

HOUSE KEEPING:

preventing homelessness
through tackling rent arrears
in social housing

MORE THAN A ROOF: TAKING THE NEW HOMELESSNESS AGENDA FORWARD



Shelter

**HOUSE KEEPING: preventing homelessness
through tackling rent arrears in social housing**

Written by Jenny Neuburger

Shelter
88 Old Street
London
EC1V 9HU

© Shelter
February 2003

ISBN: 1 903595 13 4

More than a roof: taking the new homelessness agenda forward

CONTENTS

| | |
|--|----|
| SUMMARY | 4 |
| <hr/> | |
| POLICY CONTEXT | 5 |
| <hr/> | |
| HOW MANY PEOPLE ARE IN RENT ARREARS? | 6 |
| <hr/> | |
| WHY DO PEOPLE GET INTO RENT ARREARS? | 7 |
| <hr/> | |
| HOW MANY HOUSEHOLDS ARE EVICTED FOR RENT ARREARS? | 11 |
| <hr/> | |
| WHY DO SOCIAL LANDLORDS EVICT TENANTS? | 13 |
| <hr/> | |
| WHAT IS THE FINANCIAL COST TO SOCIAL LANDLORDS AND LOCAL AUTHORITIES? | 14 |
| <hr/> | |
| HOW ARE PEOPLE CAUGHT IN A CYCLE OF DEBT AND HOMELESSNESS? | 15 |
| <hr/> | |
| THE CASE FOR ARREARS RESOLUTION SERVICES | 18 |
| <hr/> | |
| CONCLUSION | 21 |
| <hr/> | |
| KEY RECOMMENDATIONS | 21 |
| <hr/> | |
| APPENDIX: RESEARCH METHODOLOGY | 24 |

SUMMARY

Current approaches to managing rent arrears in social housing cause homelessness. This report argues for the development of new ways of tackling arrears to avoid the use of court proceedings. Clearly, landlords need to manage and recover rent debts. However, too often they seek possession of the property as a first rather than a last resort, an approach that is both costly and ineffective.

The Government set out its strategy for tackling homelessness in the report *More than a roof* published in March 2002. This outlines a new, preventative agenda and identifies rent arrears as a major cause of homelessness. Shelter strongly supports this agenda and believes that current practice on managing arrears is out of step with it, as well as the Government's broader priorities to tackle social exclusion and reduce poverty.

This issue cuts across a number of other departments' policy agendas including the Lord Chancellor's Department's objective to reduce the number of cases taken to court, the Department for Work and Pensions' housing benefit reform agenda and the Office of the Deputy Prime Minister's (ODPM) responsibilities for social housing. We believe there is an opportunity to bring these agendas together.

- **Information from local authorities suggests that more than a million council tenants were in arrears with their rent in England and Wales in March 2001.**
- **The structure and administration of the housing benefit system is the main cause of rent arrears. Other factors that contribute to rent arrears include sudden falls in income through the loss of employment, relationship breakdown or illness; financial pressures and multiple debts; and unmet support needs such as mental health problems.**
- **Although landlords need to be able to take action to recover rent arrears, the evidence is that they take possession action too often as a first, rather than a last resort. Possession action is a costly and ineffective way of managing arrears and increases pressure on the court system.**
- **The current financial and regulatory framework for local authorities and housing associations, with its emphasis on financial and arrears performance, contains incentives for landlords to evict tenants for rent arrears.**
- **Shelter estimates the cost to a local authority of evicting a tenant for rent arrears to be between £1,913 and £3,190 in unrecoverable rent arrears, legal costs and housing management costs and the cost of a subsequent homeless application.**
- **Eviction for rent arrears is an important cause of homelessness. Court Service data show that 30,350 outright possession orders and a further 70,293 suspended possession orders were granted to social landlords in England and Wales in 2001. Although figures are not collected on the number of actual evictions, lettings data indicate that housing associations alone evicted around 6,800 households in 2000.**

- Rent arrears can perpetuate a cycle of debt and homelessness: social landlords often exclude or suspend some homeless applicants from their housing registers for arrears and tenants living in temporary accommodation are at greater risk of accruing arrears and being evicted.
- Evidence from Shelter housing aid centres demonstrates that independent housing and benefits advice can resolve arrears cases, prevent homelessness for tenants and recover rent for landlords.

On the basis of this evidence, we make the following recommendations.

- The Government should fund independent advice agencies to provide arrears resolution services. Arrears resolution would cover a number of activities designed to stabilise and repay debt owed to landlords and to prevent possession. Social landlords should offer tenants this service before embarking upon possession action. This could be funded as a joint initiative between the ODPM and the Lord Chancellor's Department.
- In their homelessness reviews, local authorities should identify homelessness due to rent arrears that results from their own policies and those of housing associations. Homelessness strategies should identify ways of reducing homelessness due to rent arrears as a priority.
- The Government should make changes to housing benefit regulations in the following areas: the payment of benefit four weeks in arrears; the recovery of overpaid housing benefit by local authorities; the payment of benefit on two properties; and penalties for local authorities that do not make interim payments.
- Social landlords should seek possession through the courts as a last resort. There should be a clear prohibition on suspended or outright possession orders where the landlord offers no or inadequate evidence in court of actions taken to resolve arrears.

POLICY CONTEXT

In *More than a roof*, the Government highlighted the importance of improving tenancy sustainment rates and identified rent arrears as a key cause of homelessness. The report committed the Government to investigating the cost effectiveness of arrears mediation services, stating that:

By helping resolve problems between landlords or lenders and tenants or borrowers, these can ensure courts become the last, rather than the first, resort of resolving rent or mortgage arrears.ⁱ

Under the Homelessness Act 2002, local authorities are required to produce homelessness reviews and strategies. Clearly, a first step should be for local authorities to look at their own policies and practices that may contribute to homelessness, including: the administration of housing benefit, arrears management practices, the provision of debt

counselling, legal and welfare advice and tenancy support services, and communication between homelessness, housing benefit and housing departments.

The Lord Chancellor's Department has objectives to improve the availability of legal services to tackle social exclusion and to resolve disputes in a way and at a cost proportionate to the issue at stake. The Department has a Public Service Agreement to reduce the number of disputes taken to court. The provision of legal advice on housing issues and the use of courts by social landlords are both key areas that need to be addressed if the Department is to meet its objectives.

The aim of the Department for Work and Pensions, as set out in its Departmental Framework, is to increase opportunity and independence for all. The Department has increased investment in the administration of housing benefit and set out a new agenda for reform designed to empower tenants and promote choice and opportunity. However, housing benefit delays and the operation of housing benefit regulations are a major cause of rent arrears. If choice is to be a reality for tenants, and if the Department is to meet its overall aim, the aspects of the system that cause rent arrears need to be addressed.

Social housing regulators and professional bodies have issued considerable guidance and good practice documentation to social landlords. Guidance on rent collection and rent arrears encourages social landlords to avoid possession and protect vulnerable tenants. In practice, social landlords often seek possession as a first, not a last resort. The challenge for social landlord regulators and professional bodies is to ensure that their guidance is made a reality.

HOW MANY PEOPLE ARE IN RENT ARREARS?

