](#)

⁷ Shelter Scotland (no date) [Grounds for eviction if you have a private residential tenancy](#)

⁸ The main types of private tenancies in Scotland are the Private Residential Tenancy (introduced as part of the [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#)) and the Short Assured Tenancy (introduced as part of the Housing Scotland Act 1988). All tenancies created on or after 1 December 2017 should be a Private Residential Tenancy. In the social rented sector, the main tenancy type is the Scottish Secure Tenancy, which was introduced as part of the [Housing Scotland Act 2001](#).

⁹ [Housing \(Scotland\) Act 2010](#)

¹⁰ Shelter Scotland (no date) [Eviction procedures](#)

Introduction and literature review

Emergency legislation and interpretations

However, as mentioned above, as part of emergency legislation introduced in response to the pandemic,^{11,12} (some parts of which were later extended¹³), all grounds for eviction became discretionary, meaning that each case would be considered individually on its own specific facts. Further, during the pandemic, a ban on the enforcement of eviction was introduced, meaning that even where eviction orders were granted by the relevant body, the tenant could not be removed from the property until the risk to public health was evidenced to have eased. All grounds remaining discretionary was rolled over into the Coronavirus (Recovery and Reform) Act 2022 and the ban on the enforcement of evictions was re-introduced as part of the Scottish Government's Cost of Living legislation and is expected to be in place until at least March 2023.^{14,15} The Scottish Government is obliged to gather evidence and report on the impact of these measures to the Scottish Parliament in 2023. These recent changes to legislation are relevant to include as part of the literature review partly due to some remaining in place and partly as we expect to see some evidence about how this legislation may have affected illegal eviction.¹⁶

However, even within the housing and justice sector, interpretations and understandings differ slightly. In their 2014 briefing, Shelter Scotland has a wider interpretation of the circumstances where a tenant is 'unlawfully deprived' of the occupation of their home, including "evicting without following the correct legal processes; by a landlord changing the locks when the tenant is away from the property; by threatening violence or intimidation."¹⁷ Shelter Scotland also point out that in order "for a landlord to be charged with illegal eviction tenants must be aware that their landlord's behaviour is criminal and be confident enough to report this to the police. The police can then prepare a report to send to the procurator fiscal who will decide whether to pursue a prosecution." They highlight, "As many illegal eviction go unchallenged, convictions are rare". The essential role of Police Scotland in addressing illegal eviction has long been recognised, however there are longstanding and frequent reports of illegal eviction being mistakenly understood by police as a civil matter rather than criminal.¹⁸

Change appears to be underway, however, as there have been recent collaborative efforts by the Scottish Government and several third sector and public health organisations to engage and work with the police on this matter, including the development of training for frontline call handlers to improve police knowledge of illegal eviction as a crime.^{19,20} Police support is vital to tenants who wish to challenge this practice, and to discourage the practice in the long term.

In summary, landlords must complete the proper process for obtaining an eviction as per the relevant tenancy rules, and if they fail to do any part of this correctly, this is an illegal eviction and therefore an offence. Consideration and knowledge of the law and practical process of eviction highlights the many ways an illegal eviction could occur before, during and after the process, even if unwittingly or not on purpose.

¹¹ Coronavirus (Scotland) Act 2020

¹² Coronavirus (Scotland) (No.2) Act 2020

¹³ Coronavirus (Recovery and Reform) (Scotland) Act 2022

¹⁴ Cost of Living (Tenant Protection) (Scotland) Act 2022

¹⁵ Scottish Government (2023) [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022 - proposed extension: statement of reasons](#)

¹⁶ Note: On the 19th January 2023, the Scottish Government announced that it was extending most of the provisions in the Cost of Living (Protection of Tenants) Act with some variations. The full announcement can be found [here](#)

¹⁷ Shelter Scotland (2014) [Illegal eviction – know your rights](#)

¹⁸ Scottish Housing News (2021) [Legal Services Agency: Urgent reform is needed to the law of damages for unlawful eviction](#)

¹⁹ Scottish Government (2021) [Private Rented Sector Resilience group minutes: 8 March 2021](#)

²⁰ Scottish Government (2021) [Draft Rented Sector Strategy](#)

Introduction and literature review

Wrongful termination

A further area of relevance and significance in the discussion of illegal eviction is that of “wrongful termination” in the private rented sector. Introduced as part of the Private Housing (Tenancies) (Scotland) Act 2016, and recently temporarily amended as part of the Cost of Living (Tenant Protection) (Scotland) Act 2022, these measures allow tenants who believe their tenancy has been wrongfully terminated to challenge this through the First-tier Tribunal and receive compensation from the landlord. The first wrongful termination order (WTO) was made in March 2021,²¹ four years after the introduction of the measures. Up to July 2021, there have only been 21 applications for a WTO. Only three were successful (resulting in penalty awards against the former landlord of three times the monthly rent in two cases, and one times the monthly rent in the other).²²

Challenging and claiming damages

Where a tenant believes that an illegal eviction has occurred, the law allows that they should be able to challenge and claim damages. However, the current system for claiming damages or compensation may shed light on why illegal eviction are poorly recognised or understood. As it stands, as part of the claiming process, section 37 of the Housing (Scotland) Act 1988 sets out the mechanism for the valuation of damages where an unlawful eviction has occurred. This mechanism requires a professional surveyor to provide a valuation of the difference between the landlord’s interest in the property with and without a sitting tenant. This is not only an expensive process but feedback from stakeholders indicates that it can also lead to a nil valuation. It is therefore unsurprising that only a small number of claims have ever been made using this approach. As part of the Draft Rented Sector Strategy, the Scottish Government consulted on an alternative approach of using a multiplier of rent to calculate damages. It is important to note that at the time of writing The Cost of Living (Tenant Protection) (Scotland) Act 2022 was in force which temporarily increases the Sheriff Court and First-tier Tribunal's powers to set a new minimum and maximum rate of financial compensation for unlawful eviction. Where a tenant is illegally evicted during the lifespan of the Act, the Court or Tribunal may award a minimum of three months' worth of rent and a maximum of 36 months' worth of rent.²³

²¹ Scottish Housing News (2021) [Paul Harper: Scotland's first wrongful termination order](#)

²² Combe, M. (2021) [Wrongful-termination orders for former private sector tenants: do Scotland's landmark residential tenancy laws fail those who are tricked out of their home by landlords?](#)

²³ Shelter Scotland (no date) [Wrongful termination of a private residential tenancy](#)



Introduction and literature review

Monitoring of illegal eviction

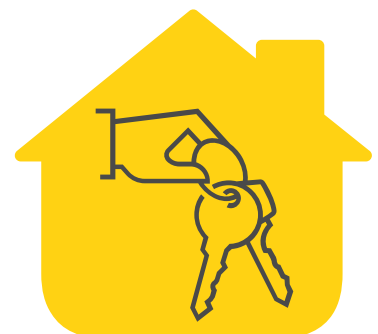
Aside from the statistics collected by organisations and networks aimed at helping people in such situations, it does not appear through research that any data is formally collected on illegal eviction. This may be due to the various ways in which an unlawful eviction may occur, and the low rate of legal challenge against such practice by victims or their representatives. Further complexity is added as there are a number of ways that this information could be counted or quantified, including the number of illegal evictions reported to the police, past and current caseloads of law centres and advice agencies and cases lodged with the First-tier Tribunal or Sheriff Courts. In 2019, it was estimated that as little as 5% of reports of illegal eviction led to a conviction by Police Scotland.²⁴ In the same report, Shaun McPhee, an Edinburgh-based law researcher estimated that 6000 illegal evictions occurred in Scotland per year, and suggested that Police Scotland, the Crown Office and Procurator Fiscal Service and local authorities were not “doing enough to help tenants get justice despite having legislation to hammer offenders”. The First-tier Tribunal (Housing and Property Chamber) reported that in 2020-21 (the most recent data available), there were 14 applications for damages for unlawful eviction, representing a 40% increase on the previous year.²⁵

Research aim

The research aim for this project is to better understand the nature and scale of illegal eviction across the private and social rented sector in Scotland. We decided to conduct this research in the last quarter of 2022/23 as our quantitative data indicated an upwards trend in demand for this type of advice in recent months. We also have a unique opportunity to positively contribute to work in this area as part of the rented sector strategy and housing bill process which is expected in mid-2023. More detail on our methodology can be found in [Appendix 1](#).

²⁴ Silvester, N. (2019) [Scandal of illegal eviction landlords let off the hook as only 5% of cases leads to prosecution](#)

²⁵ The First Tier Tribunal (Housing and Property Chamber) (2021) [Summary of Work of the Housing and Property Chamber](#)



Data analysis

Housing advice trends overall

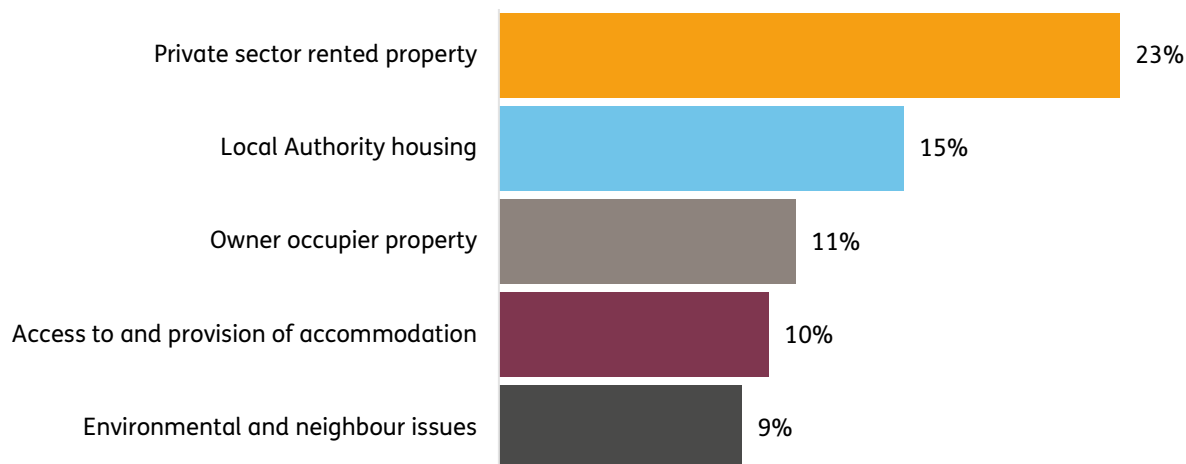


Chart 1. Average top areas of Housing advice as a proportion of all Housing advice

To contextualise the scale and type of Housing advice that citizens advice bureaux in Scotland provides, around 12,000 pieces of advice are given out in this area each quarter, making up about 5% of all advice. Chart 1 shows the top areas of Housing advice on average from Q1 2019/20 to Q3 2022/23 that bureaux provide, indicating that the most common Housing advice is tenure-specific: advice on Private Rented Sector Property is most in demand, followed by advice on Local Authority Housing and Owner Occupier Property. Outside of tenure type advice, Access to and Provision of Accommodation makes up about 10% of Housing advice given, followed by Environmental and Neighbour issues. Chart 2 shows what these advice areas have looked like over time.



