

It is now a year since the first regulations came into effect restricting repossessions in the private rented sector in England in response to the COVID-19 pandemic<sup>i</sup>.

Since then, many restrictions remain in place, including:

- The notice period for landlords to regain possession of a property is six months in all but the most serious of circumstances<sup>ii</sup>. These measures are set to remain in place until 31<sup>st</sup> May 2021.
- Most writs and warrants of possession granted by the courts cannot be enforced apart from the most egregious cases such as those where tenants have committed anti-social behaviour, have obtained a tenancy by providing fraudulent information or have built six months or more of rent arrears<sup>iii</sup>.
- Court rules introduced in September 2020 are also limiting the number of possession cases being heard<sup>iv</sup>.

This paper outlines the impact that lockdown measures have had on the sector and what the Government needs to do next as it prepares to taper down emergency measures from 1<sup>st</sup> June.

---

## RENT ARREARS ARE MOUNTING

The NRLA commissioned the research company Dynata to survey 2,077 private tenants in England and Wales concerning the impact of COVID-19. They were questioned between 17th November and 9th December 2020. It found that:

- **7%** had built arrears due to COVID. Applied across the sector that would amount to **840,000** tenants.
- **18%** of those in arrears had rent debts of more than **£1,000**.
- **11%** of private renters are now unemployed.
- **Younger people are most likely to have been affected** with 14% of renters aged 18 to 24 and 10% of those aged 25 to 34 having built arrears since March.

The Government has itself admitted that: ***“Private renters report being hardest hit by the pandemic.”***<sup>v</sup>

The impact of such arrears not being paid off will be as follows:

- More tenants than need be the case face the prospect of losing their homes.
- More landlords are likely to seek county court judgements against tenants in arrears, damaging their credit scores and making it more difficult for affected tenants to access new rental accommodation or become homeowners.
- More landlords will find themselves in financial difficulty as they will be unable to recoup what is owed to them.

## LANDLORDS ARE STRUGGLING

The NRLA ran a survey of its members in England and Wales online between 5th December 2020 and 18th January 2021 to which 1,391 landlords responded. It found that:

- **60%** had lost rental income as a result of the pandemic.
- **14%** of all respondents said they had lost more than 20% of their rental income.
- **39%** of those who had lost rental income, said the losses were continuing to increase.
- **65%** said that the pandemic was likely to have a negative impact on their lettings business.
- **34%** said they were more likely either to leave the market entirely or sell some of the properties they rent out.

The vast majority of landlords are not millionaire property tycoons:

- **94%** rent property out as an individual.
- **45%** rent out just one property.
- **44%** became a landlord to contribute to their pension<sup>vi</sup>.

It has been argued that landlords have been able to benefit from buy to let mortgage 'holidays'. Whilst they have been able to access mortgage deferrals where tenants have struggled to pay their rent, this is not all it seems. As the Economic Secretary to the Treasury has noted, those landlords who have secured one: *"will still need to repay the full balance of their loan, and will continue to accrue interest during the payment holiday, unless the lender has indicated otherwise."*<sup>vii</sup>

With such deferrals extended until the end of July there is a perfect storm brewing where landlords will have to start repaying their missed payments, when faced with renters likely to have built some of the most serious levels of arrears.

### CATHY'S STORY

Cathy is a mother of two and is struggling due to being out of work because of the pandemic. She has rented out one property since 2008.

In October 2019 the tenant started failing to pay the rent. This continually happened each month with no communication with Cathy. The tenant was difficult to get hold of, they stopped answering her calls and responding to her emails.

No rent has been paid since then. Due to the amount of time that has passed and multiple restrictions on repossessions, this has meant that Cathy's tenant now owes her over £20,000 in rent and there is no sign of this being resolved. She contacted the tenant's mum who was used as a reference fraudulently, but she refused to get involved.

Following a court hearing on 11<sup>th</sup> the tenants were ordered to move out by the 22<sup>nd</sup> February and repay the rent arrears owed. They have not done either.

Current rules mean she can't have the order enforced as normal. She has therefore had to apply for an exemption as the tenants now owe 11 months' rent. She is waiting for the court to make a decision on this.

## ELENA'S STORY

Elena owns a property and has been a landlord for a few years now. She never had any issues with her tenants not paying rent prior to the pandemic.

Once Covid-19 started to impact daily life in March 2020, Elena's tenants stopped paying the rent suddenly. She tried to work with them and discuss options around lowering rent and repayment holidays, but her tenants refused to respond. This became a bigger cause of concern for Elena as she lost her job in April 2020.