Information from local authorities suggests that more than a million council tenants in England and Wales were in arrears with their rent in March 2001. This accounted for two fifths of all council tenants. A further 400,000 former tenants also had rent arrears. The average amount owed was £337, although this figure masks differences between areas.ⁱⁱ

Surveys amongst local authority landlords report far more tenants in arrears than surveys amongst tenants themselves. In 2001/02, 15 per cent of social housing tenants that took part in the Survey of English Housing said that they had been more than two weeks behind with their rent over the last twelve months, compared to 40 per cent of council tenants recorded by local authorities as being in rent arrears.ⁱⁱⁱ

Table 1: Rent arrears among current tenants, 2001/02

| Landlord (2001/02) | Local authority data (2001) | | Survey of English Housing | |
|------------------------|-----------------------------|----------|---------------------------|-----------|
| | Number (thousands) | Per cent | Number** (thousands) | Per cent |
| Council | 1,142* | 41 | 393 | 15 |
| Housing Association*** | - | - | 183 | 16 |
| Total | - | - | 576 | 15 |

Source: CIPFA, 2002; ODPM Survey of English Housing 2001/02

* Figure for England only – figure for Wales was 66,103 in 2001/02

** These are grossed up figures for England based on a sample of 20,000 householders

*** The Housing Corporation does not record data on the number of tenants in arrears

WHY DO PEOPLE GET INTO RENT ARREARS?

The structure and administration of the housing benefit system is the main cause of rent arrears, although usually there is more than one reason for tenants getting into serious rent arrears. The main contributory factors are:

- housing benefit delays, problems with claiming housing benefit and shortfalls between rent and housing benefit;
- sudden drops in income due to personal crises;
- general financial difficulties, including the existence of multiple debts; and
- unmet support needs.

Housing benefit administration in England and Wales

Half of council tenants and just under a third of housing association tenants had their rent paid in full or in part by housing benefit in 2001. Over the 2001/02 financial year, Shelter advised 6,291 clients on problems with housing benefit. There is extensive evidence to suggest that poor housing benefit administration contributes to rent arrears. From the Survey of English Housing, a third of tenants with rent arrears reported problems with housing benefit as a reason for their arrears. This figure is similar to those given by other surveys of tenants with rent arrears.^{iv}

Delays in processing housing benefit claims are closely connected to rent arrears. Local authority Best Value performance indicators for the 22 worst performing authorities indicate a positive relationship between delays to processing housing benefit applications and the level of rent arrears in the local area.^v In 2001, housing associations estimated that 30 per cent of their total current tenant arrears was due to late payment of housing benefit.^{vi}

The requirement since 1996 has been that local authorities make payments to claimants at the end of the period to which they relate, normally four weeks in arrears. Housing associations have reported this as a major problem.^{vii} This creates cash flow problems for landlords and makes it more difficult for them to work with tenants to identify and make up shortfalls between the rent and housing benefit due to rent restrictions or recovery of overpayments.

Problems claiming housing benefit

The complexity of the housing benefit system also contributes to rent arrears. Results from an in-depth survey of housing association tenants that were in arrears suggested that tenants had inadequate knowledge and understanding of their entitlements and housing benefit regulations. Almost half of tenants thought that housing benefit was being paid to them when it was not.^{viii} Typical problems include housing benefit being refused because tenants are unable to provide information, housing benefit review forms not being returned and people coming on and off benefits.

Particular problems arise where tenants experience a change in circumstances, such as a change in income, capital, age or the number of household members. A study

commissioned by the Department of Social Security (now Department for Work and Pensions) in 1999 found that more than half of lone parents on family credit (replaced by WFTC) had debts and that 28 per cent had rent arrears. A third of respondents had accumulated rent arrears while waiting for their housing benefit to be revised due to a change in circumstances. Evidence from Citizen's Advice Bureaux suggests that families claiming WFTC faced the same sorts of problems.^{ix}

Under claiming of benefits can lead to rent arrears. Latest estimates are that in 1999/2000 non take-up of housing benefit was between five per cent and 11 per cent of the total caseload. Benefit take-up is particularly low among vulnerable older people.^x Where a late claim is made, housing benefit can only be backdated for up to 52 weeks and only if the claimant can show good cause for late claim. This can be difficult to prove if the local authority is unwilling to accept the claimant's reasons for the delay.

Shortfalls between rent and housing benefit

Recovery by local authorities of overpaid benefit often results in large, sudden rent arrears or severe hardship for claimants. Overpayments usually occur due to a change in the claimant's household or job circumstances that lead to a change in income and a change in or end to benefit entitlement. Tenants in receipt of housing benefit do not always realise that their entitlement will change, and local authorities often miscalculate housing benefit entitlement. Overpayments are recovered in two main ways. The first is for the local authority to recover lump sums of backdated or current housing benefit award and pay it into an overpayment account instead of the rent account. The second is to make large weekly deductions from ongoing housing benefit, often at a rate that the tenant is not able to make up. There are strong financial incentives for local authorities to pursue overpayment recovery and prioritise it at the expense of other considerations, since they receive little or no government subsidy for overpaid housing benefit.

Mr Brown sought advice when he received a Notice of Seeking Possession from his landlord (housing association). Mr Brown was a pensioner in receipt of an occupational pension as well as the state pension. He had previously submitted information of a change in circumstances, giving details of an increase in his pensions. The council had sent him a letter asking for proof of the changes in his pensions, which he supplied the same week. Nearly two months later, the council sent him notification of a recoverable overpayment for that period. His ongoing housing benefit was reduced by £7.80 each week that he could not afford to pay, resulting in arrears on his rent account.

Non-dependant deductions are also a problem. Many single parents get into problems with their housing benefit when their children turn nineteen. The non-dependant person may not be working or claiming benefits, and is therefore unable to make a contribution to the rent. Unless they provide evidence that they are in receipt of income support or income-based jobseeker's allowance, the maximum non-dependant deduction of £47.75 a week is applied. This leaves the parent having to find the money to pay the rent from other

sources of income. Or if the non-dependant person leaves home but does not give a forwarding address, the parent may still be charged. Households may also experience similar problems when relatives move in with them and are not able to contribute to the rent.

Rent restrictions in the private rented sector and deductions due to other sources of income (e.g. wages or incapacity benefit) can result in rent arrears, particularly where notification of a shortfall is provided months after an application is made.

A lack of clarity about non-rent costs such as water rates, heating and other service charges can be a cause of debt where housing benefit covers only the core rent. Tenants may not be told what is or is not covered by housing benefit when a tenancy begins or are not advised how much they have to pay on top of housing benefit.

Drop in income due to loss of employment, relationship breakdown or illness

Rent arrears and other debt will often be accumulated when a household experiences a sudden fall in income through loss of employment, relationship breakdown or illness. Unemployment was identified as a reason for rent arrears by a fifth of households in social or private rented housing (Survey of English Housing, 2000/01). In depth interviews with housing association tenants indicated that labour market changes, including loss of employment, reduction in working hours, loss of overtime or a lower income from employment following a return to work were important factors leading to rent arrears.^{xi} Some tenants take on financial commitments when they are in well paid employment that they cannot keep up following a drop in income.

Relationship breakdown is often accompanied by a decrease in household income and disengagement from the labour market. Lone parents with children are often vulnerable to accumulating arrears, as they may have been financially dependent on their partner. Using data from the British Household Panel Survey, one study showed that marital separation usually leads to substantial declines in real income for women and their children. Studies show that low potential earnings and childcare difficulties also contribute to poverty and debt among lone parent families.^{xii}

Family illness can lead to rent arrears where household members have to take time off work, where a tenant goes into hospital or where long term illness gives rise to a change in benefit entitlement. Problems occur if the tenant fails to inform the landlord or to arrange the continuation of payments. There are additional problems if a change in social security benefits leads to a change in housing benefit entitlement, in which case housing benefit payments stop and the tenant is required to make a new claim for housing benefit.