Data analysis

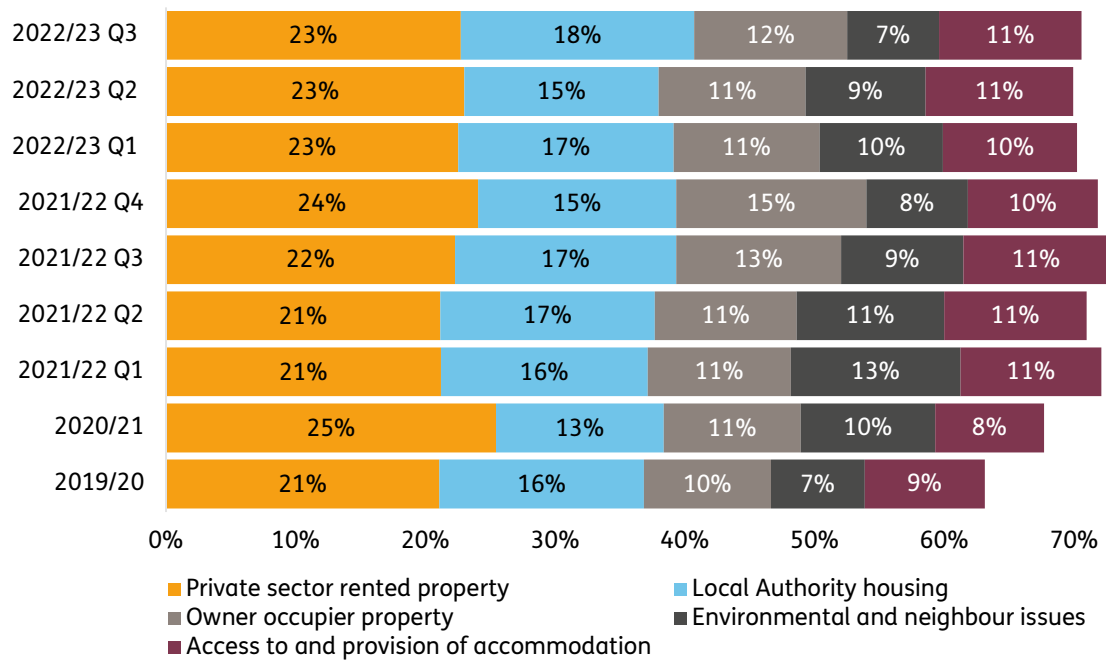


Chart 2. Top housing advice areas as a proportion of all housing advice over time

When we consider the changes across time it's important to reflect on the changes that happened in the rented sector during the pandemic and the ongoing cost of living crisis. We have identified six particular events and when they occurred, which may help us understand some of the changes in advice over time. These six events are:

1. Introduction of a ban on the enforcement of eviction during COVID – Q1 2020/21
2. First extension to the ban – Q2 2020/21
3. First ban extension ends – Q1 2021/22
4. Second extension to the ban begins – Q2 2021/22
5. Second extension ends – Q3 2021/22
6. Introduction of a new ban on the enforcement of eviction due to Cost of Living crisis – Q2 2022/23

Several of the charts include bars to indicate when the effective ban on eviction was in place (white bars) and when it was not (purple bars).

Data analysis

Advice on illegal eviction

As outlined in the methodology section in Appendix 1, harassment and illegal eviction occurs as an advice code under five “parent” advice codes: Homelessness (actual), Homelessness (threatened), Local Authority Housing, Registered Social Landlord Property and Private Sector Rented Property. Chart 3 shows these parent codes as a proportion of all Housing advice over time. Queries about Private Sector Rented Property consistently make up the highest proportion of Housing advice, followed by Local Authority Housing. Advice about Registered Social Landlord Property overtook advice about threatened homelessness in Q1 of 2020/21, while advice about actual homelessness remains proportionally the smallest of these five advice areas.

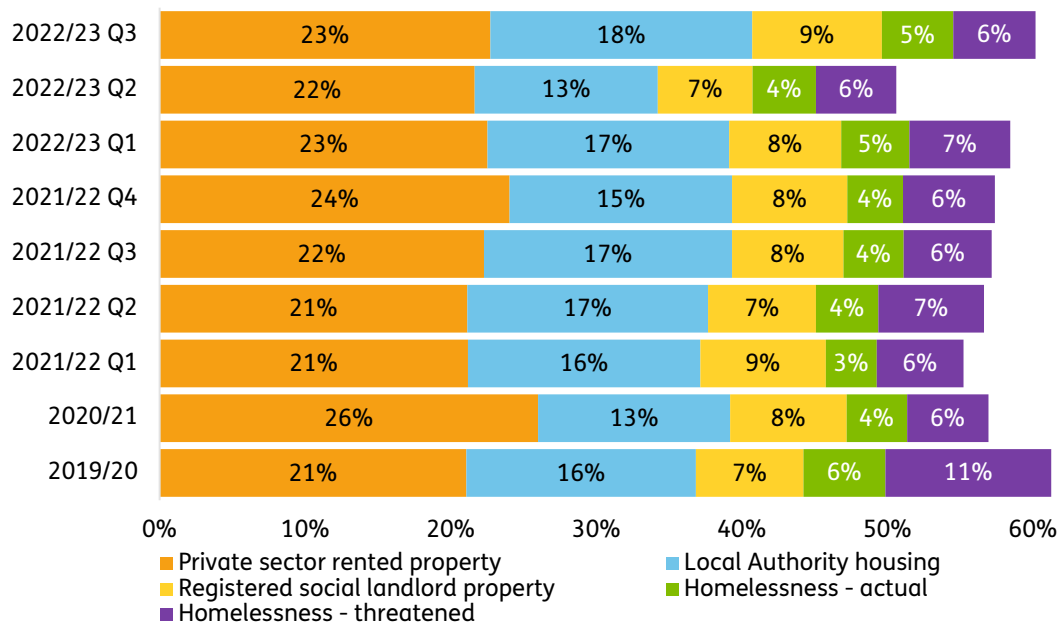


Chart 3. Illegal Eviction parent codes as a proportion of all Housing advice

As there may be some duplication between these parent codes, we will split them into homelessness type codes and tenure type codes, and look at illegal eviction as a proportion of each in this way. As described previously, there was a change at the end of 2020/21 to the illegal eviction code under private sector rented property, from “Harassment/Illegal Eviction” to simply “Illegal Eviction” thus giving rise to two advice codes for a short period under the Private Sector Rented Property parent code. We will therefore look at private sector illegal eviction both together and separately from other tenure type advice codes.

Data analysis

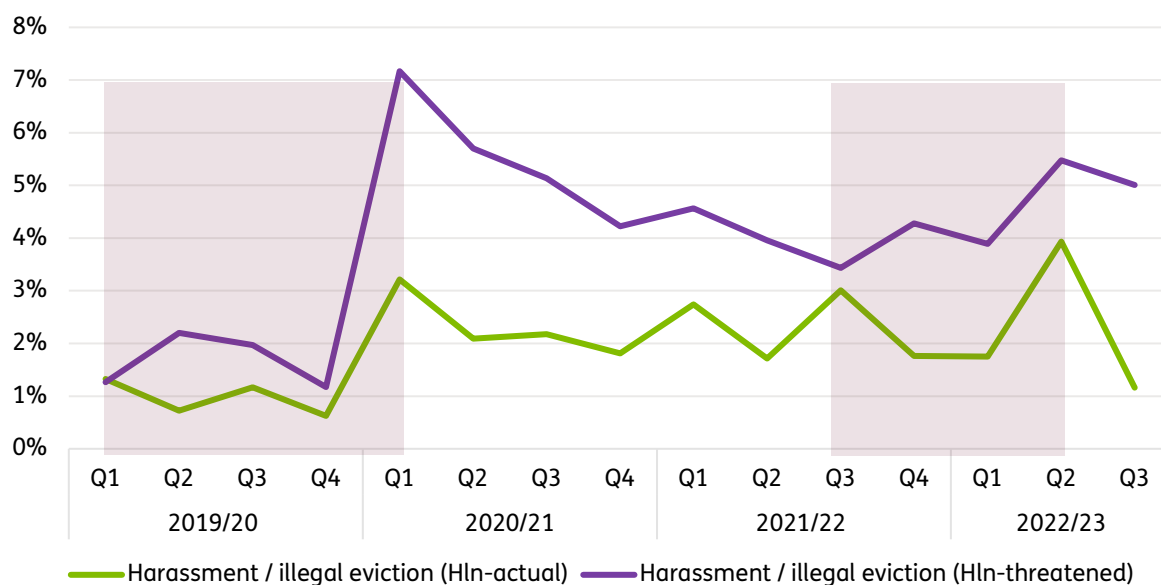


Chart 4. Illegal eviction as a proportion of homelessness advice codes

Chart 4 shows how “Harassment/Illegal Eviction” as a proportion of homelessness type codes has changed over time and that advice about harassment and illegal eviction as a proportion of threatened homelessness advice is generally higher than as a proportion of actual homelessness advice. In terms of actual numbers, “Harassment/Illegal Eviction” under actual homelessness is low with an average across time of about 10 queries per quarter, while the average is about 30 queries per quarter for “Harassment/Illegal Eviction” under threatened homelessness. This could indicate that more advice is perhaps being sought before the illegal eviction actually happens, which suggests some awareness among tenants about their renting rights, although it's worth noting that our quantitative data does not tell us at what point in someone's illegal eviction experience they come to a CAB. On the other hand, the increase of “Harassment/Illegal Eviction” as a proportion of threatened homelessness advice indicates that it is a growing contributing factor in people's potential homelessness.

