



Citizens Advice Scotland Response to COVID recovery: public health, services and justice system reforms

November 2021

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.

Bankruptcy

Question 6:

It is proposed that the provisions for Topic P2 (Bankruptcy: debt level that enables creditors to pursue the bankruptcy of a debtor through the courts) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P2 should be extended beyond March 2022 and made permanent with an amended creditor petition debt level of £5,000.

Citizens Advice Scotland would recommend the permanent debt level is changed to £5,000 as its long-term preference. However, the financial crisis caused by the pandemic is far from over, especially as certain protections such as the £20 universal credit uplift and furlough schemes have now ended. Therefore, Citizens Advice Scotland would recommend extending the current emergency provision of creditor petitions to £10,000 for as long as the crisis remains.

In terms of indebtedness, the pandemic effect will only now start to unfold and with the added pressures of the increase in the cost of living through rising energy, food and other essential costs, the situation remains under pressure. Retaining the temporary £10,000 limit would be the most appropriate response in dealing with the situation until such pressure and crisis is over.

Question 7:

It is proposed that the provisions for Topic P3 (Bankruptcy: electronic service of documents) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P3 should be extended beyond March 2022 and made permanent.

The above proposal to allow the provision for electronic service of bankruptcy documents to become permanent is an appropriate change which would allow the bankruptcy system in Scotland to reflect the modern world we now inhabit. This would also have no implications on digital exclusion as the system this operates through (BASYS) is not available to the public. These provisions are not affected by the current review of Scottish Debt Solutions which is underway and therefore Citizens Advice Scotland have no concerns in making these permanent.

Question 8:

It is proposed that the provisions for Topic P4 (Bankruptcy: moratoriums on diligence) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P4 should be extended beyond March 2022 and made permanent with an amended moratorium period of 12 weeks.

Citizens Advice Scotland would recommend the extension of the current provisions for Topic P4, i.e., 6 months period of moratorium beyond March 2022. Across the debt sector and beyond, stakeholders including Citizens Advice Scotland have been vocal on the fact that the issues of debt have yet to fully crystallise. With the removal of the Self-Employed Income Support Scheme, Furlough, and the £20 uplift to Universal Credit alongside the re-instated Minimum Income Floor for Universal Credit and increasing costs of living such as the recent energy price cap increase, there is a perfect storm brewing for households, particularly those on the lowest incomes.

We are certain that the extension of the 6 months moratorium period will be desperately needed. Polling for Citizens Advice Scotland by YouGov found that 1 in 3 people in Scotland ran out of money before pay day at least once in the last year. This is around 1.4 million people. Almost 300,000 people in Scotland have missed a housing payment for their rent or mortgage after running out of money. This equates to 1 in 5 missing a rent or mortgage payment.

Currently there is a review underway with the Accountant in Bankruptcy on Scottish Debt Solutions which Citizens Advice Scotland are involved with. Two of the provisions in the consultations are part of this review which cover Creditor Provisions (Topic P2) and this Topic P4 on Moratoriums. Citizens Advice Scotland believe it would be prudent to have a single transition from the emergency provisions to a new permanent footing rather than allowing the emergency provisions to lapse and revert back to 6 weeks, only for them to be permanently extended to a longer provision.

Moratorium is a fundamental part of the debt relief process and it is well established that those in need of debt relief often wait too long to seek debt advice.

Now, more and more debtors are presenting with complex debt issues at Citizens Advice Bureaux across Scotland and with debt advice demand expected to increase by 60%, the more time a debtor has to receive advice the better.

There may be some creditors who would argue Scotland should follow England and Wales in extending the Moratorium period to 60 days to reflect their new Breathing Space system. This system, even in its infancy, has many in the debt sector stating 60 days is not long enough to support debtors in increasingly complex debt situations. This is before any statutory debt repayment system has been put in place. Whereas in Scotland we already have the Debt Arrangement Scheme.

Introducing a permanent Moratorium period of 12 weeks would afford debtors adequate protection to receive holistic debt advice and source a solution to their issues. By allowing more time for debtors to seek support and breathing space from creditor enforcement, this not only benefits the debtors themselves but also the advice agencies such as our own bureaux who are supporting them.

Shortening the time period below 12 weeks could lead many debtors into inappropriate debt solutions due to fear of enforcement, thus making their rushed chosen option unsustainable and more likely to fail. This frustrates the debt recovery process for all parties and can lead to the debtor's situation worsening.