Elena was struggling financially and decided to serve a section 8 possession notice after continuing to receive no rent and not hearing from her tenants. After the notice expired, she applied to court for possession as she could not continue to cover all of her costs.

Whilst Elena managed to find a new job after seven months of unemployment, during this time she had to use her savings and borrowed money from her family in order to survive.

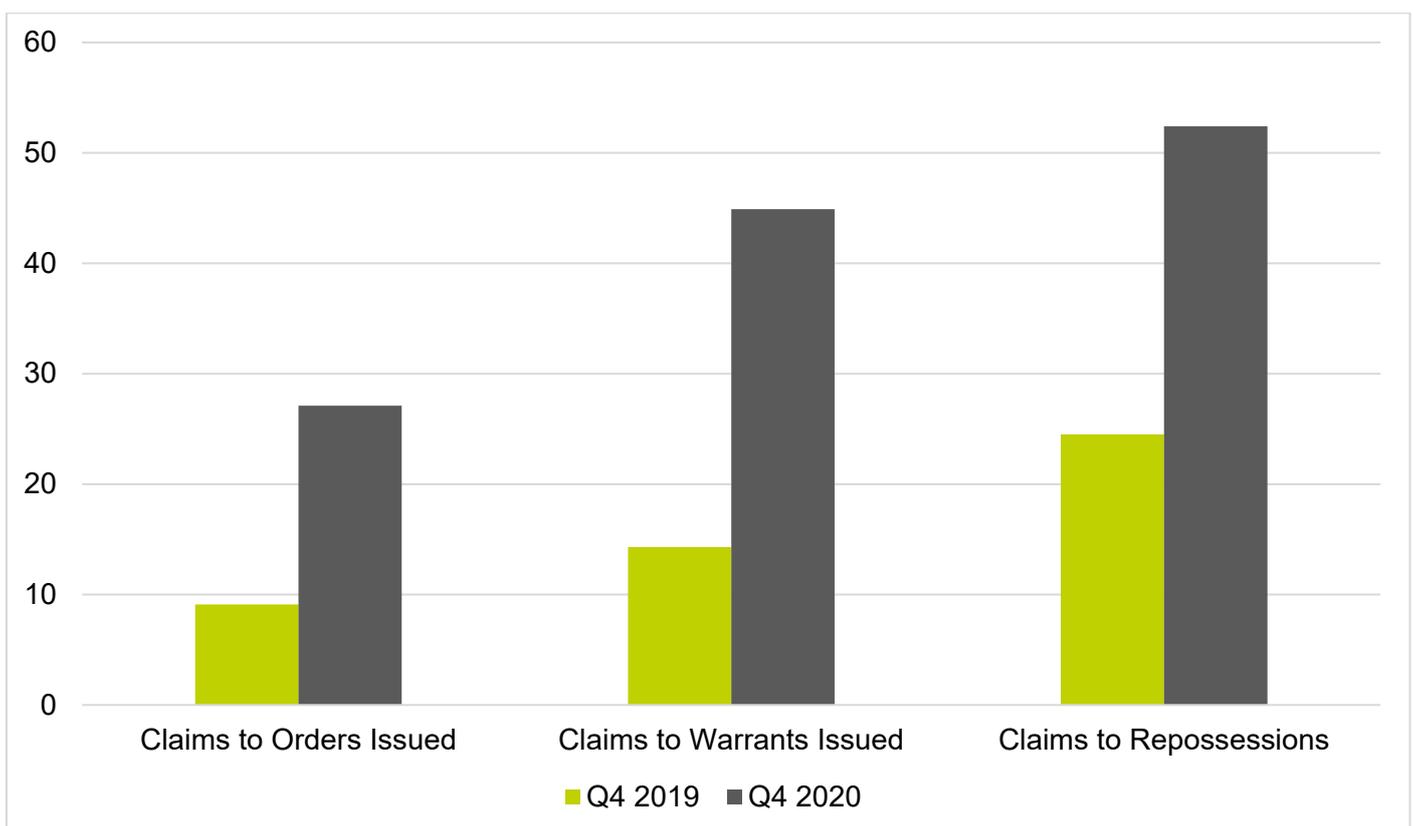
The tenants continue not to pay their rent and the arrears are increasing as a result of the ban on most repossessions.

Under current rules she had a review hearing booked on the 12<sup>th</sup> March, and paid for her lawyer to stay free all day. However, in the end, the Judge did not call the case. The case remains unsettled.