Data analysis

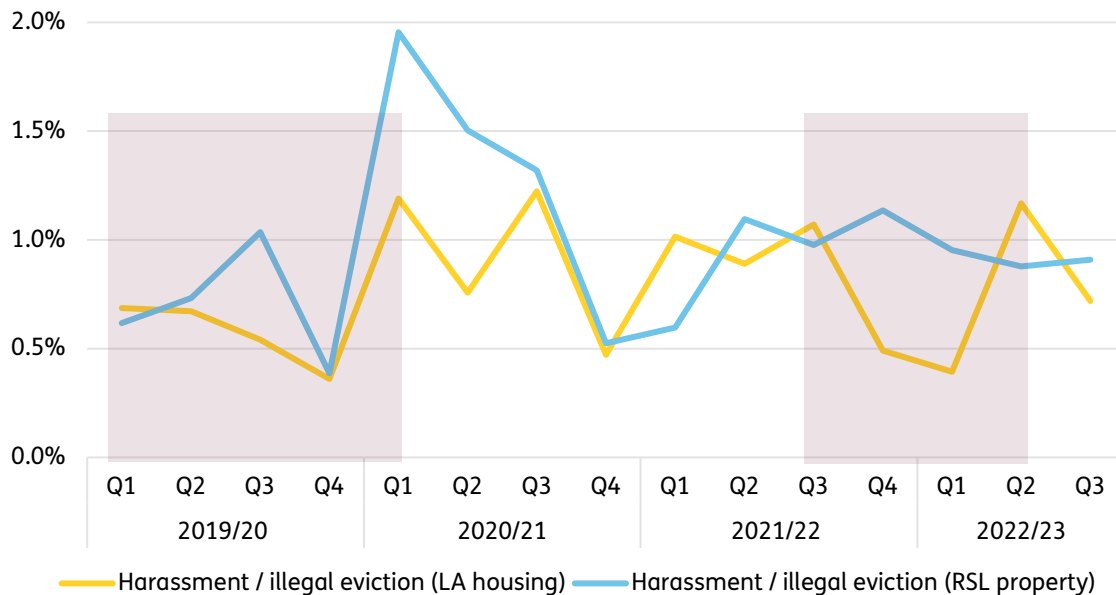
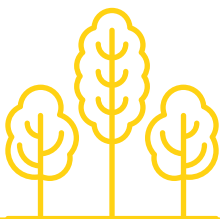


Chart 5. Harassment/Illegal eviction as a proportion of LA housing and RSL property advice codes

Chart 5 shows “Harassment/Illegal Eviction” advice as a proportion of local authority housing and registered social landlord property (known together as the social rented sector). As shown in the graph, it is rare that “Harassment/Illegal Eviction” make up more than 2% of the parent advice codes, and in actual numbers, this is equivalent to an average of 14 queries per quarter for local authority housing, and an average of 9 queries per quarter for registered social landlord properties. Both Chart 4 and Chart 5 show a notable increase in Q1 and Q2 of 2020/21, timing with the Scottish Government legislating to ban the enforcement of eviction in line with COVID public health advice to stay at home. This spike suggests awareness of this change.



Data analysis

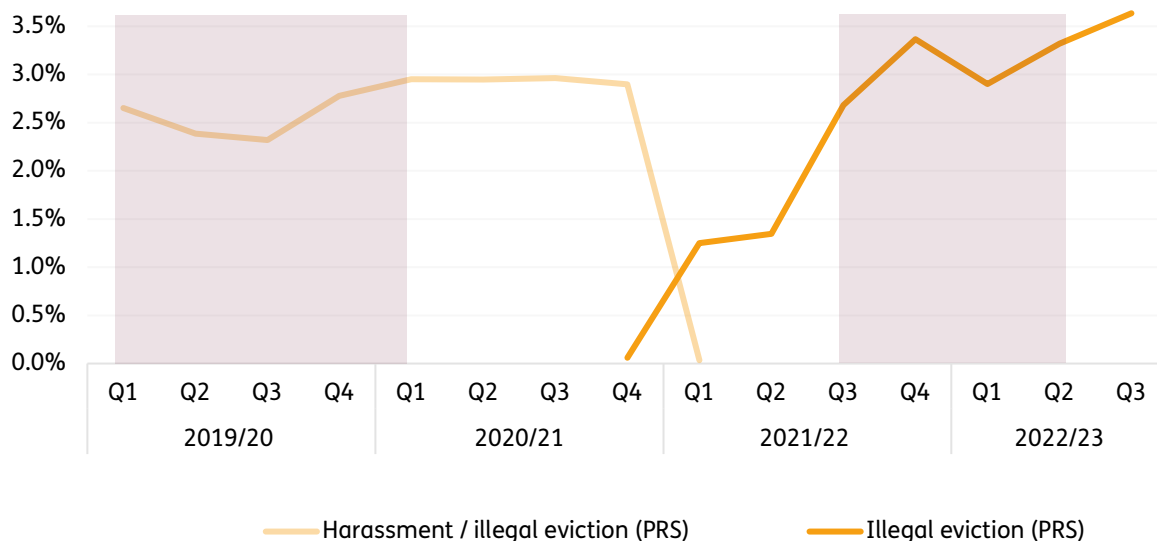


Chart 6. Illegal eviction as a proportion of private rented sector advice codes

On the face of it, Chart 6 shows a similar picture to Chart 5 in that “Illegal eviction” makes up a small proportion of its parent advice code of private rented sector advice. However, on average, there were around 65 pieces of advice given out per quarter about “Harassment/Illegal eviction” and then “Illegal eviction” only when the advice code changed, peaking at 108 pieces of advice in Q4 2021/22. In raw numbers, this is noticeably higher than in other tenure types, but this could be because overall PRS advice is higher than all other advice types. Further, it shows that illegal eviction both as a proportion of this private sector parent code and as raw figures is on a steady upwards trajectory whereas this is not the case under the other parent codes.

Data analysis

Sometimes one client will require a number of pieces of advice in one visit or contact their local CAB multiple times for advice. Chart 7 shows the number of clients requiring advice on harassment and illegal eviction or just illegal eviction type advice over time since 2019/20. On average, clients only receive this type of advice once.

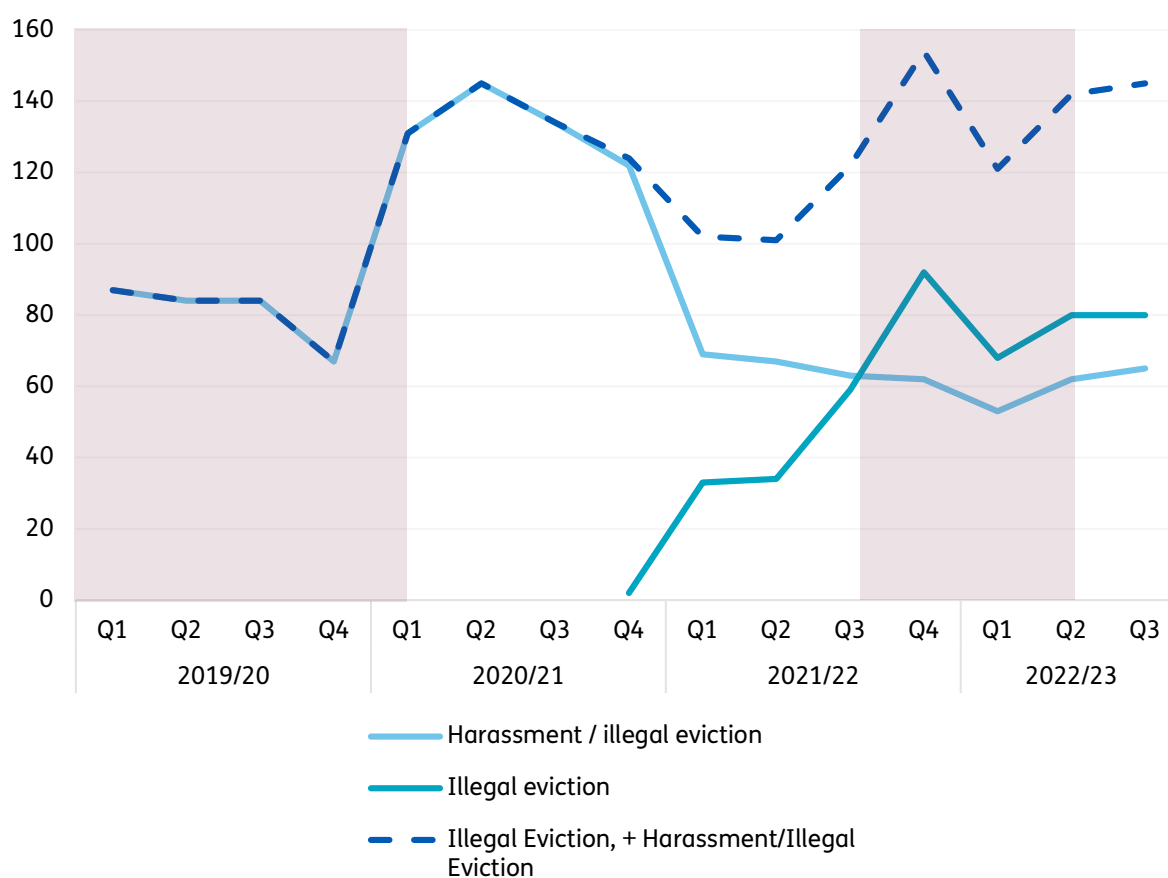


Chart 7. Illegal Evictions Clients

To help contextualise the issue of illegal eviction further, we can look at the advice provided by bureaux on eviction more widely.

Data analysis

Webpage views

CAS's public advice site has several pages and articles about eviction and related topics. We collect data about how these webpages are used by counting Unique Page Views (UPVs). For our main relevant advice page in this area ("You're facing eviction"), there was an average of 579 UPVs per month. Chart 8 shows the UPVs of this page across time, layered with the approximate timing of the eviction bans.