Therefore, Citizens Advice Scotland would recommend extending the current emergency provisions of 6 months moratorium under Topic P4 beyond March 2022 and then thereafter amending the moratorium period to a permanent period of 12 weeks.

Question 9:

It is proposed that the provisions for Topic P5 (Bankruptcy: virtual meetings of creditors) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P5 should be extended beyond March 2022 and made permanent.

As with the above proposal to allow the provision for electronic service of bankruptcy documents to become permanent, this proposal of allowing virtual meetings for creditors is another appropriate change which would allow the bankruptcy system in Scotland to reflect the modern world we now inhabit. To protect against digital exclusion of smaller creditors, virtual meetings would need to be agreed by all attending creditors. If this is not possible, a hybrid or Face to Face meeting would need to be explored. Moreover, again, these provisions are not affected by the current review of Scottish Debt Solutions which is underway and therefore Citizens Advice Scotland have no concerns in making these permanent.

Courts and tribunals, legal aid, impact assessments

Question 12: It is proposed that the provisions for Topic P8 (Courts: intimation, etc. of documents) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P11 should be extended beyond March 2022 and made permanent.

CAS recognises that Scottish society is moving towards increasing digitisation of services. The proposal that any requirement to display a document on the walls of a court building or to make it publicly available within a court can also be fulfilled by publishing the document on the Scottish Courts and Tribunals Service's ("SCTS") website recognises society's move towards digitisation and should assist in making the legal system more accessible for many. However, we remain concerned about the possibility that some members of the public could be prevented from accessing this information through digital exclusion.

CAS notes that it is envisaged that online publication would entirely replace the requirement to display documents on walls of the court. However, to ensure that there is a viable contingency process it is proposed that the option to display a document on the walls (or any other part) of a court building should still be retained.

CAS does not object to the proposed digitisation and supports the redaction of sensitive information to account for any issues arising from the potential online publication of sensitive data.

However, alongside any digital publication, even if the proposed digital publication of documents is made permanent CAS would prefer to also see the physical displaying of documents retained at this time, and beyond March 2022. This will ensure that those who are unable to access digital services are not excluded.

Question 15: It is proposed that the provisions for Topic P11 (Legal aid) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P11 should be extended beyond March 2022 and made permanent.

CAS would support the proposal to make permanent the existing temporary provisions, which allow for increased availability of interim payments to solicitors, along with corresponding powers of recovery in the event of any overpayments.

Legal aid is a key mechanism for ensuring that the Scottish legal system is accessible. At an individual level, services paid for by legal aid enable people to enforce or protect their rights, resolve disputes, defend themselves when the state and others take action against them and use the remedies, processes and facilities the law provides to manage their personal affairs and relationships.

Increasing the availability of interim payments would be beneficial to the legal aid system as it will help to maintain, and potentially increase, the number of solicitors who will undertake legal aid work. Any increase in the number of legal aid solicitors would assist CAB clients in accessing justice, allowing them to progress their domestic affairs, and take forward consumer cases and rights enforcement. This is important as we hear evidence from across the Citizens Advice Network where clients have had difficulty accessing legal practitioners who will take on legal aid cases particularly in rural areas or in relation to certain legal issues. Individual CAB ranging from the Borders to the Highlands have reported issues with clients being unable to access practitioners who are able and willing to take on legal aid cases. In the Highlands there are specific concerns in relation to the availability of practitioners for family law and domestic abuse cases.

Between August 2020 – August 2021, CAB provided 44,439 of pieces of advice on legal matters. Demand for advice on legal aid was also up 32% in this time period, despite the impact of the pandemic on legal services. This increase in demand would suggest the legal aid system is in high demand and anything that modernises the system and makes legal aid more accessible is welcomed by CAS.

We believe increasing the availability of interim payments would be beneficial to the legal aid system at present. However, in the longer term we would also want to see a re-balancing of the legal aid budget to focus on providing advice and allowing earlier resolution of disputes. Greater use of grant funding is likely to be beneficial here and may reduce the call for support via judicare. Reconsideration of the funding model in this way could also assist with the issues identified in relation to accessing practitioners in particular areas of the country or for specific areas of law.

Question 16: It is proposed that the provisions for Topic P12 (Legal writings etc.) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P12 should be extended beyond March 2022 and made permanent.

