

Research

Evictions by social landlords in Scotland

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Shelter

Evictions by social landlords in Scotland

Summary of key points

- Social landlords (councils and housing associations) took legal action which resulted in 3,573 tenants losing their homes in 2007-08.
- In detail this means in 2007-08 social landlords raised 20,039 court actions, obtained 7,966 decrees and evicted 3,573 tenants.
- Councils raised 13,382 court actions, obtained 5,063 decrees of eviction and evicted 2,089 tenants.
- Registered Social Landlords (RSLs) raised 6,657 court actions, obtained 2,903 decrees and evicted 1,484 tenants.
- Almost all of these evictions were for rent arrears: fewer than 3% were for anti social behaviour.
- Social landlords are twice as likely to obtain a decree of eviction against their tenants than a mortgage lender is for a private home-owner.
- Councils tend to evict at a slightly higher rate than RSLs, but there are more significant differences between individual RSLs and individual councils themselves than there are between the two sectors.
- Compared to earlier years, councils are taking fewer people to court and obtaining fewer decrees against them. However, they are evicting slightly more tenants than in 2001-02 despite increasing attention being paid to prevention of homelessness.
- Overall, RSLs and councils evicted 3,295 tenants in 2003-04 (the earliest year for which we have comparable data) and 3,573 in 2007-08: a rise of 8%.
- There are enormous local variations in the use of evictions. Councils which emerge as having relatively high levels of evictions include North Lanarkshire, West Lothian and East Ayrshire. It is not easy to explain these differences by differences in the local environment.
- The social landlord with the highest number of evictions is Glasgow Housing Association (GHA) which is evicting many more tenants than Glasgow City Council was before stock transfer in 2003.
- Evictions on this scale cannot be explained as being last resort. They run counter to the homelessness duties of both RSLs and councils and to effective management of debt and community safety.
- Shelter argues that the general acceptance of the need to avoid mortgage repossession needs to be extended to social tenants facing eviction. Action is needed by the Scottish Housing Regulator and by individual landlords to explore alternatives to eviction action.

1. Introduction

This report is about evictions from social housing – that is, housing owned by councils or registered social landlords (or housing associations, as most still are).

It is published at a time when there is an almost continuous diet of media stories and announcements in both parliaments about the plight of home-owners at risk of repossession. Shelter has campaigned hard for better protection of home-owners and there is no doubt that every avoidable repossession is an individual and social tragedy.

But it is curious that, by comparison, no attention is focused on eviction of social tenants, despite the fact, as we show here, the rate of eviction is higher than for home-owners.

In this report we seek to redress the balance. Social landlords are publicly funded to provide social protection for the poorest and often most vulnerable groups in society. They are heavily regulated. Local authorities, in particular, have the increased expectation that they prevent homelessness and both councils and RSLs face the irony of having to re-house, at a future point, some of those they have evicted. So it is a surprise that almost 3,600 households are losing their homes through eviction action each year.

We do not suggest that social landlords are cavalier with their use of legal action, but nor is it conceivable that this level of evictions are all a last resort. If we are serious about prevention of homelessness being crucial to reaching Scotland's landmark 2012 homelessness commitment¹ then we need to be dramatically reducing homelessness resulting from social landlords' own actions.

In the remainder of the report we provide a profile of evictions both nationally and locally and make some suggestions as to alternative strategies. For the most part we have focused on local authorities. This is simply because there are fuller data in the council sector than for RSLs. However, at the start of 2007-08 RSLs comprised 43% of the social housing stock (now even higher) and it is important to reflect on practice there as well.

Unfortunately, we have no data on private landlords. That is because no information is collected on private landlords and, given the system of six-month short assured tenancies, it would be difficult to make any meaningful comparison with other sectors anyway. However, it would be fair to say that the level of avoidable evictions in the private rented sector would be very much higher than for social housing. This is a topic for another day.

¹ This statutory commitment says that by 31 December 2012 all unintentionally homeless people will be eligible for a permanent home. Intentionally homeless people will be entitled to shorter term accommodation but on a recurring basis, if necessary.

2. Evictions nationally

Table 1 gives a summary of eviction actions in 2007-08².

	Councils	RSLs	Total
Taken to court	13,382	6,657	20,039
Decree granted	5,063	2,903	7,966
Eviction occurred	2,089	1,484	3,573
Additional evictions in which tenant was rehoused immediately after.	No data	510	510

Source: Housing Statistics for Scotland 2008 – Scottish Government (November 2008) and Annual Performance & Statistical Return (APSR) - Scottish Housing Regulator 2008

Looking at local authorities first of all, 13,382 tenants across Scotland were taken to court by councils in 2007-2008, with 5,063 decrees for eviction being granted. Of the total number of cases going to court, 2,089 resulted in an eviction or abandoned dwelling³: 16% of the starting total.