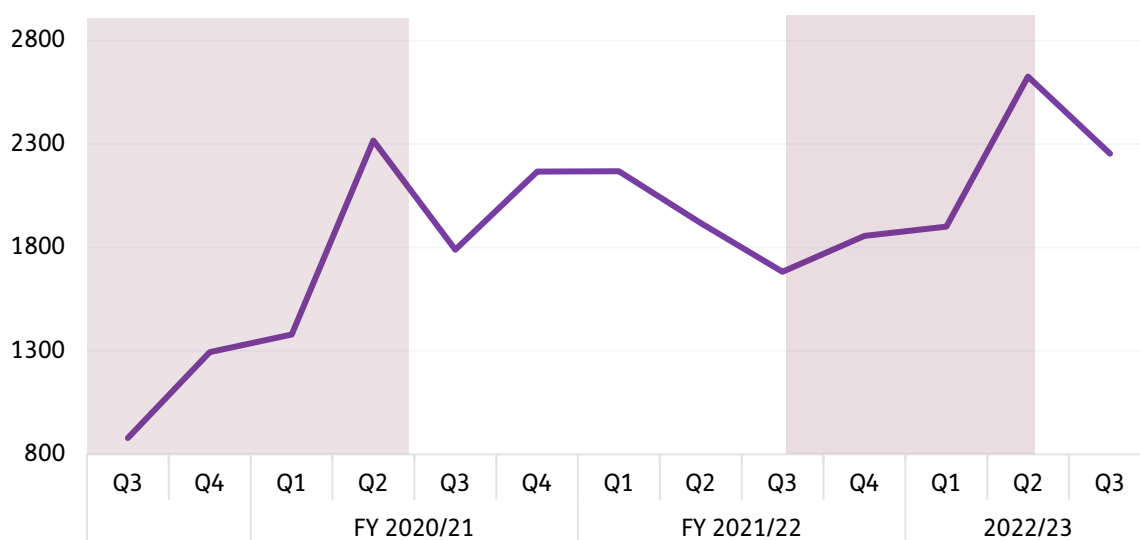


Chart 8. You're facing eviction UPVs, by quarter



Data analysis

Eviction for arrears

Advice on eviction for arrears isn't collected as housing advice data, but rather under debt advice. Chart 9 shows the number of clients receiving advice for either eviction for arrears or harassment/illegal eviction across time. We also know from cross-advice analysis that around 2-3% of illegal eviction clients require both types of advice. Pre-pandemic, there were notably more clients requiring advice about eviction for arrears compared to harassment/illegal eviction. However, there is a very sharp decrease in eviction for arrears clients between Q4 of 2019/20 and Q1 of 2020/21 which is notable given that this is when the first ban on evictions came into force. It is also worth noting that there were more clients requiring advice for harassment/illegal eviction than eviction for arrears in Q2 and Q3 of 2020/21, which might indicate some confusion about the new rules among landlords and tenants and how they should be applied. It is important to note though that there were exemptions to the emergency legislation and some evictions for arrears advice within the eviction ban periods could be legitimate.

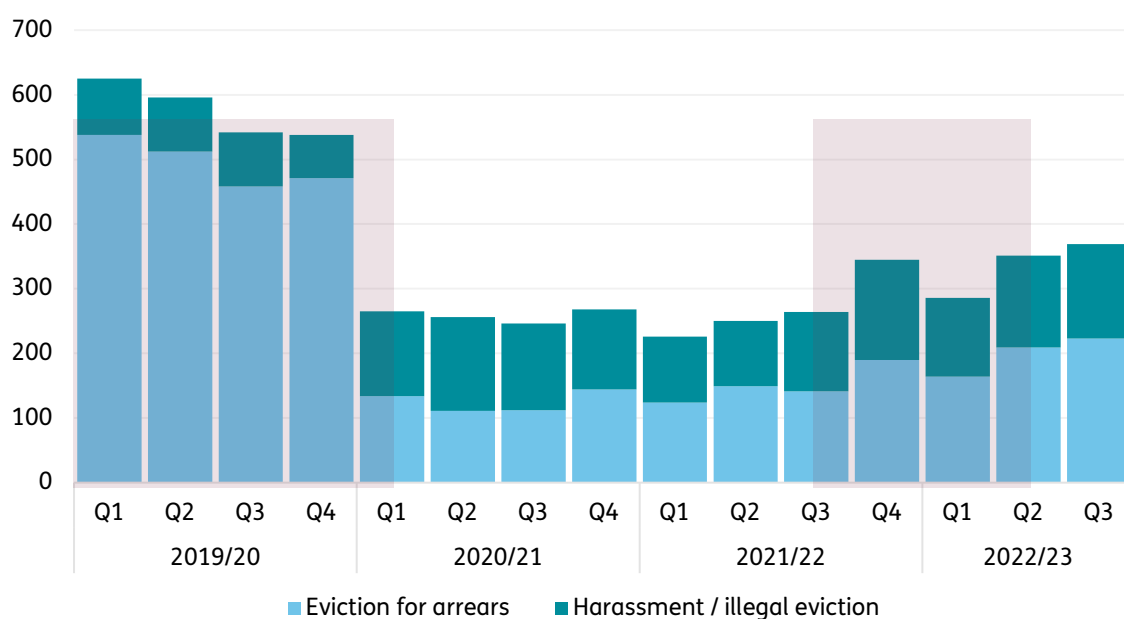


Chart 9. Number of clients receiving advice on eviction for arrears or harassment/illegal eviction

Data analysis

Demographics of clients affected by illegal eviction

In recent years, we have been able to start understanding the demographics of people who approach bureaux for advice, which helps us to make more specific policy recommendations. Collection of demographic data is done on a voluntary basis and many clients opt not to share these details with us, however demographic data for housing advice in particular is quite strong and so we can have reasonable confidence in what it tells us about clients who come for this type of advice. In this section we looked at the most robust demographic data (i.e. those with the highest rates of return) across both eviction for arrears advice and illegal eviction advice, to understand if people in different demographics experience these differently. The illegal eviction charts take in both harassment/illegal eviction and illegal eviction.

Gender

Chart 10 shows that although females appear to be more likely to receive advice on eviction for arrears, the gap between females and males appears to have narrowed recently before diverging again in Q3 of 2022/23. Chart 11 indicates that both genders were about equally as likely to receive advice for illegal eviction at the start of 2019/20, followed by a growing split where women were increasingly more likely to get this kind of advice until around the beginning of 2022/23 when the gap narrowed again. This is notable as the illegal eviction gender ratio in 2022/23 differed from the client base ratio overall, which leans towards more women approaching for advice. We don't know why illegal eviction affects genders differently at times than our base gender ratio, and this should be an area for future research.