CAS supports this proposal, which would disapply the requirement for the “physical presence” of parties when executing documents and administering certain procedures, oaths or other declarations. CAS is pro-channel choice and allowing notaries public, solicitors and advocates the ability to execute documents and administer oaths by means such as live video connection on a permanent basis would be beneficial.

The extension of channels will allow for greater flexibility in accessing legal services. We believe that this will also be more convenient and create less stress for many clients, particularly those who have disabilities or are vulnerable.

We believe this increases the choice available to consumers, however we would be opposed to further measures that would enforce the use of services that are digital by default and did not offer individuals a choice of how to carry out these processes.

Question 23: It is proposed that the provisions for Topic J1 (Courts and tribunals: conduct of business by electronic means) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J1 should be extended beyond March 2022, but not made permanent.

CAS notes that the Scottish Government currently proposes to extend the provisions covered in Chapter 4 of the consultation to September 2022 via secondary legislation, subject to the agreement of the Scottish Parliament. The Government is also looking at the evidence for extending provisions beyond September 2022, but not making them permanent, via further primary legislation. This position recognises that in the interim, evidence of how these measures are operating might indicate that some provisions are no longer required or that these measures might be adapted and modified to form part of further legislative changes. We note the Scottish Government's view that many of these measures remain crucial to the delivery of the recovery programme and facilitate the desired managed move to a more digitalised justice sector.

CAS supports extending the measures of Topic J1 beyond March 2022 if it improves access to justice for consumers. The use of written submissions, the digital transmission of documents and the use of electronic signatures could enable court services to operate more efficiently. However, CAB advisers have noted some concerns regarding digital technology and CAS believes that any changes that are made must ensure better results for consumers and users.

For this reason, CAS would recommend extending these provisions and monitoring their effects closely for any potential digital exclusion issues.

Question 24: It is proposed that the provisions for Topic J2 (Courts and tribunals: virtual attendance) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J2 should be extended beyond March 2022, but not made permanent.

It is proposed that the current rules allowing people to attend a court or a tribunal by electronic means (for example, by live video link) should be extended beyond March 2022. In summary, there is a presumption that there will be no requirement for physical attendance at any court or tribunal hearings, except for trial diets. For trial diets, the default is that a person will physically attend hearings. These presumptions can be overridden by the court or tribunal, where it considers that the default position would prejudice the fairness of proceedings or would otherwise be contrary to the interests of justice.

CAS is aware that there is a concurrent [consultation by the Scottish Civil Justice Council](#) proposing detailed changes to court rules on the mode of hearings. CAS has struggled to understand how these two consultations fit together and what the effect of the proposed changes are in practice. Our understanding is that the new court rules proposed by the Scottish Civil Justice Council (SCJC) will come into force no later than the point at which the

emergency legislation is repealed, meaning that in the longer term, the more detailed rules proposed by the SCJC would become the settled position. However, we would have welcomed much greater clarity from the Scottish Government on this.

In summary, CAS supports measures which will enable CAB clients to access justice in the way that best suits their own needs, and which facilitates their understanding and involvement. While we recognise the role that virtual hearings can play in helping to address the backlog of cases we consider that any move to virtual hearings by default has the potential to disproportionately disadvantage party litigants or clients who are assisted by CAB.

CAS has carried out research into digital access to services which identified that key barriers to getting online include skills and confidence; practical access; health issues, and literacy and language. While there have been positive changes in recent years, there remains a group of Citizens Advice Bureau (CAB) clients, often with vulnerabilities, who may lack the skills to go online and also may face other barriers in doing so. While we understand the inevitable and necessary move towards online services during the pandemic, we would note that this has led to further complications for some CAB clients. Many clients would previously have accessed devices and Wi-Fi through support services or community venues such as public libraries and the pandemic has prevented these clients from being able to access face-to-face advice and assistance. Opportunities for getting online, or receiving assistance in doing so, have been reduced. Further, the increased costs of living following the pandemic may result in more users struggling to afford the data which would allow them to access court services.

CAS is aware that the Scottish Courts and Tribunal Service (SCTS) intends to draft an Assisted Digital Strategy which will ensure that digital services are straightforward and convenient so that all those who can use them will choose to do so, whilst those who can't are not excluded. This strategy will apply across all SCTS systems and websites. An assisted digital user is someone who cannot use a digital service independently. This includes people who are offline with no digital skills, and people who are online but only have limited digital skills. CAS would welcome further engagement with this in due course, but at the current time we have serious concerns about the continued reliance on a digital hearings system without this additional support for users being put in place. We consider that unrepresented parties will need additional support to access virtual court services, to ensure that they understand them and that they can participate in them effectively. In our view it is unrealistic to expect vulnerable groups to engage with virtual services without providing one-to-one support.

