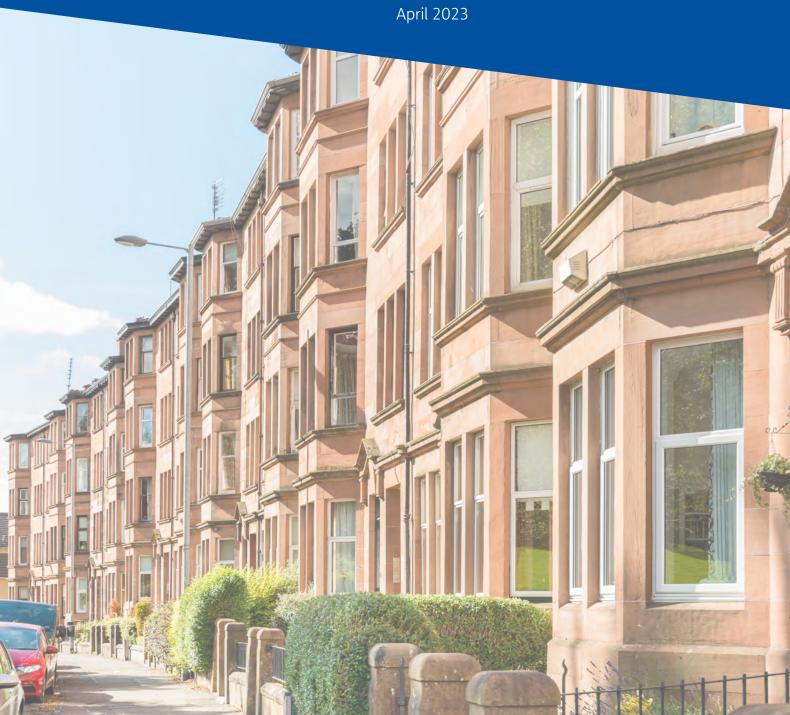


Illegal Eviction: Experiences of CAB clients in Scotland

Summary Report

Aoife Deery April 2023



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.

Housing advice trends overall

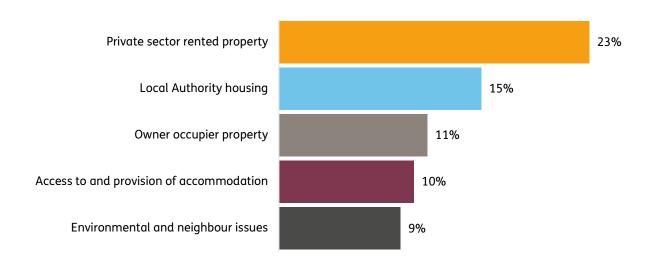


Chart 1. Average top areas of Housing advice as a proportion of all Housing advice

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.

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).

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Chart 2 shows the number of clients requiring 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.

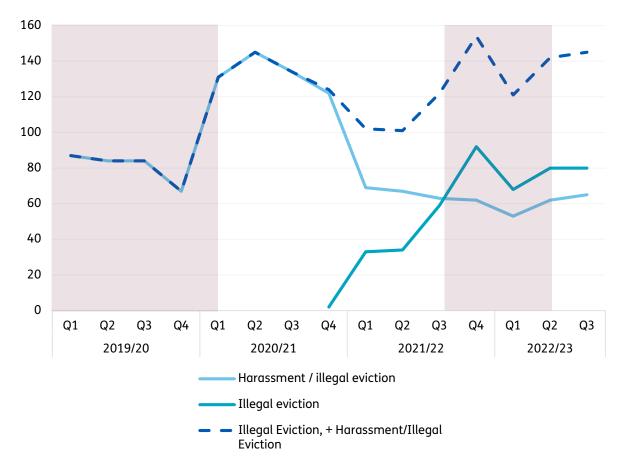


Chart 2. Illegal Evictions Clients

Eviction for arrears

Advice on eviction for arrears isn't collected as housing advice data, but rather under debt advice. Chart 3 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.