Multiple debts and financial hardship

Households with rent arrears usually have more than one debt. Studies of credit and debt have found a clear link between multiple debts and high levels of rent arrears. A Department of the Environment study found that two thirds of tenants in serious arrears owed money to other creditors.^{xiii} Council tax arrears are the most common other debt.

An analysis of credit use found that low-income households used credit in circumstances of particular financial strain and hardship rather than to support higher consumption.^{xiv} The DoE study found that three-quarters of tenants in rent arrears said that they had difficulties making ends meet.^{xv} A large proportion of low-income households operate tight cash budgets. One and a half million households do not have access to mainstream finance, such as a bank account. Nearly all of this group are on benefits or very low incomes; four fifths live in social housing; and a quarter become disengaged from financial services after losing work or separating from a partner.

Households without access to mainstream sources of credit may have no choice but to use moneylenders charging very high rates of interest, often resulting in debt.^{xvi} Sometimes tenants can be pressured by doorstep collectors to pay credit debts before their rent. The expansion since the 1980s in the availability of high interest rate credit for people with poor credit ratings has contributed to this problem.^{xvii}

Research into the budgeting practices of low-income families has found little evidence that poor families mismanage their money.^{xviii} In the DoE survey, the majority of tenants put rent as their top priority in paying bills. Another survey of attitudes to debt found that mortgage holders and tenants placed an equivalent 'priority on payment'.^{xix}

Support needs not met

Some people have poor literacy, which makes it difficult for them to complete the necessary forms and understand letters from their landlord or the housing benefit department. Refugees often face additional problems claiming housing benefit because of language difficulties, lack of awareness of their rights or unfamiliarity with the process. People who were previously supported by the National Asylum Support Service (NASS) often experience additional bureaucratic difficulties in obtaining housing benefit, such as long delays in receiving a national insurance number and a NASS form establishing their entitlement.

A minority of tenants have problems that mean that they are not able to sustain their tenancies without support. People with mental health problems or substance misusers may not be able to manage their money, have difficulties in filling out their housing benefit form, be vulnerable to being exploited financially, or use their benefits to support their alcohol or drug addictions rather than pay their rent. A report by the Audit Commission found that more than a quarter of tenants with mental health problems had serious rent arrears (more than four weeks) and were at risk of losing their home.^{xx}

Alan approached Shelter threatened with homelessness due to rent arrears. He had alcohol dependency problems, could not read or write well, had been in and out of low paid employment and on and off benefits. When he came to Shelter, he was on income support.

Alan's income support entitlement was £53.93 per week. From this, the Social Fund deducted £11 to service the recovery of a loan. A further £2.70 was also deducted for previous rent arrears. Of the £10 per week he put into his gas meter, £6.93 went towards "arrears recovery". This meant he could not afford to use his gas central

heating and used electric heating appliances instead. This was costing him £10 per week. On top of this, the housing benefit department began deducting £3.50 per week to recover a housing benefit overpayment he was not aware of. Once he had paid his council tax, Alan was left with just £11.75 a week to keep himself and his dog. Over a year, Alan's arrears increased from £500 to £2,300 and he had no means to pay them. Alan was a man with complex needs and was clearly not able to manage his finances without support.

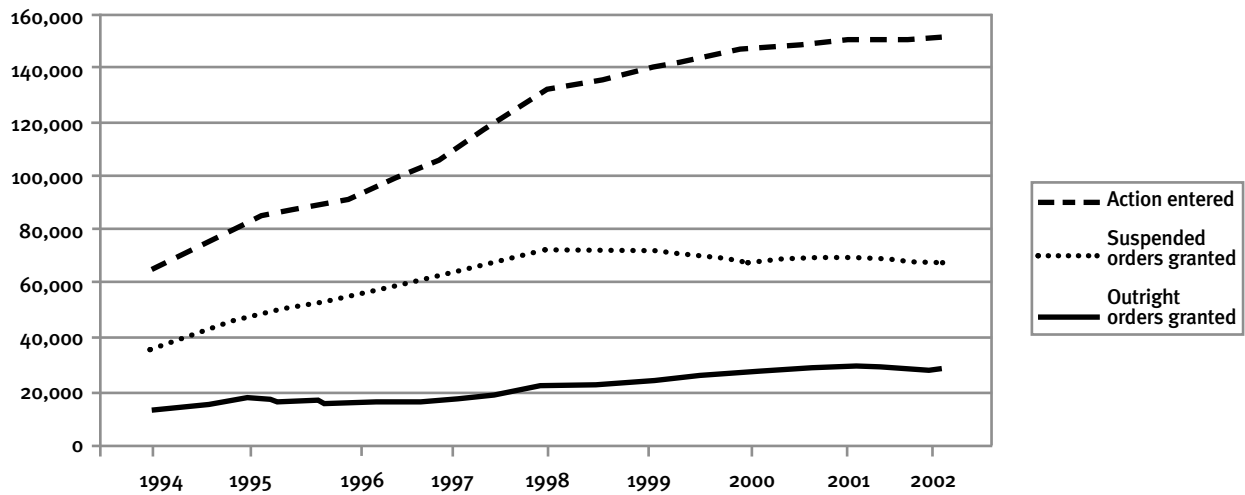
HOW MANY HOUSEHOLDS ARE EVICTED FOR RENT ARREARS?

The eviction of local authority and housing association tenants in rent arrears is governed by housing statutes and county court rules and supported by a body of case law.^{xxi} In most cases, the landlord must prove that there is a ground for possession, such as rent arrears, and that it is reasonable for the court to grant possession. For tenants with assured shorthold tenancies, there is a mandatory ground for possession based on two months rent arrears. The key stages that a landlord must go through in order to gain possession of the property are shown below.

Stages of possession action by social landlord:

- 1) Notice of Seeking Possession (NOSP) delivered to tenant stating grounds or simply giving two months notice of the tenancy's end on an assured shorthold tenancy.
- 2) County court hearing where the judge will decide whether to make an outright order for possession, to make a suspended order on specified terms, to adjourn the case leaving it open to be brought back at a later date or to dismiss the case.
- 3) If an outright possession order is granted or if the terms of a suspended order are breached, the landlord can make an application to the court for a warrant for eviction.
- 4) A stay of warrant can be applied for by the tenant to delay enforcement.
- 5) Eviction will go ahead if no stay of warrant is applied for or made.

According to figures compiled by the Lord Chancellor's Department there were 30,350 outright possession orders granted to social landlords in 2001 and a further 70,293 orders were suspended, representing an increase of 102 per cent since 1994.

Figure 1: Social landlord possession actions, 1994-2002

Source: Lord Chancellor's Department

* The figures for 2002 are estimates based on data for the third quarter of 2002

A survey by ROOF magazine and a National Housing Federation (NHF) survey of housing associations found that possession on the grounds of rent arrears accounts for around 90 per cent of possession cases.^{xxii} Newly collected Court Service data also confirm that the majority of court action by social landlords is on the grounds of rent arrears. Arrears accounted for four fifths of outright orders and grounds of both arrears and anti-social behaviour accounted for a further 11 per cent.^{xxiii}

It has been argued that most possession actions by social landlords do not lead to eviction.^{xxiv} The figures from an NHF survey of housing associations, used to make this point, suggest that the number of evictions carried out by housing associations comprises a fifth of total possession orders granted to housing associations. However, it also shows that the number of outright possession orders roughly matches the number of evictions, which would imply an alarming number of evictions across the sector (see table 2). Further, the fact that four fifths of total possession orders do not result in eviction is of concern, suggesting that social landlords are clogging up the courts with cases in which they do not intend to gain possession of the property.