Of the 2,089 evictions, 1,221 were actual evictions (around 60% of the total), while the remaining 868 cases were formally abandonments in the course of legal action. Of the 2,089 evictions, only 37 (fewer than 2%) were for anti-social behaviour, with almost all of the others presumed to be for rent arrears.

In earlier reports we drew attention to the fact that local authorities took far more people to court than were actually evicted⁴. While this is obviously good in the sense that the issue may have been addressed during the course of legal action and so avoided eviction, it also led us to ponder if councils were embarking on eviction action too readily and so undermining the extent to which such action was perceived, by tenants, to be a real sanction. This is still an issue to reflect upon but there have been some changes to note as well. Back in 2001-02, 11% of cases proceeding to court resulted in the tenant losing his or her home. It is now 16%. That change could be the result one of two things: fewer people being taken to court in the first place (a good thing); or more people being evicted once they get there (a bad thing). Our analysis shows that it is a bit of both.

² See appendix 1 for details of the different data collection systems in RSLs and LAs.

³ Throughout this report we refer to evictions as recovery of a tenancy where a decree was enforced by Sheriff Officers or where the tenant abandoned the property *during legal action* and the property was formally recovered through using abandonment procedures.

⁴ Shelter Scotland and Legal Services Agency (April 2003), 'Evictions by local authorities in Scotland: an interim joint paper from Shelter and LSA'

Maggie's Centre referred David*, 26, to Shelter when he was due to be evicted in ten days. He was suffering from secondary cancer that had spread through his body after being in remission for two years. He had been self employed throughout the year but had been getting more ill and should have gone onto benefits but tried to struggle on without being able to take on the work he normally could. The landlord would not call off the eviction and felt they had given him enough chances. Shelter recalled the eviction decree and Shelter Housing Law Service (SHLS) represented him in court. His family decided to club together and pay off the arrears for him, he claimed benefits so his ongoing rent liability was met.

* Names have been changed to protect client's identity

Turning now to RSLs, the published data is not as extensive as data for councils, however we are grateful to the Scottish Housing Regulator for making information available. We have a record of actual evictions going back to 2003-04, but only data on the number of court actions raised and decrees granted since 2004-05. In 2007-08 RSLs:

- Took 6,657 tenants to court
- Obtained decree against 2,903
- Evicted 931 tenants and took possession of a further 553 tenancies through abandonment processes, making a total of 1484 evictions.

Of these evictions 61 (4.1%) were for anti-social behaviour, meaning that RSLs evict, proportionately, more than twice as many people for behaviour than do councils. However, the numbers are too small to attach any particular significance to this. There were a further 510 evictions carried out where the tenant was then offered a new tenancy at the same dwelling. Although this is an interesting practice to reflect upon we do not look at it any further here.

Added together, RSLs and councils took action against tenants such that 3,573 lost their homes in 2007-08. Of those, 98 (2.7%) were evicted for anti-social behaviour.

Social landlords compared

Earlier reports have suggested that RSLs and councils adopt different strategies when taking action against tenants. Broadly, RSLs take legal action less frequently but when they do so they tend to follow it through more rigorously. The current data confirms that, with RSLs taking far fewer tenants to court but evicting at around the same level as councils. In detail, local authorities evict around 6.0 per thousand tenants and RSLs around 5.7.

Social evictions compared to mortgage repossessions

In the current climate it is interesting to compare social sector evictions to mortgage possessions. There are some data limitations here which mean that we can only compare decrees rather than actual evictions. However, the comparison is striking: while decree is awarded against around 6.8 per 1,000 home-owning households, the comparable figure for social tenants is 13.1. Assuming that social landlords and mortgage lenders are equally likely to act on a decree, that means that social tenants are twice as likely to be evicted as home-owners⁵.

Evictions over time

Evictions data for councils have been collected since 2001-02; however, comparison over time is fraught with difficulty as, since then, six councils have transferred homes to RSLs and therefore provide data in the framework used by the Scottish Housing Regulator for RSLs only⁶.