Our concerns primarily relate to the experiences of party litigants or those relying on advice agencies such as CAB for assistance. Much of the experience of the Citizens Advice network relates to Simple Procedure, Summary Cause or First Tier Tribunal work, which account for more than 40% of civil cases. Civil Legal Aid is not generally available for many such cases, meaning that Simple Procedure cases may have a greater proportion of non-represented litigants, or litigants who only seek representation at a very late stage in the process.

Without attending physical court room locations, party litigants may not be signposted to advice and advocacy services (where these exist and are appropriate). The In-Court Advice services offered by some Citizens Advice Bureaux via funding from SLAB are predominantly physically located within the court building and so many clients drop in on the morning of their hearing, having either been signposted by the Sheriff Clerks or having seen relevant signage. If the clients are not physically in the Court, they are far less likely to get advice or representation for their case. In the case of family or housing issues, lack of advice or representation can contribute to a loss of custody or the loss of housing tenancies, which can have serious adverse consequences. CAS considers that it is vital that clients are able to understand what is happening in their case. Even decisions taken in procedural, or case management discussions can have a large impact on proceedings affecting CAB clients.

For example, a North of Scotland CAB reported to us a case where their client had attended a virtual procedural hearing where the Sheriff had determined that he had no jurisdiction and had dismissed the case. The client was unrepresented, did not follow the legal arguments made around jurisdiction and had no understanding of the decision reached or the reasons for it. To compound things, no decision form was issued in the case, (until CAS later intervened to raise the matter with SCTS) leaving the client unaware of any arrangements or deadlines for appeal. It is unsatisfactory when clients do not have sufficient understanding or support to enable them to participate in major decisions regarding their case. We believe that the virtual nature of the proceedings exacerbated this, making it harder for the client to actively engage and more difficult for the Sheriff to assess whether or not his decision was understood.

CAS is of the view that ultimately there needs to be channel choice for people engaged in legal proceedings, enabling them to engage in proceedings in the manner that best suits their own needs, and facilitates their active engagement and understanding of proceedings, whether that be in person, via telephone or video link. It is CAS's view that the choice of forum or medium should be equally influenced by the needs and wishes of the parties as well as the nature of the hearing or action. CAS would recommend that before any decision is taken regarding the mode of hearings the court must be made aware of any requirements for specialist support services such as interpretation services, or supporters for vulnerable witnesses and consider how those particular needs may or may not be met within a system of electronic hearings. This should be made part of the pre-hearing organisation to ensure all litigants can understand and participate effectively in proceedings.

We note that some court and tribunal users have expressed the view that remote hearings have been welcome, especially where service users have physical access requirements or disabilities that make attending in person more difficult. However, we are also aware of continued concerns regarding the use of virtual hearings, especially in relation to proofs.

The main concern that CAB advisers have in relation to any virtual proceedings is the difficulties in communicating real-time advice. This has led to a concern that individuals engaged in proceedings under the new rules may be at risk of prejudicing themselves

without adequate support. Advisers also note that body language may be misread, or assumptions are made about a client's emotions or levels of contrition, due to the more virtual approach of a remote hearing.

CAB advisers have also expressed specific concerns that the move to virtual hearing may make matters increasingly difficult for defenders, for example in social housing eviction cases, who may not have access to the necessary technology. Advisers have also indicated that there is a need for clients or party litigants to be able to access support when something goes wrong with technology in real-time. Where Courts are dealing with solicitors and similar bodies with whom they have regular contact due to past dealings, then the court can easily reach out to them if there has been a failure to join a remote hearing. The Court would have less opportunity to contact members of the public as this information is not easily accessible. CAB advisers have told us of clients who experienced technological issues which prevented them from joining virtual platforms at short notice. They were unable to find a way of alerting court staff to this, meaning that Sheriff assumed they had simply opted not to participate and proceeded to grant orders, such as those for eviction or custody, which had far reaching impacts. We are of the view that some safety net is required to deal with these situations.

For these reasons, CAS is of the view that any further move towards digitisation must include sufficient safeguards to ensure that no-one is excluded from the justice system and alternative communication and engagement methods are also easily accessible to users.