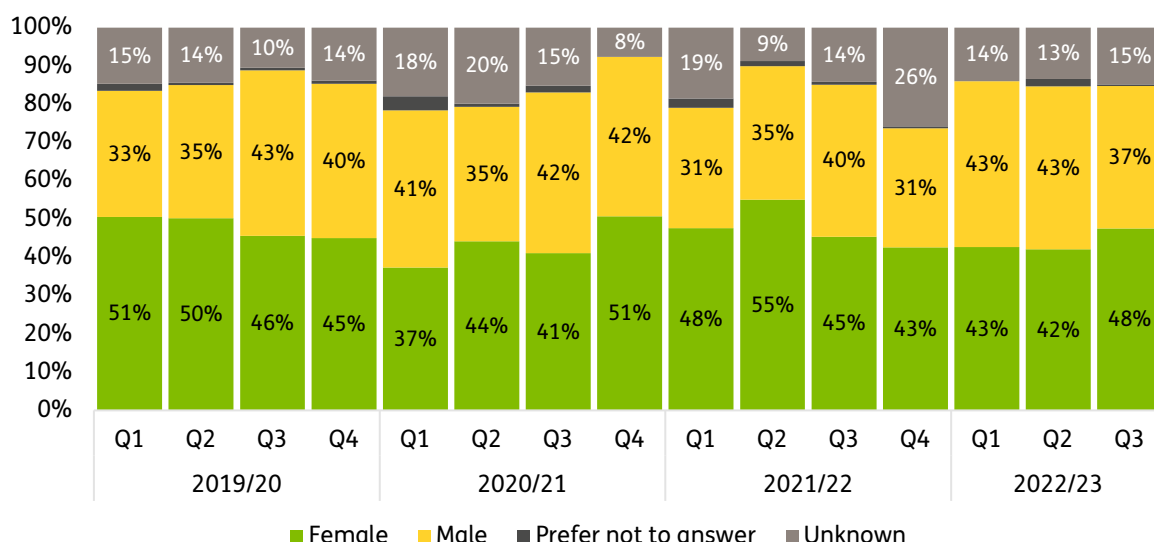


Chart 10. Eviction for arrears by gender over time

Data analysis

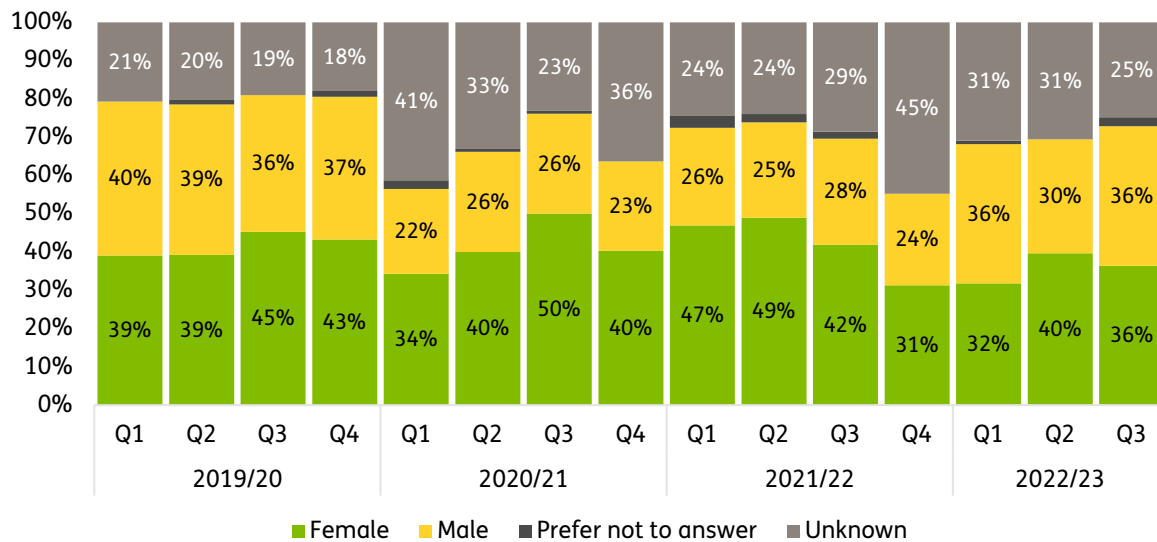


Chart 11. Illegal eviction clients by gender over time

Data analysis

Scottish Index of Multiple Deprivation (SIMD) quintile

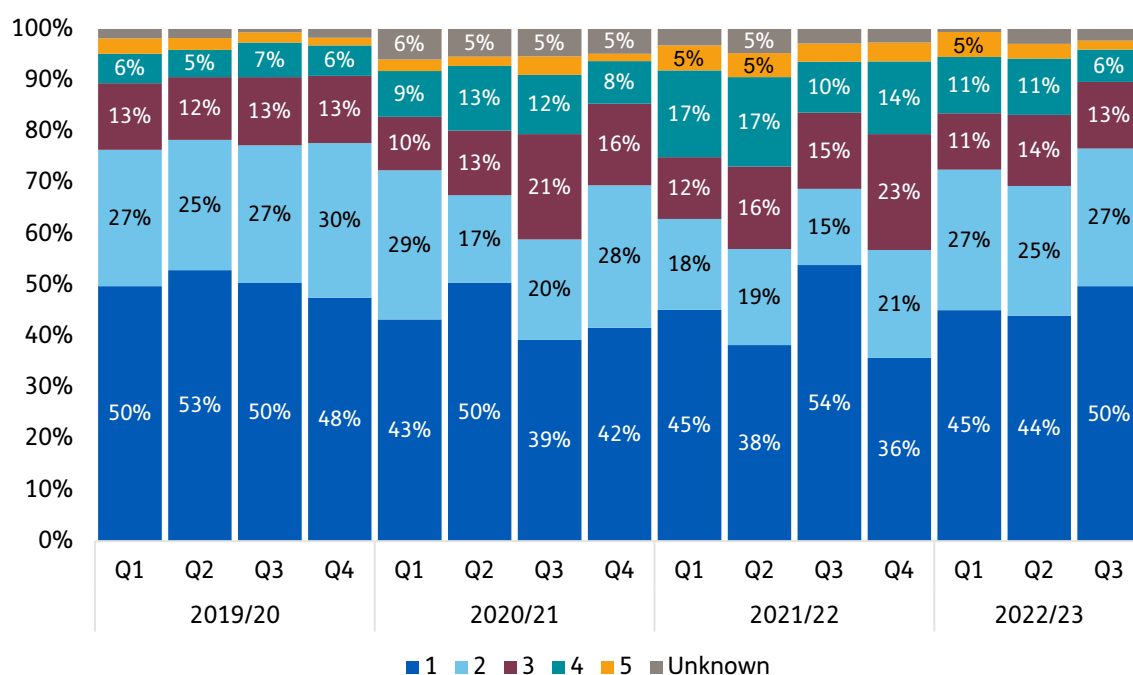


Chart 12. Eviction for arrears by SIMD quintile over time

Chart 12 demonstrates quite a clear picture of people in the most deprived income quintiles being much more likely to seek advice for eviction for arrears across all the periods we looked at. However, things became less clear cut in 2020/21 where it appears that those in the higher income quintiles became slightly more likely to seek advice in this area than before. For context, on average half of our clients overall live in SIMD 1 and 2 areas, followed by those in SIMD 3 and so on. Table 1 shows the average split of clients in each SIMD quintile across our timeframe of Q1 2019/20 to Q3 2022/23.

Table 1

SIMD	Average % clients per quarter, 2019 - Q3 22/23
1	28%
2	24%
3	18%
4	14%
5	8%

Data analysis

Chart 13 indicates that SIMD quintile was not such a predictor of whether a person sought advice for illegal evictions, and illegal eviction by SIMD quintile are notably more varied than evictions arrears overall. People in the least deprived quintile (5) still remained notably less likely than others to seek this kind of advice, and those in the most deprived quintile (1) were most likely but the middle quintiles do not seem to be shielded from illegal eviction. Quintiles 1-4 in certain time periods are almost equal in terms of their provision of advice on illegal evictions (19/20 Q2; 20/21 Q4; 21/22 Q1; 22/23 Q1) suggesting that SIMD is not necessarily a strong indicator of who has illegal evictions problems outside of SIMD5. This may be reflective of the Scottish Household Survey (2019) finding that the private rented sector (where most of our illegal eviction clients are coming from) is the most evenly distributed by SIMD quintile.

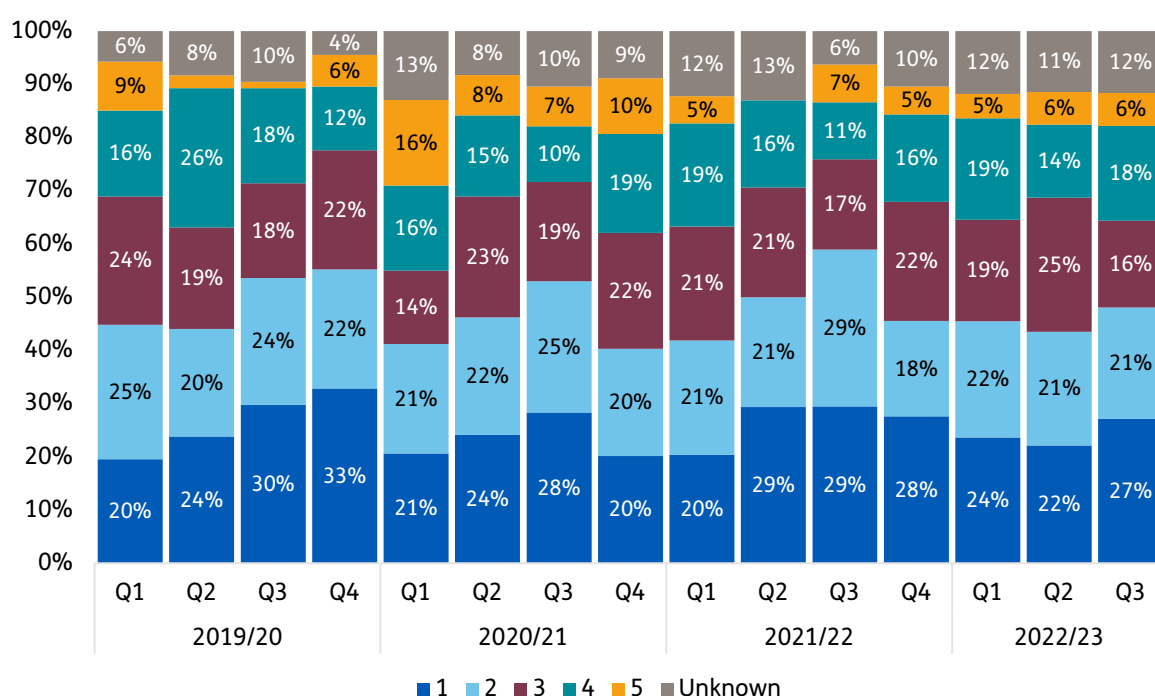


Chart 13. Illegal eviction by SIMD quintile over time



Data analysis

Geographical location

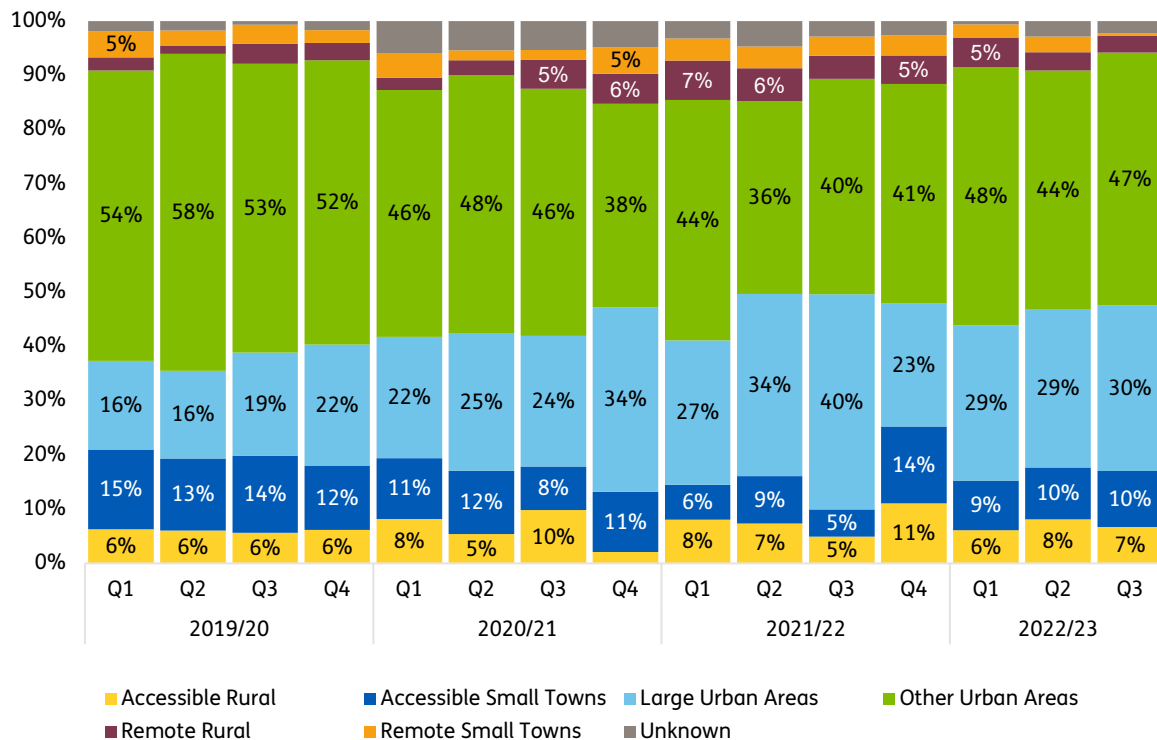


Chart 14. Eviction for arrears by geographical location over time

Finally, Charts 14 and 15 consider geographical location and whether people in some types of locality are more or less likely to seek advice on eviction for arrears or illegal eviction in the time period we looked at. Chart 14 shows that people in “other urban areas” are consistently most likely to seek advice for eviction for arrears, followed by large urban areas. This trend is also seen for people seeking illegal eviction advice, however rural locations feature more strongly than in Chart 14.



