



Analysis of tribunal evictions

New research by SAL has provided interesting data on the outcome and nature of eviction applications made by landlords to the First-tier Tribunal for Scotland (Housing and Property Chamber).

The tribunal took over jurisdiction of private rented sector cases from the sheriff courts in 2017. Whilst the majority of court judgements were not published, the tribunal is required to publish their written decisions, allowing for a greater analysis and understanding of cases.

SAL analysed and compared the outcome of eviction applications made to the First-tier Tribunal for Scotland (Housing & Property Chamber) during the period 1 October 2019 to 18 March 2020 (pre Covid-19 pandemic) and 1 October 2020 to 18 March 2021 (mid pandemic).

18 March 2020 was the last day that face-to-face hearings and case management discussions took place to determine the outcome of tribunal applications before these ceased due to the first Covid-19 lockdown. These resumed on 9 July 2020, taking place by teleconference, and continued to operate in this manner through subsequent lockdowns.

From 7 April 2020, landlords serving notice to end tenancies were required to adhere to changes introduced by the Coronavirus (Scotland) Act, namely a requirement to give 6 months' notice for most evictions and all evictions being subject to a reasonableness test at the tribunal.

Notable data from the analysis is detailed below:

Number of eviction applications

There was a significant reduction in the number of eviction applications being submitted to the tribunal during the Covid-19 pandemic. Over the period of analysis 2019-2020 there were 535 applications compared to just 254 over the same period 2020-2021, a 53% reduction. There are a number of possible explanations for this; landlords and tenants managing to resolve rent arrears situations and other tenancy breaches without resorting to eviction, landlords choosing not to evict during the pandemic, longer notice periods meaning tenants are more likely to leave before the end of the notice period, longer notice periods delaying the point at which landlords can make their application to the tribunal and landlords misunderstanding the "ban" on evictions, thinking that it prevents them from serving notice or submitting tribunal applications.

Outcome of applications

Provided landlords follow the correct procedures, nearly 100% of eviction applications are granted by the tribunal.

Out of 535 eviction applications submitted during the period 2019 to 2020, 398 were granted, 136 were rejected due to the applicant not correctly following tribunal procedure rules or tenancy legislation and just one was refused on the grounds of reasonableness.

Out of 254 applications submitted during the period 2020-21, 176 were granted and 78 were rejected due to the applicant not correctly following tribunal procedure rules or tenancy legislation. No applications were refused on the grounds of reasonableness which is particularly surprising given that all evictions where notice was served on or after 7 April 2020 were subject to a reasonableness test.

Tenancy type

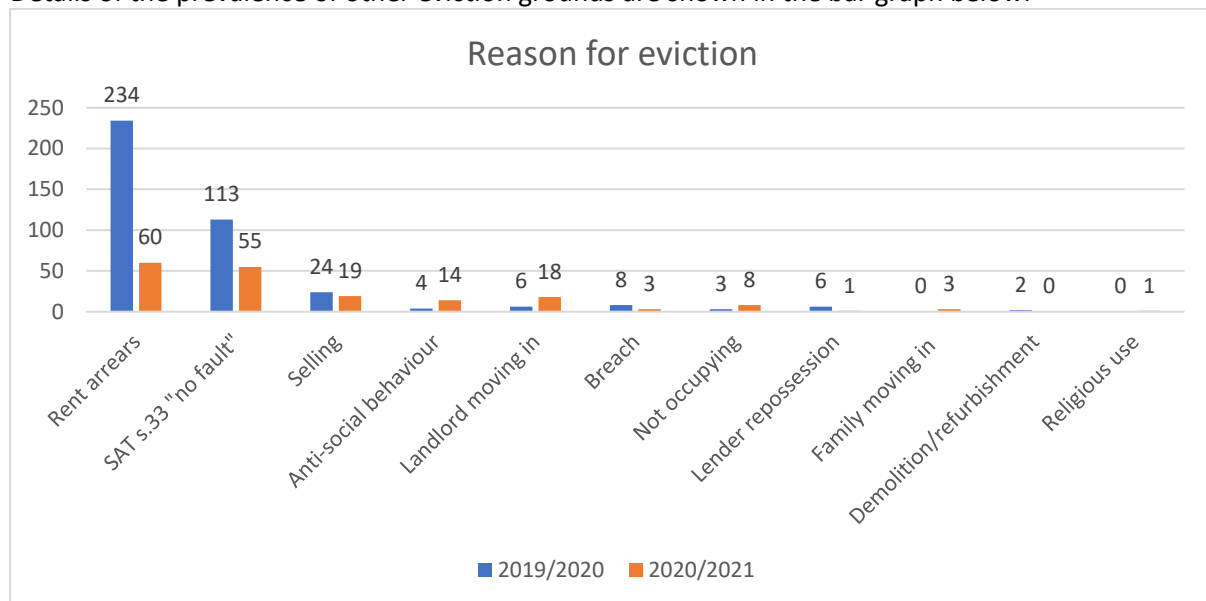
With the introduction of the Private Residential Tenancy (PRT) regime on 1 December 2017, we are seeing a gradual reduction in the number of older tenancies in existence. Over the period of analysis 2019-2020 there was an almost even split between eviction applications for the two main tenancy types (49.3% PRT, 50.3% Assured/Short Assured and 0.4% Regulated Tenancies). Over the later period 2020-2021 there was a slight increase in the proportion of eviction applications for PRTs (54.3% PRT, 45.7% Assured/Short Assured).

Reason for eviction

Where eviction orders were granted by the tribunal over the period of analysis 2019-2020, 59% were for rent arrears. For the same period the following year this had reduced to 33%.

The next most common reason for eviction was landlords ending short assured tenancies using the section 33 procedure, commonly known as the “no fault” procedure. This was the reason for eviction in 28% of cases during the period 2019-2020 and 30% of cases in the same period the following year.

Details of the prevalence of other eviction grounds are shown in the bar graph below:



Amount of rent owed by tenants being evicted for rent arrears

Pre-pandemic, tenants being evicted for rent arrears owed on average 8.9 months’ rent at the point the tribunal decided to grant an eviction order. For the same period the following year this had risen to 13.3 months’ rent. The number of months rent owed increased by about the same as the notice period for an eviction on the rent arrears grounds had been increased by the Coronavirus (Scotland) Act. These very significant amounts of debt not only have a huge financial impact on landlords but also burden tenants with debt which is due for repayment long after the tenancy has ended.

Duration of tribunal proceedings

During the period 2019-2020 it took on average 95 days from the time a landlord applied to the tribunal to the point the tribunal made a decision to grant an eviction order.

During the same period the following year this had increased significantly to 134 days. This is likely to be because a number of applications were held up by the cessation of face-to-face hearings and case management discussions over the period 19 March to 8 July 2020. For those applications submitted after 8 July 2020 the average timeframe was 90 days and the quickest case was decided on within 5 weeks of an application being made.

Any queries about the analysis can be directed to:

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