Lettings data on the number of re-lets arising from evictions in the housing association sector indicate a similar rate of evictions to the NHF survey (table 2, row 6). The data suggest that housing associations evicted around 6,800 households in total in 2000.^{xxv}

Table 2: Possession actions by housing associations, 2000/01

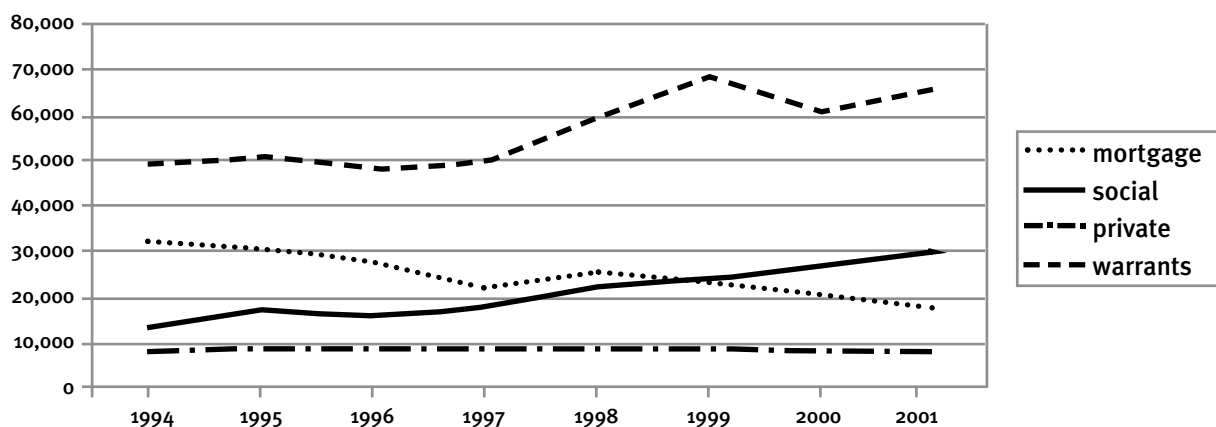
| | NHF survey of selected members* 2000/01 | CORE lettings data 2000 |
|----------------------------------|---|-------------------------|
| Suspended possession orders made | 3,277 | - |
| Outright possession orders made | 672 | - |
| Total evictions | 783 | 6,759 |
| Total number of properties | 148,482 | 1,171,400 |
| Evictions as % stock | 0.53 | 0.58 |

Source: National Housing Federation, 2001; Pawson & Ford – CORE lettings data, 2002

* Figures from a survey of 116 largest housing associations

Court Service data show an increase in the total number of possession warrants executed (evictions) by social landlords, private landlords and mortgage lenders from 49,222 in 1994 to 65,620 in 2001. No information is collected separately on the proportion or trend of eviction warrants executed in the social rented sector. However, figures show a sharp increase in the number of outright orders granted to social landlords over this period, at the same time as a reduction in the number of immediate mortgage possession orders and little change in the number of outright orders granted to private landlords. This supports the argument that the increase in social housing outright possession orders has led to the increase in evictions by social landlords. It should be noted that an increase in the proportion of private possession orders executed could also explain this trend.

Figure 2: Outright possession orders and possession warrants across the tenures



Source: Court Service figures, 2002

The status of households who are not evicted is very insecure. If an outright possession order is granted or if a tenant breaches the terms of the suspended possession order, their legal status becomes that of a ‘tolerated trespasser’ with no tenancy rights such as the right to repair or security of tenure. They are at risk of losing their homes without the case returning to court.

WHY DO SOCIAL LANDLORDS EVICT TENANTS?

Social landlords rely on rental income to finance management and maintenance services. Consultation papers and reports produced by the Lord Chancellor’s Department and the Law Commission over the last fifteen years have consistently found that social landlords use the courts primarily to recover rent debt, not to gain possession of the property.^{xxvi} The intended and unintended consequences of this practice have been outlined in the section above.

The main reason that landlords use the courts appears to be that they view the threat of possession as an essential element to debt recovery. Further, the current system contains

two key financial incentives for social landlords both to seek possession and to evict tenants with arrears. First, a possession order can be a way of getting an outstanding housing benefit claim fast-tracked. District judges will usually adjourn a case where housing benefit is a problem. However, Shelter's court monitoring (see appendix) found that problems with housing benefit do not ensure that possession will not be asked for or granted, particularly when tenants do not attend the hearing. Outright possession was granted in one in ten cases where there was a problem with housing benefit. So, although the primary aim of court action is to ensure that housing benefit is paid, an unresolved housing benefit problem may result in possession and eviction.

Second, the regulation and allocation of resources to social landlords provide incentives for them to evict tenants for rent arrears. The Audit Commission and the Housing Corporation set performance indicators for local authorities and housing associations on the proportion of rent collected as a proportion of the rent roll. The main indicator on rent arrears includes current tenants' arrears, but not former tenants' arrears. This means that evicting tenants with large rent arrears will quickly improve the financial performance of the landlord on this indicator. There are no performance indicators on the number of evictions by social landlords to offset this financial focus.

There is no evidence that taking tenants to court is effective in reducing rent arrears. In the short term, the debt is increased through court costs added to the tenant's account. A 1989 government study of possession proceedings found that an order is not effective in reducing the debt, while the issue of a warrant usually results in eviction or abandonment or a large lump sum payment, probably resulting in the transfer of the debt to another source.^{xxviii} A forthcoming report by Citizen's Advice makes the case for a new approach to the housing management of rent arrears, arguing that the current reliance by social landlords on the courts is unfair and ineffective.

WHAT IS THE FINANCIAL COST TO SOCIAL LANDLORDS AND LOCAL AUTHORITIES?

The financial cost to local authorities of evicting tenants for rent arrears is high. At the very least, there will be the costs of unrecoverable arrears, court costs, housing management time, maintenance, void and re-let costs of eviction common to all social landlords. In addition, tenancy failures also result in greater demands upon other local authority services. If a household that is made homeless is in priority need, they are likely to be accommodated under the homelessness legislation and placed in bed and breakfast or temporary accommodation. If they are found to be intentionally homeless, they will not be owed a housing duty, but may seek assistance from social services under the Children Act 1989.

Shelter estimates the cost to a local authority of evicting a tenant for rent arrears to be between £1,913 and £3,190. This estimate is based on national statistics and on time use and cost estimates from three social landlords. This is comparable to the figure produced by the Audit Commission in 1998, which estimated the costs of tenancy failure to a housing authority for vulnerable tenants living in the community.

Table 3 Cost to local authorities of eviction for rent arrears

| Costs | Shelter estimate (£) | | Audit Commission estimate (£) |
|---|----------------------|--------------|-------------------------------|
| | Standard | Complex | |
| Former tenant arrears (1) | 558 | 558 | 150 |
| Legal costs (2) | 120 | 620 | 100 |
| Cleaning and redecoration / repairs (2) | 200 | 770 | 750 |
| Foregone rent while property empty (2) | 150 | 240 | 150 |
| Housing management time (2) | 50 | 167 | 500 |
| Subsequent homeless application (3) | 835 | 835 | 450 |
| Total | 1,913 | 3,190 | 2,100 |

Sources: Audit Commission (1998); CIPFA (2002)

- (1) This figure is the average amount of rent owed by former council tenants for England and Wales in 2001 published by CIPFA. This is considered to be a reasonable indicator since it is likely to understate the average debt among tenants evicted for rent arrears, but does not take into account debt recovered by landlords from former tenants.
- (2) The figures for legal and housing management and maintenance costs are based on time use and cost estimates from a local authority and two housing associations. The second column indicates costs in a straightforward case and the third column indicates costs in a complicated case. In a complicated case, more housing management time is often spent at the court and on correspondence with the tenant, other agencies and with a solicitor, solicitor's fees are likely to be higher and a property may be abandoned or neglected leading to higher void and maintenance costs.
- (3) This estimate is the average net expenditure per homeless applicant by authorities across England and Wales in 2000/01. This is the total net expenditure (£213 million) divided by the total number of households claiming homelessness assistance (254,548 households). Expenditure covers administration, hostel and bed and breakfast and private leasing.