Data analysis

Cross-advice

While extracting data for this project, our research team was also able to produce data on the other types of advice illegal evictions clients received from citizens advice bureaux between Q1 2019/20 and Q3 2022/23. Table 2 shows the number of clients overall in each year who received advice on illegal evictions followed by a breakdown of whether they received this type of advice only or another type as well.

	All Clients with Illegal Evictions advice	Client only received advice on Illegal Evictions		Client received advice in another area	
FY 2019/2020	314	34	11%	280	89%
FY 2020//21	516	43	8%	473	92%
FY 2021/22	425	35	8%	390	92%
22/23 Q1-Q3	366	24	7%	342	93%
	All Clients with Illegal Evictions advice	Client only received advice on Illegal Evictions		Client received advice in another area	
FY 2019/2020	314	34	11%	280	89%
FY 2020//21	516	43	8%	473	92%
FY 2021/22	425	35	8%	390	92%
22/23 Q1-Q3	366	24	7%	342	93%

At Level 1, excluding Housing (which represents 100% of illegal evictions clients), clients who received advice on Illegal Evictions also received advice in the areas shown in Table 3. These are consistently the top areas for cross-advice for illegal evictions clients.

Number and Percent of Illegal Evictions Clients who received advice in a non-Housing area								
	19/20		20/21		21/22		22/23	
Benefits	91	29%	157	30%	138	32%	104	28%
Legal Proceedings	57	18%	101	20%	88	21%	62	17%
Debt	41	13%	59	11%	63	15%	38	10%
Finance and Charitable Support	37	12%	57	11%	45	11%	36	10%

Data analysis

As the above tables show, most illegal eviction clients also required advice in another area, some of which may give indications as to what happened to clients before and after they approached for advice.

Further, our data showed that most illegal evictions clients also received Private Sector Rented Property type advice. Table 4 shows the most common Level 3 cross-advice under Private Sector Rented Property that illegal evictions clients received (by number of clients): complaints/harassment by landlord, security of tenure and possession action (not for arrears). It is also notable that a sizeable portion of illegal evictions clients within the private sector are consistently (from 2019-Q3 22/23) getting primarily the same 'other' private sector advice; on being harassed, security issues, and possession action.

Number and Percent of Illegal Evictions Clients who received advice in a Private Sector Rented Property area									
		19/20		20/21		21/22		22/23 Q1-Q3	
Private sector rented property	Complaints / harassment by landlord	73	23%	123	24%	88	21%	82	22%
	Security of tenure	65	21%	120	23%	91	21%	89	24%
	Possession action (not for arrears)	56	18%	122	24%	120	28%	93	25%

SIMD	Average % clients per quarter, 2019 - Q3 22/23
1	28%
2	24%
3	18%
4	14%
5	8%



SPF analysis

Whilst advice codes can give us a sense of the scale of illegal eviction, social policy feedback (SPF) is uniquely valuable for giving more detail and deeper understanding as to how people experience, and are impacted by, them. As explained in the methodology appendix, the Citizens Advice network uses an internal system called CASTLE which lets CAB log and share SPF with the CAS policy teams. Using CASTLE, we searched for cases which indicated that the client had experienced or was threatened with illegal eviction which were logged between 1st April 2019 and 31st December 2022, again to try and include cases from before, during and after the pandemic as well as those during the Cost of Living crisis. After an initial sift, there were 31 cases which were selected as suitable for thematic analysis. As with advice code data, SPF is useful for telling us what kind of problems clients face, but cannot always tell us about the outcome for the client after they sought advice. All of the cases pertained to people who were living in the private rented sector when their experience of illegal eviction occurred. This is not to say that no illegal evictions occur in the social rented sector, but simply that advisers did not log any of these cases as SPF in this timeframe.

We began by reading through all of these cases and identifying characteristics of each case and aspects of those people's experiences. All of the cases had at least one "characteristic" of illegal eviction, which is to say, something happened or threatened to happen which was not within the legally allowed eviction procedure as outlined in the introduction. These "characteristics" and aspects became codes, the first stage of thematic analysis. The codes were then grouped with similar characteristics and organised into wider themes. The process resulted in us identifying four overarching themes around illegal eviction: "the eviction process", "payment of rent", "existing tenancy issues" and "homelessness". Several cases span across more than one theme and each theme takes in a wide variety of experiences.

When advisers flag a case as SPF via the CASTLE system, the system automatically populates the SPF with other data associated with that case, including the advice code(s) the case has been tagged as. Interestingly, only 21 of the 31 SPF cases which we analysed were identified and tagged by the adviser as "Harassment/Illegal Eviction" or "Illegal Eviction". For the remaining ten cases where "Harassment/Illegal Eviction" or "Illegal Eviction" was not listed as an advice code, most were categorised as "Possession action (not for arrears)" or "Private sector rented property - Repairs / maintenance" or "Private sector rented property - Security of tenure". However, it was fairly common to see across the latter 10 SPFs that the adviser had explicitly included in the CASTLE case notes that it was a possible illegal eviction case. This means that the client had experienced harassment or an illegal eviction but did not necessarily receive specific harassment/illegal eviction advice.

SPF analysis showed that several cases also received advice on other housing and non-housing areas, but shared information which led to them receiving advice on "Harassment/Illegal Eviction" or "Illegal Eviction" as well. Therefore, while some of the SPFs represent the individual cases behind the advice codes in the previous section and can tell us more detail about what happened to the person, it also indicates that illegal eviction is not always immediately recognised and can be understood and sometimes manifest as part of several other areas of housing advice.

Overall, this indicates that our advice code data is not reflective of all clients who have experienced harassment or illegal eviction, but only clients who have received advice on it. This may be due to the experience not being recognised by the adviser, or clients who don't approach for advice on this area. This implies that there are evidently more clients who have experienced harassment or illegal eviction than what our data suggests. It also underlines the importance of the Citizens Advice network's holistic advice offer.

SPF analysis

The eviction process

This theme is comprised of codes including missing or incorrect eviction paperwork, missing or incorrect tenancy paperwork, landlords using improper or misleading grounds for eviction, misinformation about the eviction process, the tenants' physical access to the property being threatened or removed, as well as other barriers to justice.

Around half of the cases we looked at included an explicit reference to a problem with either the eviction or tenancy paperwork, or lack thereof. This was often closely linked to tenants being provided with an incorrect notice period for their circumstances and tenancy type. Often when clients approach their local CAB for advice with no tenancy paperwork, advisers have to work out what rights they have based on when their tenancy began and the living arrangements, for example if they shared the accommodation with their landlord.

Citizens ALERT

An East of Scotland CAB reports of a client who has been asked to leave by their landlord who wished to occupy the property themselves. The client has been given four weeks' notice, but does not have a tenancy agreement, despite living in the property for four years. The client lives with her son and has nowhere else to go.

Citizens ALERT

A West of Scotland CAB reports of a client who was given a month's notice to leave her rented property, otherwise the door locks would be changed on that day. The client advised she had received no letter of eviction. Immediately before the landlord moved to evict the client, the landlord had also renovated the house in an invasive way which affected the client's right to quiet enjoyment of the property.

Citizens ALERT

A West of Scotland CAB reports of a client who is a private landlord who wishes to evict his tenant. His tenant has rent arrears and also has a dog which he did not agree to. There have been complaints from neighbours about the tenant's behaviour and the Police have been called out to the property. The client would like to evict her and has issued her with a letter asking her to leave but she has failed to do so. However, the client has provided his tenant with an invalid tenancy and an invalid Notice to Quit. The landlord was provided with up-to-date information on tenancy agreements and eviction procedures for Private Residential Tenancies in order that he can evict tenant lawfully and so that any future tenancy is drawn up correctly.

Several of the cases we looked at included a reference to the landlord wanting to gain possession of their property to live in themselves or for a family member to live in, or that they wished to sell, which are all valid reasons to evict a tenant. However, some of the cases suggested that these grounds were being misused for the purposes of removing the current tenant from the property (often to re-let to someone else) rather than for the purpose of the eviction ground.

Citizens ALERT

An East of Scotland CAB reports of a client living with his wife and elderly mother in a private rented flat. They have been given notice to leave on the grounds that the landlord wishes to live in the property, however it would appear from emails received from the letting agent that the landlord instead wishes to use the property for short term lets.

SPF analysis

! Citizens • ALERT

A West of Scotland CAB reports of a client who was given notice to leave their rented property in July 2021 on the grounds that the landlord's son needed the house. The client and her family moved out in January 2022. Shortly after this, they found out that the house had been put back on the rental market for £300 more per month in rent and the landlord's son is still living outside the UK. The client believes that she has been evicted on false grounds by the landlord to re-let the house at an increased price.

In our analysis, we saw evidence of people being given the wrong information from letting agents and landlords about the eviction process, often omitting the client's right to bring the case to the First-tier Tribunal. Concerningly, we also saw evidence of illegal eviction being perpetrated against people whose first language was not English and who had limited understanding of the legal system in Scotland, therefore making them more vulnerable.

! Citizens • ALERT

An East of Scotland CAB reports of a client who was asked to leave their rented property as the landlord's daughter wished to move in. Due to the COVID pandemic, the client has been unable to find another tenancy or a removal firm. The client contacted the letting agent, who said that she would still have to leave on the date on the notice letter even if she had nowhere else to go, and even if the landlord hadn't yet got an order from the tribunal. The client has no rent arrears and intends to continue to pay rent as long as she is in the property. She registered as homeless with her local council. The officer said she would not have to leave unless the landlord went to court for an eviction order, and this was unlikely to happen soon because the tribunal was not currently sitting.