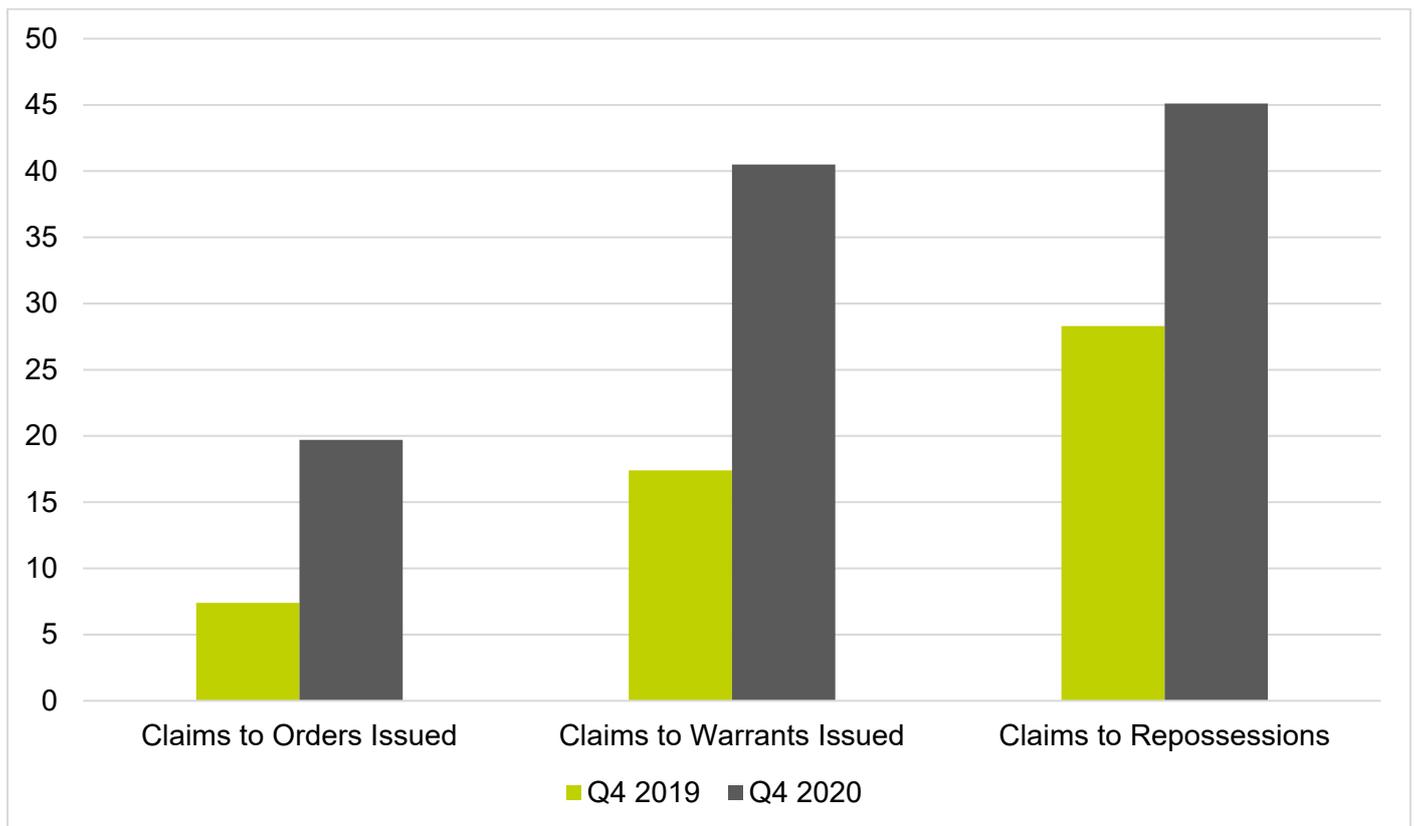
## THE COURTS ARE NOT COPING

Ministry of Justice data shows the extent to which the court system is struggling<sup>viii</sup> to cope, with waiting times for cases to be heard and enforced increasing exponentially. This includes cases related to tenant anti-social behaviour, tenants who have secured tenancies by providing fraudulent information, tenants having passed away and properties now being empty and rent arrears that pre-date the pandemic.

**Chart 1: The average (mean) time in weeks for possession cases brought by private landlords to reach the stage of a court order, a warrant for possession and the property being repossessed.**



**Chart 2: The average (mean) time in weeks for possession cases brought under the accelerated procedure to reach the stage of a court order, a warrant for possession and the property being repossessed.**



The above increases come despite the fact that the number of possession claims in Q4 2020 totalled:

- 3,619 by private landlords, down from 5,723 in Q4 2019.
- 2,495 under the accelerated procedure, down from 4,246 in Q4 2019.