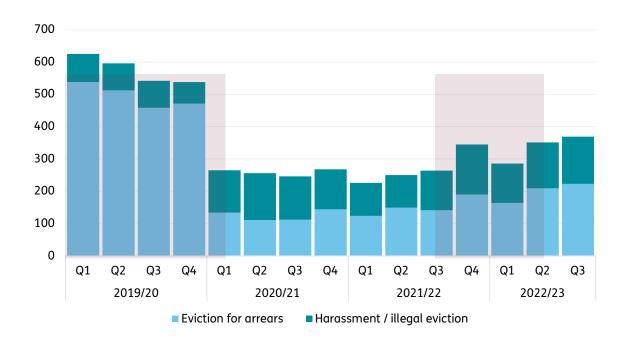


Chart 3. Number of clients receiving advice on eviction for arrears or harassment/illegal eviction

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 4 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

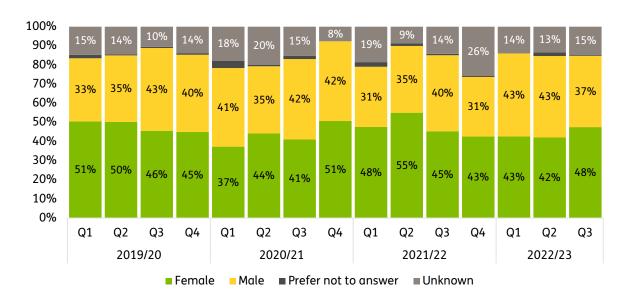


Chart 4. Eviction for arrears by gender over time

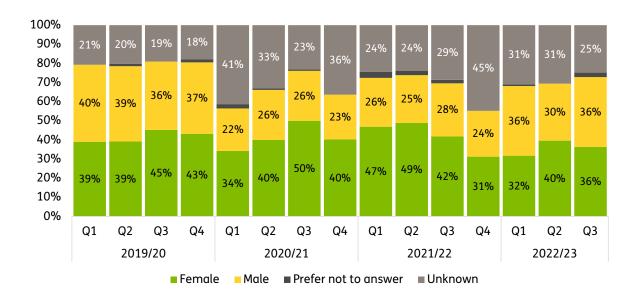


Chart 5. Illegal eviction clients by gender over time

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Scottish Index of Multiple Deprivation (SIMD) quintile

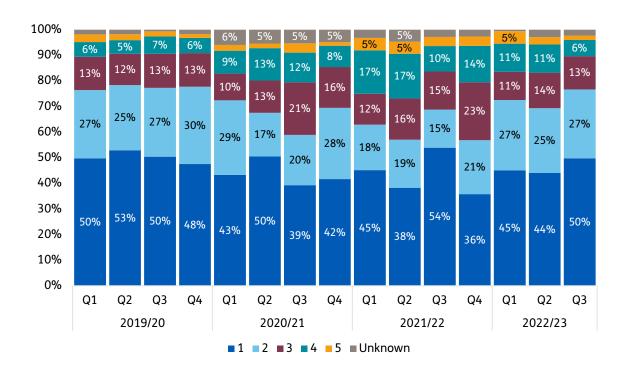


Chart 6. Eviction for arrears by SIMD quintile over time

Chart 6 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%		

Chart 7 indicates that SIMD quintile was not such a predictor of whether a person sought advice for illegal eviction, 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 eviction (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 eviction 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.

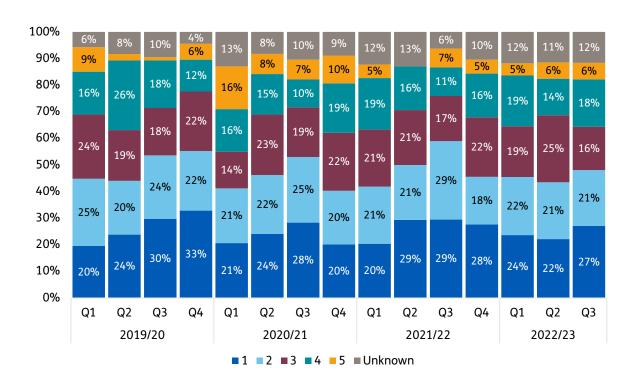


Chart 7. Illegal eviction by SIMD quintile over time



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.

Table 2

	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%
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part 2-E	VICTION GROVING Agent:				

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. 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.

The process resulted in us identifying four overarching themes around illegal eviction:

- 1. the eviction process
- 2. payment of rent
- 3. existing tenancy issues
- **4.** homelessness

Several cases span across more than one theme and each theme takes in a wide variety of experiences.

The eviction process



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

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.

SPF analysis

Payment of rent

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**

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.

Existing tenancy issues

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.

Homelessness

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.

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.

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, 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.

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 quarantee 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.