! Citizens • ALERT

An East of Scotland CAB reports of a client who has been given notice to leave his rented property on the basis that refurbishment was needed. The client has been on his local authority's housing waiting list for five years but has been advised that it's likely to be years before suitable social housing becomes available for him and his family. The CAB adviser contacted the letting agency on the client's behalf to enquire whether the family could remain there while the refurbishment is carried out but was told this wasn't possible. This was contrary to the belief of the family's council housing officer, who firmly believed they could remain in situ or that the landlord should source alternative accommodation for them. The adviser was also informed that the landlord had been contacting the client directly to encourage him to move out, which worried the client. The client and his family are at risk of homelessness and the adviser considered them as particularly vulnerable to being illegally evicted as their first language was not English and they were not familiar with the Scottish legal system.

SPF analysis

Our evidence showed that some clients were threatened with lock changes or with being forcibly removed from their home or receiving threats to their safety. We do not have explicit evidence to suggest these threats materialised however they caused undue worry and stress to the clients concerned.

! Citizens ! ALERT

An East of Scotland CAB reports of a client whose landlord was harassing her verbally, through text and email and attending the property, including threatening to physically remove the client and withholding repairs. The client is on the housing list, but this is taking a long time due to the family's requirement for a ground floor property as well as the impact of COVID-19 on housing availability. The landlord issued a Notice to Quit but the client was informed by Shelter Scotland that the paperwork was incorrect. The experience has significantly impacted the client's existing mental health problems, which the client was receiving treatment for. The client has already spoken with Shelter Scotland, Police Scotland, the local authority's landlord registration scheme and the housing department as the client is at risk of being illegally evicted and being made homeless.

! Citizens ! ALERT

An East of Scotland CAB reports of a client who was recently illegally evicted from a private let. Their landlord was not registered and did not hold her deposit in a tenancy deposit scheme. It appears that although the landlord issued her with a notice to leave, he did not go to the housing and property chamber when she did not leave on the date the notice expired. Instead, he let himself into the property and changed the locks when she was out and removed her belongings and put them on the street. The client has not had any of her deposit returned to her. Due to the upheaval of applying as homeless with two young children, she was not able to complete the paperwork in the three month time limit to raise an action in the housing and property chamber in relation to the tenancy deposit.

Part 2 – EVICTION GROUND(S) ...
Landlord's Agent:

NOTICE TO LEAVE

NOTICE TO A TENANT TO LEAVE UNDER SECTION 50(1)(a) OF THE HOUSING (TENANCIES) (SCOTLAND) ACT 2016

is in place while section 2 and ...
Protection) (Scotland)

SPF analysis

Payment of rent

This theme was built up from initial codes including problems with the payment of rent, rent arrears, rent increases, and problems with Universal Credit. Again, this theme takes in a wide range of experiences, and can often be seen as a push factor for landlords in terms of them trying to remove tenants from their property.

A number of cases we looked at referred to rent arrears being built up, which again is a legitimate ground for eviction if the arrears reach a certain level and if the correct procedure is followed, including following the pre-action requirements, which mandate that tenants should be directed to advice and support to help them deal with arrears. However, it appears that some landlords opted not to follow this procedure and moved to illegally evict tenants on the basis of often low rent arrears.

**! Citizens
ALERT** A West of Scotland CAB reports of a client who has fallen behind with rent and built up rent arrears. The landlord has given the client two weeks' notice to leave the property.

**! Citizens
ALERT** A West of Scotland CAB reports of a client who has received a notice to leave for his Private Residential Tenancy as he has built up some rent arrears. However, the eviction ground used is incorrect for the reasons the landlord wanted to evict on and so is invalid. The client was very concerned at the notice to leave and subsequent several texts and phone calls from the letting agency so put his keys back through the door and left the property. He tried to make a homeless application with his local council but they have advised him that he still has a legal tenancy.

We also saw evidence of a student whose landlord immediately moved to remove him from the property when there was a short delay with a first month's rent payment.

**! Citizens
ALERT** A West of Scotland CAB reports of a client who recently moved into a shared flat with other students. The client paid a deposit directly into the landlord's bank account and was not aware of it being lodged with a deposit scheme. The client arranged to pay the first month's rent to the landlord but there was a delay of a couple of days as it was being transferred from a non-UK bank account. The landlord immediately verbally told the client to leave the property the following day and did not provide any written notice. Following the advice from the CAB, the client phoned the landlord to inform him of his rights, to which the landlord responded that he was coming tonight to change the locks and evict him.

SPF analysis

Our evidence also highlighted cases where clients used Universal Credit to pay for some or part of their rent. Like many people during the pandemic, some clients lost their jobs which led to them claiming to Universal Credit and this was mentioned by clients as being a factor in their experience of illegal eviction.

! Citizens • ALERT

An East of Scotland CAB reports of a client who has been a tenant in a private property for a few weeks. When the client came to view the property, he advised the landlord that he was in receipt of Universal Credit and he would have to pay his rent on 12th of each month because that was when his payments come in and the landlord agreed that was acceptable and noted this on the tenancy which both the client and landlord signed. After two weeks, the client was informed by his landlord that he was no longer happy to accept his benefits as payment for the rent and that he would be evicting him. The landlord wrote a letter to the client saying he had a month's notice to move out. This was at the time the COVID ban on evictions was in effect.

! Citizens • ALERT

An East of Scotland CAB reports of a client whose partner lost their job during COVID. They began claiming Universal Credit and missed one month's rent. The client's landlord requested to have the housing element paid directly to him, which was done, but then changed his mind and told the client and her partner to leave the property with a week's notice.

! Citizens • ALERT

An East of Scotland CAB reports of a client whose landlord has asked him to leave with a week's notice. The client was working full-time and then lost hours and started struggling to pay his rent. The client's landlord was initially understanding and hasn't given him any official eviction paperwork. The landlord has also begun entering the property unannounced when the client is out. The client has made a claim for Universal Credit, but this doesn't include housing costs due to his earnings and he can't pay the full rent amount and arrears.



SPF analysis

Existing tenancy issues

This theme was developed from codes including outstanding repairs, unregistered landlords and deposits not being lodged. Several of the codes under both this theme and the payment of rent theme could also be seen as “catalysts” which may have led to the illegal eviction due to the landlord’s frustration with the situation.

As in the examples below and throughout this analysis, several cases described how tenants were asked to leave when they had asked for repairs to be completed, some of which were urgent and longstanding. Repairs issues appear to be the most common feature of all of the cases we looked at.²⁶

! Citizens ALERT

An East of Scotland CAB reports of a client who has been asked to leave their rented property. The client has had long running dispute with landlord regarding repairs, to which the landlord has made it clear to the client they are not interested in carrying them out. Some of the issues are likely to be damaging to the client’s health and the client is very worried about this. The landlord also attempted to increase the client’s rent without the correct notice period, and when client challenged this, the landlord moved to end the tenancy on the grounds that they intend to sell. The client does not believe this is genuine. The client has applied for rehousing but is concerned that they will not find suitable accommodation in time.

! Citizens ALERT

An East of Scotland CAB reports of a client who has been renting a private property for just under a year and lives with his teenage son. The heating in the property is faulty but the landlord has not fixed it. The client contacted the landlord and informed them he would start withholding rent if the issue was not resolved, to which the landlord responded that he was going to “send someone around” to evict the tenant. The tenant is fearful that he will be forcibly removed from the property.

We also repeatedly came across instances where landlords were not registered and tenancy deposits were not lodged in approved schemes, which had the potential to cause further difficulties for the client when the tenancy ended.

! Citizens ALERT

A West of Scotland CAB reports of a client who had been renting a property since 2020 and has been asked to leave by the landlord on the basis of them wishing to sell the property. The client advised she has evidence of the landlord offering to rent the property to someone else once the client has left. The client’s deposit also does not appear to have been held in an approved tenancy deposit scheme.

! Citizens ALERT

An East of Scotland CAB reports of a client who is currently living in a privately rented house. The client has been asking her landlord to carry out repairs, but the landlord is saying she is harassing her and she will now change the locks thus not allowing her access. The client also mentioned that her landlord is not registered.

²⁶ Citizens Advice Scotland (no date) [Getting repairs done while renting](#)

SPF analysis

Homelessness

This theme takes in not only an outcome that we know some clients experienced as a result of their illegal eviction, but also the complications several clients experienced when they attempted to seek homelessness advice and assistance from their local council, especially if they did not have the correct paperwork.

! Citizens • ALERT

An East of Scotland CAB reports of a client who was asked to leave her accommodation with 20 days' notice. She did not have a tenancy agreement or any eviction paperwork as she rented from a family member. She attempted to apply as homeless but was assessed as having no recourse to public funds and her application could not be accepted.

! Citizens • ALERT

An East of Scotland CAB reports of a client who has been issued with an eviction letter from her landlord as she accrued four months' worth of rent arrears due to low income. The client was not provided with a proper tenancy agreement and the conditions of her property are very poor. The client tried to submit a social housing application but this wasn't accepted as they said her tenancy wasn't valid.

We frequently saw cases of households requiring emergency accommodation after they left their previous accommodation, but local authorities refusing or being unable to provide this emergency accommodation unless particular (and often conflicting) procedures had been followed by the landlord.

! Citizens • ALERT

A West of Scotland CAB reports of a client who has been given a notice to leave their rented property as the landlord wishes to sell the property. She lives with her two children and recently lost her job. The client has made a homeless application to her local council, who have advised her that they will not offer temporary accommodation until her landlord has made an application to the First-tier Tribunal for an eviction order. The client received a letter from the letting agent advising that if she does not vacate the property on the date stipulated on the notice to leave, they will charge her £35 per hour for each hour of the delay. The client is struggling to find alternative accommodation in the area around her children's school and feels intimidated by the approach of the letting agent.

! Citizens • ALERT

A North of Scotland CAB reports of a client who has been asked to vacate their rented property for refurbishments to be carried out in order to place the property for sale. The landlord has not issued the client with a notice to leave, and the local authority declined the client's request for temporary accommodation when she approached them for assistance as the landlord has not followed the correct procedure.