Question 29: It is proposed that the provisions for Topic J7(i) (relating to the time limit on summary-only cases at section 136 of the 1995 Act (Criminal justice: time limits)) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J7(i) should be extended beyond March 2022, but not made permanent.

CAS is aware of the extensions to time limits for bringing criminal cases and the resulting rise in number of remand prisoners. Many remand prisoners will be found not guilty or receive community sentences. Remand is immensely disruptive for their lives and that of their families and better support is required for these prisoners.

There were 39,488 criminal trials outstanding at the end of April 2021, compared to 18,355 at the end of March 2020. As a result, the Coronavirus (Scotland) Act(s) provided for a 3-month extension to the time limits for bringing summary cases to trial and a 6-month extension to solemn cases. There has been a significant rise in numbers of prisoners being held on remand, with remand prisoners accounting for almost 25% of all prisoners.

Parkhead Citizens Advice Bureau recently undertook a research project, based on their experience of working with remand prisoners in Barlinnie Prison. The research aims to improve the information available to prison authorities and government about the key issues facing remand prisoners, to enable improved policy decisions. The [report](#) highlighted that significant numbers of pre-trial remand prisoners are subsequently found not guilty or given

a community sentence. The remand prisoners using the service provided by Parkhead CAB were characterised by their single status, low income, a high incidence of illness and disability and prior experience of homelessness.

The three main areas on which prisoners sought advice were benefits, debt, and housing. As well as social isolation from families and support networks, many prisoners faced issues such as loss of employment and tenancies, disruption to benefits and accrual of debt as a result of their time on remand.

Given the disruptive nature of remand for prisoners and their families, it is important that cases are heard as swiftly as possible. We recognise the constraints on the system and the backlog caused by COVID-19, as well as the undesirability of cases simply falling because time limits have not been met. However, we believe that any extension should be for the absolute minimum time possible.

Question 30: It is proposed that the provisions for Topic J7(ii) (remand time limits at section 65(4) and section 147(1) (Criminal justice: time limits)) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J7(ii) should be extended beyond March 2022, but not made permanent

Please see our response to Question 29

Question 31: It is proposed that the provisions for Topic J7(iii) (extending time limits relating to the maximum time between first appearance on petition and the first diet/preliminary hearing and commencement of the trial at section 65(1) (Criminal justice: time limits)) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J7(iii) should be extended beyond March 2022, but not made permanent

Please see our response to Question 29

Question 37: Equality impact assessment

Question 38: Socio-economic equality impact assessment (the Fairer Scotland Duty)

- Yes - I have comments on potential impacts in relation to Q37 and Q38.

As an overarching general comment CAS would draw attention to the fact that this question is fairly complex to answer, given respondents must return to the original impact

assessments undertaken for the legislation, which are hyperlinked to in the consultation document but not available on the consultation home page itself.

In addition, particularly in relation to proposals around courts and hearings, CAS would welcome greater clarity on the interlinkages or overlap between this consultation and that being undertaken by the Scottish Civil Justice Council (SCJC) on Rules Covering the Mode of Attendance at Court Hearings including the processes or developments which may resultantly flow from each of these consultations. Our understanding is that the new court rules proposed by the SCJC will come into force no later than the point at which the emergency legislation is repealed, meaning that in the longer term, the more detailed rules proposed by the SCJC would become the settled position. However, we would have welcomed much greater clarity from the Scottish Government on this. Given both consult on similar issues and equality impacts have been considered as part of both pieces of work, it would have been useful for the interaction or processes to be clearly set out in both documents in terms of how they both operate and how any decisions/changes that will flow from them will take effect and when.

Furthermore, it is difficult to comment on specifics at this stage if it is not known which measures may/may not be extended by further legislation and whether they would be permanent or not. Therefore, further comments on this are of a more general nature.

CAS would wish to highlight that given the original impact assessments were undertaken in relation to emergency and temporary measures we consider that full and new assessments should be undertaken should any or all measures in the original legislation be made permanent. If these changes are to be made permanent, then there should be a further full round of impact assessments undertaken, as this would reflect a different situation from temporary measures and therefore need be assessed independently at that time. This is particularly true since the original EQIA in relation to courts and tribunals states *"As the provisions form part of emergency legislation and are on a temporary basis it has not been possible to undertake an extensive EQIA, but the impact on the protected characteristic groups has been taken into consideration for all of the measures."* This therefore points to the need for a full and new EQIA to be undertaken.