In addition to the costs included in this estimate, there may be significant resources invested by health authorities and social services in crisis based services for people made homeless, particularly vulnerable people.^{xxviii}

HOW ARE PEOPLE CAUGHT IN A CYCLE OF DEBT AND HOMELESSNESS?

Rent arrears not only lead to homelessness in the first place, they also create barriers that prevent people from escaping homelessness. For example, exclusions and suspensions from social housing for rent arrears, eviction from temporary accommodation for rent arrears, and arrears that arise upon being re-housed in

permanent accommodation are various ways in which people are caught in a cycle of debt and homelessness.

Exclusions and suspensions from the housing register

Social landlords have wide discretion over the allocation of accommodation. Just as a poor credit record can prevent access to mainstream finance systems, a poor rent record can deny access to secure social housing. A range of methods of excluding or suspending applicants from the housing register are currently used by social landlords, including refusing access or removing an applicant to social housing, suspending or deferring the application, or ensuring that a household will be given nil or low priority.^{xxxix}

A government study of lettings and allocations found that more than half of authorities currently exclude or suspend applicants that have been evicted for rent arrears and a third treat a Notice of Seeking Possession for rent arrears as grounds for exclusion.^{xxx} A Shelter survey of social landlords' lettings policies also found that around half had excluded or suspended homeless applicants due to debts on a current or former tenancy. This was the most common reason for excluding an applicant. Housing associations were more likely to exclude or suspend tenants with rent arrears than local authorities.^{xxxi}

The new allocations framework accompanying the Homelessness Act 2002, which came into effect at the end of January 2003, should result in fewer exclusions from social housing. It specifies an 'unacceptable behaviour' test that must be applied in order to exclude an applicant. The code of guidance states that modest rent arrears should not constitute 'unacceptable behaviour' but could be taken into account in assessing the level of priority relative to other applicants. However, wide discretion for local authorities to give applicants low priority if they are in rent arrears remains. This may mean that even low levels of rent arrears continue to impact on access to social housing for people in housing need.

Arrears in temporary accommodation

Homeless households living in bed and breakfast and temporary accommodation are at greater risk of accruing rent arrears and are more likely than permanent tenants to lose their homes through eviction or abandonment. They may have complex needs and be indebted from a former tenancy. In addition to high rents, the cost of living in temporary accommodation is often high. For example, most properties have expensive card meter systems for gas and electricity payment and households may have higher travel costs where temporary accommodation is not in their local area.

Problems with housing benefit administration and rent arrears disproportionately affect the temporary housing sector due to high rents, high turnover of tenancies and the large proportion of tenants receiving housing benefit compared to the permanent rented sector. Some housing associations that lease properties from private landlords to accommodate homeless households have withdrawn from the provision of temporary housing because of the risks involved. Others have been found to take a more financially focussed approach, which may mean taking a tougher line on evicting tenants for rent arrears.^{xxxii} In 2001, nearly £12 million in housing benefit was owed to nine London housing associations for

the 10,000 temporary homes they provided for homeless households.^{xxxiii} One housing association that had provided ten furnished flats to homeless single people was owed £10,000 in housing benefit. These tenants all had assured shorthold tenancies, so should the housing association have chosen to seek possession, they would have no security against eviction.

There is a mandatory ground for possession based on two months rent arrears for tenants with assured shorthold tenancies. Consequently, the judge will have to grant possession to landlords if the tenant is more than two months in arrears, regardless of individual circumstances. Shelter's court monitoring found that two thirds of temporary accommodation providers were seeking an outright order, of which nine out of ten were successful. This compares to five per cent of cases in which outright possession orders were made against secure and assured tenants (see appendix).

Beth was living in temporary accommodation with her eight-month old baby and had been working part time in a number of jobs.

She had previously experienced problems claiming housing benefit and had received an overpayment of housing benefit. The housing benefit department chose to recover this by making a deduction of £10 per week from her ongoing benefit. She was also trying to pay £10 per week towards rent arrears that she had accrued on a former tenancy.

Beth was unable to make both payments. The authority sought possession of the temporary accommodation. Possession is automatic in the circumstances, and would probably have gone ahead without the intervention of Shelter staff running the court desk. They negotiated with the landlord to adjourn the case, and later helped her negotiate a reduction in the rate of recovery of overpaid housing benefit to £2 a week. They also helped her to make a backdated claim for housing benefit for another period when housing benefit should have been paid.

Intentional homelessness

Homelessness resulting from eviction for rent arrears can be treated as a case of intentional homelessness.^{xxxiv} The assumption here is that, by failing to pay the rent, the tenant must realise that eviction is a likely consequence. If an authority decides that an applicant is intentionally homeless then it is no longer under a duty to house them and is required to provide temporary accommodation for a reasonable time to allow the applicant to secure other accommodation.

In 2001/02, nearly 8,000 households were found to be intentionally homeless (3.3 per cent of homeless decisions).^{xxxv} The proportion of applicants deemed to be intentionally homeless has been rising since 1994. Figures are not recorded on reasons for finding household intentionally homeless in England and Wales. These statistics will soon be available for Scotland from the restructured homelessness monitoring system.

Arrears following re-housing

Homeless households made an offer of accommodation by the local authority or a housing association are typically expected to sign a tenancy at a few days' notice. It is often inappropriate for households to move into a property straight away: most local authority and housing association properties are let unfurnished and undecorated and there are often outstanding repair issues. Housing benefit can be paid on two properties for four weeks if a tenant has moved into another property but is liable for rent on their original home. In practice, dual housing benefit is rarely awarded and tenants are at risk of accruing rent arrears from the start of their new tenancy.

Setting up home can also be an expensive business, with several one-off costs such as carpets, white goods, sofas, beds and other furniture to be paid for. In addition, there may be costs involved in decorating the property. Households needing assistance in setting up home can apply for either a community care grant or loans through the Social Fund. It takes an average of four to six weeks to get a community care grant and around 60 per cent of applicants do not meet the eligibility criteria to qualify for a grant and are turned down.^{xxxvi} In the meantime, households may delay moving in, use their housing benefit cheques to buy essentials such as beds or borrow from moneylenders at high rates of interest and accumulate debt and arrears in the process.

THE CASE FOR ARREARS RESOLUTION SERVICES

The *More than a roof* report identifies rent arrears as a significant cause of homelessness and commits the Government to investigating the cost effectiveness of arrears mediation services. Advice centres already provide services designed to resolve arrears and prevent possession by landlords. Services include: legal advice and advocacy on housing issues; help with maximising benefits income; debt counselling; and negotiation with landlords and other agencies. Shelter believes there is a strong case for funding from central Government for these agencies or joint initiatives to provide arrears resolution services.

What is arrears resolution?