## RENTERS NEED FINANCIAL SUPPORT

- As emergency measures in the sector taper down, the Government needs to develop an urgent financial package to help those tenants affected pay down rent debts built since lockdown measures started in March last year in order to reduce pressure on the courts.

### Tenant Hardship Loans

- Our own research, and that of the Resolution Foundation<sup>ix</sup>, has found that the majority of tenants in arrears are not in receipt of benefits and therefore cannot access much of the current help available.
- For this group, tenant hardship loans should be made available to help them to pay off arrears built since lockdown measures began last year. These would be interest-free and government-guaranteed, ensuring that ultimately the state shoulders the risk. The loans would be paid directly to landlords and could be paid back as the incomes of affected tenants recover.
- It would follow similar schemes adopted in Scotland and Wales and is a measure which has the support of, among others, the debt charity, StepChange<sup>x</sup>, Citizens Advice<sup>xi</sup> and the Resolution Foundation.
- The Budget announced that the government will provide up to £3.8 million of funding to deliver a pilot no-interest loans scheme to *“help vulnerable consumers who would benefit from affordable short-term credit to meet unexpected costs as an alternative to relying on high-cost credit.”*<sup>xii</sup> Whilst further

information about this scheme is still required, a scaled-up version of it could form the basis of a model for tenants.

### *Support for Benefit Claimants With COVID-Related Arrears*

- **Covid-19 hardship funds** administered by local authorities should be boosted to support those in receipt of benefits.
  - At the very least, there should be a commitment to retain the **Local Housing Allowance** at the 30th percentile from April, and preferably increase it to cover average rents in any given area. We were seriously concerned by the decision in the Spending Review to freeze the Local Housing Allowance rate in cash terms from April. We agree with the Institute for Fiscal Studies which has warned that the measure means that: *“some high rent areas get less support than some in low rent ones.”*<sup>xiii</sup> The **£20 a week uplift to Universal Credit** should also be made permanent, not just extended for six months.
- 

## **COURTS NEED TO INCREASE CAPACITY**

- Alongside efforts to reduce demand on the court service, possession cases related to the most serious cases need to be heard more quickly. These should begin with those concerning tenant anti-social behaviour, fraud, and rent arrears that pre-date lockdown measures. It is unacceptable for these to have wait a year for repossession.
- HM Courts and Tribunals Service has outlined the video technology that is available for court cases to be heard remotely<sup>xiv</sup>. This includes for criminal cases<sup>xv</sup>. Given this, we fail to see why the courts have so far failed to use the same platforms to enable possession cases to be dealt with in a more timely way.
- It is essential that the courts modernise and are fit for the 21<sup>st</sup> century. The impact of the pandemic provides a unique opportunity for a generational shift and the process should be ‘digital by default’ unless there are clear reasons in the interest of justice, as to why this would not be appropriate. Such reform would not only address the unique challenges posed by the pandemic, but could play a major role in meeting the Government’s clear commitment *“to improve the court process for landlords to make it quicker and easier for them to get their property back sooner.”*<sup>xvi</sup>
- Making use of technology would make it easier for tenants to take part in hearings, addressing concerns expressed by the Housing Law Practitioners Association (HLPAs) and others that the low number of tenants attending court for possession cases creates a *“massive access to justice issue”*.<sup>xvii</sup>
- It would also address the safety concerns of duty advisers, as a result of the pandemic, about cases being heard face-to-face. According to a survey of such advisers by the HLPAs, 61% did not believe their court was safe to work in<sup>xviii</sup>.
- As part of this move to ‘digital by default’ it is vital that tenants are offered advice at an early stage. Currently, many first access legal advice only on the day of the court hearing, via the duty solicitor or organisations supporting tenants who are present at court on the day. Providing such advice much earlier in the process would avoid last minute adjournments which further increase the burden on the courts, tenants and landlords. As a result, we propose that information be included with the notification to the tenant that a claim for possession has been made to the court, directing them to an online portal which provides access to an online duty solicitor, for which qualifying tenants should be able to claim legal aid.