Conclusion and recommendations

Harassment and illegal eviction are a blight on the rented sector in Scotland and it is in the interests of both good landlords and tenants that they are dealt with more effectively. Government and sector recognition of the issue is growing and attempts have been made to understand the problem more deeply from different perspectives. **Our evidence and that of others indicates that harassment and illegal eviction is still difficult to uncover and deal with until after it has occurred, partly because a large amount of it appears to happen in a “shadow” part of the rented sector that is mainly informal and unregulated.**

This research examined evidence on harassment and illegal eviction in the form of advice code data and social policy feedback from across the Citizens Advice network in Scotland. Taking this along with the limited previous research in the area, we can now draw some conclusions and make recommendations. In doing this, we are cognisant of the work that is already happening in the sector to improve the response to illegal eviction, and hope that this piece of research can helpfully contribute to this work.

Housing advice makes up a considerable proportion of all advice given out by CAB, and our data indicates that **there is a notable demand for housing advice in conjunction with other types of advice such as debt and benefits.** This is significant as it shows the importance of housing and the knock-on effects housing problems can have on other aspects of people’s lives and vice versa. Our cross-advice data also shows that clients who approach for advice about illegal eviction also overwhelmingly require additional advice, frequently around other housing issues, benefits and legal proceedings, which also bears out in the SPF cases we analysed.

Illegal eviction and harassment make up quite a small but persistent proportion of housing advice: our quantitative evidence suggests that harassment and illegal eviction are quite rare in the social sector compared to the private sector, where numbers and proportions of the parent code are consistently higher. It might have been predicted that the change in the private rented sector advice code to from “Harassment/Illegal Eviction” to simply “Illegal Eviction” would have lowered the number of cases, but it appears that this is not the case. Our data was taken from April 2019 to December 2022 in attempt to understand whether the coronavirus pandemic had any effect on illegal eviction as a proportion of housing advice. **Unfortunately, it does not appear that illegal eviction declined during the pandemic, despite the nationwide imperative to stay at home for much of 2020, thus also potentially putting people’s health in danger.** This is supplemented by SPF from the time which outlined the particular difficulty clients faced when they were illegally evicted during the pandemic.

Another conclusion we can draw from our evidence is that illegal eviction puts people at risk of or exposes them to homelessness. With homelessness figures at their highest since records began in 2002 and over 14,400 families in temporary accommodation,²⁷ this is extremely concerning. Given what we found out from the detail of social policy feedback, **our clients’ experiences of accessing homelessness assistance as a result of illegal eviction are frequently complex and they often faced barriers due to their local authority’s procedures and rules.** It is very concerning that some clients were rejected for temporary accommodation when they have had nowhere else to go, and sometimes on the basis that their landlord provided them with either incorrect or no tenancy paperwork, something which they have little control over. In this light, it appears that tenants are being punished further for the bad practice of their landlords. Some local authorities understandably try to keep households in their homes for as long as possible but this risks becoming a very uncomfortable and sometimes unsafe situation between the tenant and landlord. Evidence from other organisations tells us that homelessness is also very costly for the public purse: Crisis estimates that someone sleeping rough costs the public purse around £20,000 a year, while taking preventative action costs just £1,426.²⁸

²⁷ Scottish Government (2023) [Homelessness statistics, April to September 2022](#)

²⁸ Crisis (2015) [At What Cost?](#)

Conclusion and recommendations

None of the cases we looked at were able to provide any evidence as to what happened to landlords who engaged in harassment or illegal eviction. A very small number of SPF that we looked at indicated that the clients were going to challenge the practice of their landlords on the basis of the advice they received from CAB but it is unclear whether they were successful. Only one SPF case made reference to the First-tier Tribunal but the client found the form too confusing to complete and believed they had missed the time limit to bring a case about their deposit, which had not been lodged in a tenancy deposit scheme. While only the experience of one of our clients, it may give some insight into potential barriers that people face as they seek redress.

More widely, our evidence indicates that not enough people know about their rights when it comes to the difference between a legal and illegal eviction. Challenging this practice is also often difficult, especially when faced with threats to safety. This indicates that the system needs to be more robust to not only empower tenants but also empower local authorities and other bodies to take swift action against illegal eviction. There is no doubt that local authorities are seeing this practice, but our evidence is not clear as to how they are playing their part in protecting tenants from not only unlawful behaviour but potentially a very damaging experience. **Good landlords are critical to developing a more robust, fair private rented sector, which is vital in providing safe homes for people to live in. However, bad landlords who engage in harassment or illegal eviction put other landlords in a bad light and cast doubt on the overall propriety of the sector.** The current eviction procedures in the social and private rented sectors allow for multiple grounds on which to legally evict, albeit changes introduced as part of the emergency coronavirus legislation and subsequent Cost of Living legislation have made this more complex. These changes may play a part in explaining why demand for advice around illegal eviction did not appear to decline despite protections against evictions being introduced in 2020, some of which are still ongoing.

To conclude, it is vital to underline the hugely damaging impact of illegal eviction and depriving someone of their home: there are many personal impacts such as on a person's mental and physical wellbeing, as well as financial implications. There are also wider impacts, such as the pressure on local authorities to help these households find alternative accommodation. Everyone should have the right to a safe, secure and affordable home and the continued prevalence of illegal eviction suggests that the system is not robust enough to guarantee this basic right.

In this vein, we make the following recommendations:

- > Scottish Government to develop, monitor and evaluate more effective routes for redress for people affected by illegal eviction, such as retaining the new approach to civil damages.
- > Scottish Government and local authorities to introduce mandatory training for landlords before being able to register.
- > Scottish Government to introduce harsher penalties for landlords who illegally evict, including temporary removal from the landlord register if applicable and/or fines if they continue to let out property without undertaking the above mandatory training and paying damages.
- > Scottish Government to explore ways of collecting better data on illegal eviction, so hotspots for this type of activity can be identified and better enforced against.
- > Local authorities to review their homelessness procedures where people are at risk of or have been illegally evicted and develop a consistent approach so that people in this circumstance can access the assistance they require.

Appendix 1 – Further detail on research methodology

Advice codes

Advice data from Citizens Advice bureaux (CAB) across Scotland is key to helping us understand trends in the demand for advice on illegal eviction and for this research we looked at national quarterly data from April 2019 (Q1 2019/20) to December 2022 (Q3 2022/23). We chose this timeframe as it covers the period before the pandemic and during it, as well as the unfolding of the Cost of Living crisis, right up to the most recently available data. During this timeframe, various pieces of legislation were introduced to try to mitigate the effects and protect tenants from eviction and rent rises and we will indicate these interventions where appropriate in the data analysis section.

The network collects data across three levels, each of which is a “parent” code to the next level. Level 1 is the highest level and codes in this level include Housing, Debt, and Benefits, which are then broken down into more detailed corresponding Level 2 and Level 3 codes. It is important to note that some of the sub-categories (Level 2 and Level 3) can overlap, for example, evictions for arrears is a subcategory of Debt, and not Housing; Alternative Dispute Resolution is a subcategory of every L1 and not just within Legal Proceedings advice.

The network collects data on illegal eviction as a “Level 3” code underneath the following five “Level 2” codes:

- > Homelessness (actual),
- > Homelessness (threatened),
- > Local Authority Housing,
- > Private Sector Rented Property
- > Registered Social Landlord Property.

A single client may get advice across multiple L2 areas, for example a client might have both Homelessness (threatened) and Private Sector Rented Property advice. For this reason we will analyse them separately.

Further, the full title of the advice codes under Homelessness (actual), Homelessness (threatened), Local Authority Housing, and Registered Social Landlord Property that captures illegal eviction is “Harassment/Illegal Eviction”. Under Private Sector Rented Property, the relevant advice code is “Illegal Eviction”. Previously, the code under Private Rented Sector Property was also “Harassment/Illegal Eviction” but this was changed due to very high numbers in comparison to other tenures, and to better capture the more serious cases where someone was at risk of or already had been illegally evicted. The new “Illegal Eviction” code was introduced in Q3 of 2020/21 and the old “Harassment/Illegal Eviction” code was phased out and eventually removed in Q2 of 2021/22. The inclusion of “harassment” covers a wider spectrum of behaviour that is not necessarily illegal but rather bad practice, which is worth bearing in mind as we approach the data analysis.

Appendix 1 – Further detail on research methodology

For this research we also looked at evictions and arrears data more widely, including the total number of evictions per quarter, to give some context as to the wider eviction landscape. Finally, across both the general eviction and illegal eviction data, we looked at client demographics, including tenure type, age, gender and other characteristics, as well as cross-advice trends. Clients often have more than one advice need, and many will initially seek advice about one issue and also receive advice on one or more other issues: advice initially about debt could lead to later legal advice, for example. Cross-advice in this context is therefore looking at what other types of advice are also sought by people who are seeking housing advice.

SPF analysis

As well as categorising cases by advice code, CAB advisers can highlight cases as social policy feedback (SPF). They do this if a case features significant disadvantage or is an example of a consistent practice that is causing detriment. The SPF reporting system utilises the expertise of advisers and allows us to form a picture of detriment across all bureaux and to some extent, identify patterns in, and understanding of, our advice code trends. However, selection and reporting of these cases are subjective and depend on specific bureaux and advisers flagging the issues they identify as important.

For this research, we did a systematic search for SPF cases which indicated that the client had experienced or was threatened with illegal eviction and were logged between 1st April 2019 and 31st December 2022, the same timespan as the advice code data. This was to try and include cases from before, during and after the pandemic as well as the Cost of Living crisis. The Citizens Advice network uses an internal system called CASTLE which lets bureaux log and share SPF with the policy teams. When a case is logged, the policy teams “tag” each case with a topic (“social policy category”) to make it easier to find again. Through CASTLE, we used the filter functions to search for cases tagged under the following categories:

- > Housing - Private tenancy - Admin & procedures
- > Housing - Private tenancy – Homelessness
- > Housing - Private tenancy - Rent Arrears
- > Housing - Social Housing - Admin & procedures
- > Housing - Social Housing – Homelessness
- > Housing - Social Housing - Rent Arrears
- > Housing - Other

We combined this with the use of relevant specific search terms, including “illegal eviction” and “harassment”. After an initial sift, there were 31 cases which were selected as suitable for thematic analysis. Initial codes were identified for each case, before sorting and categorising into wider themes, with cases sorted into these different groups.

Clients tend to approach bureaux when there is a problem. Therefore, most cases are likely to be related to negative experiences of the rented sector. The implication is that, whilst the cases give us a deep insight into the detriment experienced by clients, it is unlikely to represent all renting experiences, particularly positive experiences.



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