Arrears resolution covers a number of activities designed to recover or stabilise debt owed to landlords and to prevent possession. It includes:

- **stabilising arrears by establishing the means for full ongoing rent payments including examining any welfare benefit entitlements of the tenant, assisting him or her to claim any backdated housing benefit and maximising income from other benefits;**
- **debt counselling for the tenant on how to manage and make progress in reducing multiple debts, particularly other priority debts such as council tax arrears and fuel debts;**
- **negotiating an affordable and sustainable repayment arrangement between the landlord and tenant;**
- **liaising with the landlord to prevent possession action from being pursued;**
- **advising the tenant on their legal rights and responsibilities, and on legal and eviction processes that would result from unresolved arrears.**

Arrears resolution is different from Alternative Dispute Resolution (ADR). Alternative Dispute Resolution refers to a number of ways of resolving disputes outside the process of litigation. Most ADR covers issues such as neighbour disputes and family mediation, where tribunals or informal hearings are set up to mediate between parties and reach agreement or resolve a dispute. This approach is not appropriate in arrears cases since arrears are rarely disputed. The evidence in this report shows that tenants are often not aware that they are in rent arrears, that disputes as to whether rent is owed or has been paid to the landlord are fairly uncommon and often quickly resolved where they do exist and that tenants rarely file a defence, such as disrepair.

Despite this, there are aspects of the ADR model that could be usefully applied to arrears resolution. Agreement could be reached on repayment agreements, cases could be settled before the hearing day, rather than at the door of the court or in the court hearing as is common current practice and the service could lead to significant savings in legal costs. However, the focus of arrears resolution is on enabling tenants to pay off debts rather than resolving a dispute between the landlord and tenant.

Who should provide these services?

Arrears resolution services should be provided by independent advice agencies. The value of independent advice is that it can:

- **resolve debt problems in a holistic way and look at the reasons why the debt has accrued in the past;**
- **tackle arrears in an impartial way. From the point of view of a tenant with multiple debts, independent advice carries more authority in terms of prioritising the rent, as there is no vested interest;**
- **facilitate a realistic and sustainable repayment agreement.**

This is often not within the capacity of a housing officer, with a large number of properties to manage and whose priority is to minimise levels of rent arrears in their area. In a high proportion of cases dealt with by housing officers, repayment arrangements agreed between landlords and tenants are not sustainable, with the tenant feeling under pressure to agree unrealistic terms. Such a service would not be a substitute for good preventative arrears management, including early contact with tenants, support with housing benefit claims, liaison with housing benefit departments and flexible and realistic repayment arrangements.

Evidence from Shelter housing aid centres and the court monitoring demonstrates the effectiveness of independent advice and advocacy in preventing homelessness and recovering debt for landlords. In court, out of 20 cases at which tenants were represented by duty solicitors or advisers, seven possession orders were applied for (including two outright orders) and only one suspended possession order was made. Compared to this, overall, landlords sought possession in two fifths of cases and gained possession in nearly a third (see appendix). The details of fifteen cases recorded by Shelter advisers indicate that large amounts of debt were recovered for landlords through backdated housing benefit claims and that possession was prevented in nine out of 15 cases.

Claire, a secure tenant and single mother of three, approached Shelter when the council obtained a bailiff's warrant for her eviction. She had problems claiming housing benefit when she was signed off work sick due to stress. She had accrued rent arrears previously for which the council had previously obtained a suspended possession order on the basis that she paid her rent plus £15 per week. Claire's employer had helped her to reduce the arrears significantly at that time, but once she became unable to work and did not receive the benefit to which she was entitled, the arrears increased.

Claire sought help from Shelter who helped her to get her benefit entitlement reinstated and recover £700 housing benefit to which she was entitled. Shelter then negotiated with the council to agree to suspend the warrant and accept rent payments plus £3 per week towards the remaining arrears, a level that Claire could more easily afford. Shelter continued to advise and support Claire when her benefit payment stopped again because her statutory sick pay had ended and she had to claim income-based jobseeker's allowance, which constituted a change in circumstances.

Interventions made by Shelter included:

- *court advocacy to suspend the bailiff's warrant and prevent eviction*
- *welfare benefits advice to resolve complex problems*
- *debt advice to resolve and stabilise long-term arrears*
- *negotiation to ensure the tenant remained in her home whilst her landlord recovered outstanding arrears.*

How would tenants access the service?

In the case of serious arrears, housing officers should offer tenants the option of using the arrears resolution service before serving a Notice of Seeking Possession. This should not be a substitute for good arrears management practices, including early offers of debt counselling or support.

Other points of access and referral could be via community organisations and self-referral in response to local advertising through leaflets and posters in local libraries, post offices and benefits offices.

Who should fund arrears resolution?

Arrears resolution services could be funded through a joint initiative between the Lord Chancellor's Department and the ODPM. The evidence in this report highlights the relevance of these services to both departments' policy agendas. Such a service could help to reduce homelessness through evictions for rent arrears, recover debt for social landlords in a more cost effective way and reduce the number of cases taken to court.

CONCLUSION

As outlined above, the Government has already highlighted rent arrears as a major cause of homelessness and identified the development of new arrears mediation services as a priority in its preventative agenda. The evidence and arguments in this report provide a strong case for pressing ahead with this agenda. Current housing management and allocations practices are costly and ineffective in either sustaining tenancies or in recovering rent for landlords. Although possession is necessary in some cases and often makes short-term financial sense to individual social landlords, the overall financial and human costs are high.

Shelter believes that arrears resolution services should now be developed as a priority, with the support of the ODPM and Lord Chancellor's Department and should be used by social landlords before resorting to possession action. We also suggest a number of other improvements, particularly to the housing benefit system, to prevent arrears arising and to encourage landlords to use possession as a last rather than a first resort. We hope that this report provides a useful contribution in taking this agenda forward.

KEY RECOMMENDATIONS

Arrears resolution

The Government should fund independent advice agencies to provide arrears resolution services. Arrears resolution would cover a number of activities designed to stabilise and repay debt owed to landlords and to prevent possession. Social landlords should offer tenants with rent arrears the service before embarking upon possession action. This could be funded as a joint initiative between the ODPM and Lord Chancellor's Department.

Homelessness strategies

In their homelessness reviews, local authorities should identify homelessness due to rent arrears that results from their own policies and those of housing associations. Homelessness strategies should identify ways of reducing homelessness due to rent arrears as a priority.

Housing benefit

The Government should review the payment of housing benefit in arrears. Since 1996, local authorities have been required to make payments to claimants at the end of the period to which they relate, normally four weeks in arrears. This arrangement means that landlords face cash flow problems and also makes it more difficult for them to work with tenants to identify and make up shortfalls between the rent and housing benefit due to deductions or recovery of overpaid housing benefit.

Regulations and local authority practice on the recovery of overpaid housing benefit should be reformed. Recovery of overpaid benefit can result in sudden, large rent arrears.

To prevent this:

- local authorities should not be able to recover overpayments that are a result of official error, when a tenant has provided full information;
- overpayments due to claimant error should be recovered at a reasonable rate, not through lump sum recovery from a backdated or current housing benefit award or through large weekly deductions from ongoing housing benefit;
- overpayments should only be recovered after consideration of the individual client's circumstances.

The Government should sanction local authorities that fail to make interim payments of housing benefit. It is a legal requirement that local authorities make interim payments of housing benefit within a fortnight of the receipt of the claim if, given all the necessary information, they have not reached a decision of the amount of benefit payable. In practice, many local authorities fail to make these payments.

Housing benefit should be paid on two properties for a period of four weeks as standard practice when homeless households move from temporary into settled accommodation. Homeless households often accrue arrears at the very start of their tenancies because they may not be able to move into permanent accommodation at the point when they accept an offer. At present housing benefit is only rarely paid for rent on two properties if the household has moved into the new property and is still liable for rent payment on the old property.

Social landlords and court action

Social landlords should seek possession through the courts as a last resort. There should be a clear prohibition on suspended or outright possession orders where the landlord offers no or inadequate evidence in court of actions taken to resolve arrears.