**For further information, please contact Chris Norris, Policy Director for the NRLA.  
Email: [chris.norris@nrla.org.uk](mailto:chris.norris@nrla.org.uk); Tel: 0300 131 3603  
[www.nrla.org.uk](http://www.nrla.org.uk) – twitter: @nrlassociation**

- 
- <sup>i</sup> On 26<sup>th</sup> March 2020 measures were introduced to increase to three months' the notice period landlords needed to give to repossess a property. The 27<sup>th</sup> March 2020 also saw the start of a suspension of all ongoing housing possession action in England and Wales for a period of 90 days.
- <sup>ii</sup> Details of the exemptions can be found at: <https://www.gov.uk/government/news/government-has-changed-the-law-so-most-renters-have-a-6-month-notice-period>.
- <sup>iii</sup> Full details of the exemptions can be found at: <https://questions-statements.parliament.uk/written-statements/detail/2021-03-11/hcws843>.
- <sup>iv</sup> Courts and Tribunals Services, *Resumption of Possession Cases*, 17th September 2020, available at: <https://www.judiciary.uk/announcements/resumption-of-possession-cases/>.
- <sup>v</sup> MHCLG, *English Housing Survey Household Resilience Study, Wave 1 June-July 2020*, December 2020, Page 2, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/955337/Household\\_Resilience\\_Study\\_Wave\\_1\\_June-July\\_2020\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/955337/Household_Resilience_Study_Wave_1_June-July_2020_Report.pdf).
- <sup>vi</sup> MHCLG, *English Private Landlord Survey 2018*, January 2019, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/775002/EPLS\\_main\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775002/EPLS_main_report.pdf).
- <sup>vii</sup> John Glen MP, Economic Secretary to the Treasury, in response to written question 145037 available at: <https://questions-statements.parliament.uk/written-questions/detail/2021-01-28/145037>.
- <sup>viii</sup> Ministry of Justice, *Mortgage and landlord possession statistics: October to December 2020*, February 2021, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/959922/Mortgage\\_and\\_landlord\\_possession\\_statistical\\_tables\\_Oct\\_to\\_Dec\\_2020.ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/959922/Mortgage_and_landlord_possession_statistical_tables_Oct_to_Dec_2020.ods).
- <sup>ix</sup> Resolution Foundation, *Getting ahead on falling behind - Tackling the UK's building arrears crisis*, February 2021, available at: <https://www.resolutionfoundation.org/app/uploads/2021/02/Getting-ahead-on-falling-behind.pdf>.
- <sup>x</sup> StepChange, *Tackling the coronavirus personal debt crisis*, November 2020, page 16, available at: <https://www.stepchange.org/Portals/0/assets/pdf/tackling-the-coronavirus-personal-debt-crisis.pdf>.
- <sup>xi</sup> Citizens Advice, *Half a million renters in arrears as evictions set to resume*, January 2021, available at: <https://www.citizensadvice.org.uk/about-us/about-us1/media/press-releases/half-a-million-renters-in-arrears-as-evictions-set-to-resume/>.
- <sup>xii</sup> HM Treasury, *Budget 2021 – Protecting the Jobs and Livelihoods of the British People*, March 2021, page 48, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/966868/BUDGET\\_2021\\_-\\_web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966868/BUDGET_2021_-_web.pdf).
- <sup>xiii</sup> Institute for Fiscal Studies, *Initial reaction from IFS researchers on Spending Review 2020 and OBR forecasts*, November 2020, available at: <https://www.ifs.org.uk/publications/15203>.
- <sup>xiv</sup> HM Courts and Tribunals Service, *HMCTS telephone and video hearings during coronavirus outbreak*, available at: <https://www.gov.uk/guidance/hmcts-telephone-and-video-hearings-during-coronavirus-outbreak>.
- <sup>xv</sup> Ministry of Justice, *New tech will help keep the criminal justice system moving during COVID-19 pandemic*, 30<sup>th</sup> April 2020, available at: <https://www.gov.uk/government/news/new-tech-will-help-keep-the-criminal-justice-system-moving-during-covid-19-pandemic>.
- <sup>xvi</sup> Prime Minister's Office, *The Queen's Speech 2019*, 19<sup>th</sup> December 2019, Page 46, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/853886/Queen\\_s\\_Speech\\_December\\_2019\\_-\\_background\\_briefing\\_notes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853886/Queen_s_Speech_December_2019_-_background_briefing_notes.pdf).
- <sup>xvii</sup> Inside Housing, *Low tenant attendance for eviction hearings spark calls for courts to close*, February 2021, available at: <https://www.insidehousing.co.uk/news/news/low-tenant-attendance-for-eviction-hearings-spark-calls-for-courts-to-close-69361>.
- <sup>xviii</sup> Housing, *Low tenant attendance for eviction hearings spark calls for courts to close*, February 2021, available at: <https://www.insidehousing.co.uk/news/news/low-tenant-attendance-for-eviction-hearings-spark-calls-for-courts-to-close-69361>.