The original EQIA also states: *"analysis will, however, be kept under regular review, with any new data or evidence analysed as it becomes available to monitor the ongoing impact of the legislation on the protected characteristic groups."* CAS believes data gathered from the last eighteen months should be used when undertaking any new impact assessments on permanent measures and this should have a focus on those with protected characteristics that may have been adversely affected by temporary measures, and also to understand if the socio-economic impact of changes being made permanent has an adverse impact on particular groups, such as those who are digitally excluded. We are not aware of any detailed analysis being published on this issue to date which is in the public domain.

We would be particularly keen to understand the impact that temporary measures have had on those who are digitally excluded and to see further work undertaken to understand this issue should measures be made permanent or extended. The original Fairer Scotland Duty assessment states: *"The provisions that enable participation in either criminal or civil*

proceedings by way of live visual (television) or audio (telephone) link from any location have been accompanied by measures in place to alleviate any adverse socio-economic impacts.” Given issues that have been highlighted throughout the Citizens Advice network in terms of clients participating in virtual proceedings, we would be keen to understand the full range of measures which are in place to alleviate any adverse socio-economic impacts of virtual proceedings. We do not think this is currently clearly stated and needs to be further addressed in a full and new Fairer Scotland duty assessment should measures be made permanent or extended.

Tenancies

Question 22. Tenancies: protection against eviction (discretionary grounds of eviction); and pre-action requirements for eviction proceedings on ground of rent arrears

- I think the provisions for Topic P18 should be extended beyond March 2022 and made permanent.

CAS is strongly in favour of the provisions for Topic P18 to be extended and made permanent.

In terms of keeping all grounds for eviction discretionary, we believe that this is an important step towards making the private rented sector fairer. Removing mandatory grounds for eviction would mean that all tenants at risk of eviction would have the opportunity to have their case heard by an independent tribunal, who then have the ability to consider all facts of the case, rather than the outcome being a foregone conclusion.

The COVID-19 pandemic has made clear the importance of a safe and secure home, but also highlighted the fragility of the economy, leaving many without work and in precarious financial situations. This has had a direct impact on people's ability to pay their rent, and this is evidenced by our advice code statistics. These statistics showed that the proportion of advice given about private sector arrears in this area has more than doubled over the past year (CAS, 2021) Annual Housing Data Briefing <https://www.cas.org.uk/publications/annual-housing-data-briefing>). The Scottish Government has made clear its position that no-one should lose their home because they have suffered financial hardship due to coronavirus (<https://www.gov.scot/publications/coronavirus-covid-19-guidance-for-private-landlords-on-seeking-repossession-of-private-rented-housing-on-rent-arrears-grounds/pages/summary/>). However, there is a real risk of this happening in the coming months as eviction on the ground of rent arrears is one of the mandatory grounds for eviction.

What this will create is a near-crisis for local authorities as many evicted households will turn to them for help. On 31st March 2021, there were 13,097 households in temporary accommodation in Scotland, a rise of 1,432 or 12% compared to the same point in 2020. This indicates that the pandemic is already overstressing local authority resources, with some local authorities having to use inappropriate accommodation and breaking the Unsuitable Accommodation Order nearly 500 times in its attempts to accommodate everyone who needed it last year. Again, adding households who have been evicted for rent arrears will mean unsustainable pressure in the system.

CAS is also strongly in support of retaining pre-action requirements for the private rented sector. Although the impact of this policy is hard to measure for the Citizens Advice network as it is not an issue per se that clients generally approach with, we believe it to have had a positive impact and provided opportunities to sustain tenancies through improved communications. The pre-action process requirements are a valuable opportunity for people to be linked up with independent advice and support services, who can help to ensure that households are accessing all monies they are entitled to, which may help to address any arrears. Retaining pre-action requirements on a permanent basis also brings the private

sector into line with the social rented sector where these requirements have been in place for a number of years.

However, analysis of recent private rented sector queries shows that concerningly, there are still landlords operating in Scotland who are unaware of (or wilfully ignore) pre-action requirements and other tenant protections, and still attempt to carry out illegal evictions. To illustrate this, an East of Scotland CAB reported of a client whose landlord has threatened him with eviction with a week's notice. The client is on reduced hours and wages due to COVID-19 and is struggling to pay full rent and is accruing arrears. Finally, advisers from the network also warn that the First Tier Tribunal must play a strong role in actively interrogating and enforcing the fulfilment of pre-action requirements, otherwise they will become nothing more than a superficial tick-box exercise.