A Best Value Performance Indicator for tenancy sustainment should be introduced for all social landlords to reduce the number of evictions for rent arrears. This would counter-balance the current indicator on managing arrears, which provides a financial incentive to social landlords to evict tenants with rent arrears.

FOOTNOTES

ⁱ DTLR (2002) *More than a roof: a report into tackling homelessness*, London:DTLR, p.23

ⁱⁱ CIPFA statistical information service (2002) *Housing Rent Arrears and Benefits Statistics 2001*, London: CIPFA

ⁱⁱⁱ Only some of the difference between these figures is due to different definitions of rent arrears. The Survey of English Housing refers to two or more weeks arrears whereas the CIPFA (local authority) data cover all net indebtedness in respect of rents, water rates and other charges.

^{iv} Ford, J. and Seavers, J. (1998) *Housing associations and rent arrears: attitudes, beliefs and behaviour*, York: JRF/CIH; DoE (Gray et al) (1994) *Rent Arrears*, London: HMSO

^v ODPM (2002) *Best Value Performance Indicators for 2000/01*

^{vi} The Housing Corporation (2002) *Housing associations in 2001 Performance Indicators*

- ^{vii} Audit Commission in Wales/Cardiff University Survey (2002) *Rent arrears and housing benefit in the Welsh social rented sector*, London: Audit Commission
- ^{viii} Ford, J. and Seavers, J. (1998) *Housing associations and rent arrears: attitudes, beliefs and behaviour*, York: JRF/CIH
- ^{ix} DSS Research Report 138 (1999) *Low income families in Britain*, London: HMSO; Wheatley, J. (2001) *Work in Progress: CAB experiences of Working Families' Tax Credit*, London: NACAB
- ^x DWP (2000) *Income Related Benefits: Estimates of Take-up 1999/2000*
- ^{xi} Ford, J. and Seavers, J. (1998) *Housing associations and rent arrears: attitudes, beliefs and behaviour*, York: JRF/CIH
- ^{xii} DWP Research Report No 153 (2001) *Families, poverty, work and care: a review of the literature on lone parents and low-income couple families with children*, Leeds: CDS/HMSO
- ^{xiii} DoE (Gray et al) (1994) *Rent Arrears*, London: HMSO
- ^{xiv} Berthoud and Kempson (1992) *Credit and Debt. The PSI Report*, London: Policy Studies Institute
- ^{xv} DoE (Gray et al) (1994) *Rent Arrears*, London: HMSO
- ^{xvi} Kempson, E. and Whyley, C. (1999) *Kept out or opted out? Understanding and combating social exclusion*, Bristol: Policy Press; Jones, P. (2001) *Access to credit on a low income*, UK: Co-operative Bank
- ^{xvii} Palmer, H. and Conaty, P. (2002) *Profiting from Poverty*, London: New Economics Foundation
- ^{xviii} Kempson et al (1994); Berthoud & Kempson (1992); DoE (1994)
- ^{xix} Berthoud and Kempson (1992)
- ^{xx} Audit Commission (1998) *Home alone; the role of housing in community care*, London: Audit Commission, p.38
- ^{xxi} The two major regimes regulating security of tenure are the secure tenancy regime (Housing Act 1985) and the assured (and assured shorthold) tenancy regime (Housing Act 1988).
- ^{xxii} Roof (May/June 2002) *Victory: government counts evictions*
- ^{xxiii} LCD figures published in Roof, September/October 2002
- ^{xxiv} Bryant, J. (2001) 'Nine-tenths of the law' in *Housing Today*, 13 December 2001
- ^{xxv} The Housing Corporation (2002) *Sector study 14: Stock turnover and evictions in the housing association sector*, London: Housing Corporation
- ^{xxvi} LCD (1996) *Access to Justice Inquiry* found that 'claimants primarily seek repayment of arrears rather than possession of the property'; Law Commission (2002) *Renting Homes: Status and Security consultation paper*, London: Law Commission; DoE (1989) *Taking Tenants to Court: a study of possession actions by local authorities*, London: HMSO
- ^{xxvii} DoE (Leather, P. and Jeffers, S.) (1989) *Taking tenants to court*, London: HMSO
- ^{xxviii} Audit Commission (1998) *Home alone; the role of housing in community care*, London: Audit Commission, p.38
- ^{xxix} Butler, S. (1998) *Access denied: the exclusion of people in need from social housing*, London: Shelter
- ^{xxx} DETR (2001) *Local authority policy and practice on allocations, transfers and homelessness*, London: HMSO
- ^{xxxi} Smith et al (2001) *The Lettings Lottery – the range and impact of homelessness and lettings policies*, London: Shelter
- ^{xxxii} The Housing Corporation (2001) *Sector study 9: Housing associations and private sector leasing*, London: Housing Corporation
- ^{xxxiii} National Housing Federation London Region (2001) *Of No Benefit*, London: NHF
- ^{xxxiv} In the Housing Act 1996, the concept of 'intentional' homelessness suggests a chain of causality in which the person did (or did not do) something that made them homeless, knowing that a possible consequence of their action (or lack of action) would be the loss of their home.
- ^{xxxv} Meth, F. (2003) *Analysis of ODPM homelessness statistics 2001/2*, London: Shelter
- ^{xxxvi} Citizens Advice Bureau (2002) *Unfair and Underfunded: CAB evidence of what's wrong with the Social Fund*, London: NACAB

APPENDIX: RESEARCH METHODOLOGY

Our methodology was made up of four parts:

- a literature review of the background to, and current research on rent arrears and possessions actions, as well as a general review of the policy and practice in this area;
- information from Shelter housing aid centres on the numbers and types of rent arrears cases they had advised on; and in depth information and case studies from case workers and field workers from two housing aid centres on arrears resolution work they carried out;
- a court monitoring exercise of 182 landlord possessions cases (rent arrears) heard in three county courts and landlord possession figures over six months supplied by court manager. National possession figures were supplied by the Court Service;
- interviews with key stakeholders to identify different perspectives on the issue.

Shelter housing aid centres

Over 50 housing aid centres (HACs) give free legal information, advice and advocacy on housing issues to members of the public. Housing advice covers a broad range of issues including advice on rights and repossession, advice on benefits, debt, disrepair, homelessness, finding accommodation, rent levels, council tax, relationship breakdown, the Children Act and community care.

Table A1 shows the number of problems presented by clients at Shelter housing aid centres in England for the financial year 2001/02. The figure for homelessness is included, since this may be a result of landlord possession action due to arrears, but may not be recorded by advisers as a main problem presented by the client.

Table A1: Problems presented by clients at Shelter housing aid centres, England 2001/02

| | Number of problems | % of all problems |
|---|--------------------|-------------------|
| Rent arrears | 6,325 | 5 |
| Housing benefit | 5,764 | 4 |
| Other benefits | 1,716 | 1 |
| Landlord possession action* | 10,183 | 8 |
| Homelessness | 41,712 | 31 |
| Total number of problems presented | 135,317 | 100 |

Source: Shelter, 2002 (data for England only, financial year 2001/02)

* includes private and social landlords

Court monitoring exercise

Between September and December 2002, 158 court hearings on social landlord possessions days were observed in three county courts. An average of fifty cases were heard by the district judge on each possession day. The results are presented below.

Around half of cases (48 per cent) had been heard in court previously. Table A2 shows a small difference in the judgments sought by local authorities and housing associations. The lower proportion of housing association cases in which outright possession was sought, and the greater proportion of cases with arrears under £500 possibly indicate that housing associations are quicker to use possession proceedings as a management tool (table A3). Figures on arrears management actions by social landlords support this: 82 per cent of local authority officers had previously reached a repayment arrangement with the tenant, compared to 75 per cent of housing association officers.

Table A2: Judgments sought and made by social landlords, numbers

| | Local authority | | Housing association | |
|-------------------------------|-----------------|---------------|---------------------|---------------|
| | Order asked for | Order granted | Order asked for | Order granted |
| Outright possession order | 18 | 14 | 6 | 3 |
| Suspended possession order | 18 | 16 | 22 | 16 |
| Case adjourned | 39 | 42 | 33 | 38 |
| Case withdrawn | 7 | 9 | 7 | 11 |
| Money judgment | 2 | 2 | 2 | 1 |
| Directions for filing defence | - | 1 | 1 | 2 |
| Total | 84 | 84 | 71 | 71 |

Table A3: Distribution of rent arrears, percentages (rounded up)

| Level of rent arrears | | Local authority | Housing association |
|-----------------------|--------|-----------------|---------------------|
| | < £500 | 17 | 27 |
| £500-£1,000 | 23 | 16 | |
| £1,000-£5,000 | 55 | 50 | |
| £5,000-£10,000 | 3 | 5 | |
| > £10,000 | 3 | 2 | |
| Total (number) | | 100=(86) | 100=(72) |

Table A4 shows that housing benefit was a contributory factor to rent arrears in 70 per cent of possession cases where a reason was provided. The second major cause of rent arrears was financial problems due to job loss or change. These reasons include all reasons presented to the district judge in the court by claimants and defendants. These figures may understate financial and personal problems, since the tenant was often not present to give such information and may not have been willing to provide this information.

Table A4: Reasons for rent arrears (where given), numbers of cases

| | |
|--|-----------|
| Housing Benefit | 64 |
| Delay in processing/renewing claim | 12 |
| Non-dependant deduction | 5 |
| Incapacity benefit ----- applicable amount | 2 |
| Other shortfall between HB and rent | 4 |
| Service charge | 1 |
| Change in circumstances | 10 |
| Backdated claim outstanding | 11 |
| HB claim not renewed | 7 |
| Recovery of overpayment | 6 |
| Failed to provide correct information for HB claim | 4 |
| HB appeal outstanding | 2 |
| Sudden life events | 4 |
| Domestic violence | 2 |
| Work absence due to illness | 1 |
| Death in family | 1 |
| Financial problems/debts | 15 |
| Financial problems due to job/labour market change | 13 |
| Other debts | 1 |
| Student unable to pay | 1 |
| Support needs not met | 3 |
| Social services due to pay rent | 2 |
| Mental health problem | 1 |
| Other | 7 |
| Awaiting Child Support Agency payment | 1 |
| Refused to pay due to disrepair | 6 |
| Total number of cases for which reason was recorded | 93 |

Table A5 shows that tenants living in temporary accommodation with non-secure tenancies were far more likely to have an outright possession order sought and granted against them than tenants in secure accommodation. This simply reflects the common use of a mandatory ground for possession based on two months rent arrears for tenants with assured shorthold tenancies.

Table A5: Possessions actions in temporary and secure rented sector, numbers of cases

| | Temporary accommodation | | Secure accommodation | |
|----------------------------|-------------------------|---------------|----------------------|---------------|
| | Order asked for | Order granted | Order asked for | Order granted |
| Outright possession order | 10 | 9 | 12 | 7 |
| Suspended possession order | 1 | 1 | 38 | 29 |
| Case adjourned | 3 | 4 | 65 | 74 |
| Case withdrawn | - | - | 16 | 21 |
| Total | 14 | 14 | 131 | 131 |

Table A6 shows that tenants' attendance at the court hearing has a positive impact on the judgement made. In cases where a possession order was asked for, less than half were granted in cases where the tenant was present, compared to 85 per cent of cases for which the tenant was not present.

In 20 cases at which tenants were represented by duty solicitors or advisers, seven possession orders (two outright) were asked for and only one suspended possession order was made. This indicates the positive impact of advice and advocacy.

Table A6: Impact of tenant's attendance on outcome, numbers of cases

| | Tenant present | | Tenant not present | |
|--------------------------------|-------------------|---------------|--------------------|---------------|
| | Order applied for | Order granted | Order applied for | Order granted |
| Outright possession order | 3 | 1 | 22 | 16 |
| Suspended possession order | 15 | 7 | 25 | 25 |
| Case adjourned | 17 | 23 | 54 | 57 |
| Case withdrawn | 2 | 6 | 12 | 15 |
| Money judgment | 1 | - | 3 | 3 |
| Suspend possession warrant | 3 | 3 | - | - |
| Instructions on filing defence | - | 1 | - | - |
| Total | 41 | 41 | 116 | 116 |

Table A7 shows that a possession order was less often asked for or made where a housing benefit issue was outstanding. Two thirds of claimants asked for a possession order in cases where no housing benefit issue was known and a possession order was granted in half of these cases. Nearly 40 per cent of landlords asked for a possession order where there was a problem with housing benefit, and possession was granted in more than a quarter of all cases.

Table A7: Impact of housing benefit issues on outcome, number of cases

| | Housing benefit issue | | No housing benefit issue | |
|----------------------------|-----------------------|---------------|--------------------------|---------------|
| | Order asked for | Order granted | Order asked for | Order granted |
| Outright possession order | 9 | 5 | 6 | 3 |
| Suspended possession order | 16 | 13 | 17 | 14 |
| Case adjourned | 36 | 43 | 11 | 17 |
| Case withdrawn | 1 | 2 | - | - |
| Money judgment | 1 | - | - | - |
| Suspend possession warrant | 3 | 3 | - | - |
| Total * | 66 | 66 | 34 | 34 |

* total number of cases where information on housing benefit was given

Court data

Figures supplied by court managers from three county courts indicate differences between different areas. However, the difference in collection of figures and the combined figure for all possession warrants granted makes it difficult to draw any strong conclusions from the data.

Table A8: Possession orders and warrants granted to social landlords in one year, 2001/02

| | West London | East London | Midlands |
|---|-------------|-------------|----------|
| Outright possession order | 644 | 1,207** | 141 |
| Suspended possession order | 796 | 888 | 244 |
| Warrant for eviction for all possessions* | 2,705 | 1,980 | 474 |
| Stay of Warrant applied for | - | 780 | 290 |
| Stay of Warrant granted | - | - | 195 |

* This figure includes possession warrants issued to social and private landlords and mortgage companies

** Figure includes private and social possessions

Table A9: Possession orders and warrants granted to social landlords in one week, 2002

| | West London | East London | Midlands |
|---|-------------|-------------|----------|
| Outright possession order | 9 | 28** | 6 |
| Suspended possession order | 12 | 6 | 11 |
| Warrant for eviction for all possessions* | 43 | 39 | 11 |
| Stay of Warrant applied for | 25 | 14 | 7 |
| Stay of Warrant granted | - | - | 3 |

* This figure includes possession warrants issued to social and private landlords and mortgage companies

** Figure includes private and social possessions

Table A10: Social possession orders and warrants granted, England and Wales 2001

| | |
|---|--------|
| Outright possession order | 30,350 |
| Suspended possession order | 70,293 |
| Warrant for eviction for all possessions* | 65,620 |

Source: Court Service data, 2002

* This figure includes possession warrants issued to social and private landlords and mortgage companies

Shelter
88 Old Street
London EC1V 9HU

February 2003

£7.50 ISBN: 1 903595 13 4

Shelter produces a wide range of informative publications about housing and homelessness. For a catalogue please email keytitles@shelter.org.uk or visit our website at www.shelter.org.uk/publications