However, by controlling for stock size we can make some comparisons. At the start of 2001-02 there were around 553,000 council homes; by the start 2007-08 this has fallen to 346,000 as a result of stock transfer and Right to Buy. So, using that we can say the following:

⁵ This calculation has been made in a number of ways:

First of all we take the only thing we have comparable data for: that is decrees awarded against home-owners and those awarded against social tenants. We do not have data for the number of home-owners against whom decree was enforced. Next we calculate the number of decrees awarded against social tenants and divide it by the number of social rented houses as at March 2007. This gives us a rate per 1,000 of 13.1. For home-ownership we have taken the figure for April-September 2008 and doubled it to give a full year estimate and then taken 70% of that (70% is the percentage of people who are home-owners who have a mortgage) and this gives a figure of 6.8 per 1,000. Strictly these figures are a rate per 1,000 of people with decrees against them: but if we assume the same "conversion" rate of decree to actual eviction then we can use it as an indicator of relative eviction/repossession rates too.

⁶ See appendix 1 for details of the different data collection regimes

- The proportion of tenants taken to court has fallen fairly significantly (5.1% in 2001-02 compared to 3.9% in 2007-08)
- The proportion against whom decree is granted has also fallen but less steeply (1.9% compared to 1.5%)
- The proportion of tenants losing their homes has actually risen (from 0.56% to 0.6%).

So, broadly, councils are taking court action less frequently than six years ago but when they are taking it, they are more rigorous in seeing it through.

We can carry out something of the same analysis for RSLs albeit in a more limited way. The data only go back to 2003-04 and we only have fuller data from 2004-05. At the start of 2003-04 there were 238,000 RSL homes; at the start of 2004-05 there were 251,000 and by the start of 2007-08 this had risen to 261,000.

In 2003-04 there were 1,092 evictions compared to 1,484 in 2007-08. The number of evictions has increased by 36% while the stock has risen by just under 10%. So, even controlling for rising number of homes, RSLs evictions are increasing.

Something similar is true of the number of decrees obtained, which have risen by 17% since 2004-05. However, the number of court actions taken has fallen.

As with local authorities, RSLs are taking fewer tenants to court but are more likely to see it through to eviction once action has been taken.

So, looking over the last few years, we can see that, despite the increasing attention being given to prevention of homelessness, social landlords, particularly RSLs, are actually evicting more tenants than before. The number of tenants evicted by social landlords has risen by 8% from 3,295 in 2003-04 to 3,573 in 2007-08.

3. Evictions locally

Eviction actions taken to court

Area	No. of eviction actions	Estimated number of properties	Percentage (eviction actions/properties)
Scotland	13,382	329,524⁷	4.1%
Aberdeen City	1,163	23,193	5%
Aberdeenshire	375	13,098	2.9%
Angus	121	8,021	1.5%
Argyll & Bute	n/a ⁸	n/a	n/a
Clackmannanshire	168	5,073	3.3%
Dumfries & Galloway	n/a	n/a	n/a
Dundee City	397	14,711	2.7%
East Ayrshire	1,031	13,330	7.7%
East Dunbartonshire	143	3,676	3.9%
East Lothian	492	8,090	6.1%
East Renfrewshire	168	3,123	5.4%
Edinburgh, City of	930	22,204	4.2%
Eilean Siar	n/a	n/a	n/a
Falkirk	498	16,579	3%
Fife	910	31,424	2.9%
Glasgow City	n/a	n/a	n/a
Highland	513	13,858	3.7%
Inverclyde	n/a	n/a	n/a
Midlothian	145	6,081	2.4%
Moray	120	5,917	2%
North Ayrshire	868	13,643	6.4%
North Lanarkshire	2,008	37,990	5.3%
Orkney	7	775	0.9%
Perth & Kinross	84	7,573	1.1%
Renfrewshire	948	13,980	6.8%
Scottish Borders, The	n/a	n/a	n/a
Shetland	6	1,815	0.3%
South Ayrshire	104	8,392	1.2%
South Lanarkshire	876	26,327	3.3%
Stirling	273	5,988	4.6%
West Dunbartonshire	49	11,670	0.4%
West Lothian	985	12,993	7.6%

⁷ This stock figure is different to the figure used elsewhere in this paper as it is from a source that splits the data by LA – Public Authority Housing Stock tables (Housing Statistics for Scotland 2008)

⁸ Please note the local authorities that have undergone complete stock transfer.

Evictions practice varies widely amongst Scottish local authorities, from councils who rarely take tenants to court to local authorities who habitually use either eviction or the threat of eviction against large numbers of tenants.

Across Scotland local authorities took 13,382 tenants to court between April 2007 and March 2008. This equates to eviction actions being initiated against 4.1% of the total number of tenants in Scotland. The use of court action against tenants varied widely between local authorities across Scotland. North Lanarkshire took the greatest number of tenants to court with 2,008 eviction actions⁹ and West Lothian and East Ayrshire both initiated court proceedings against almost 8% of all their tenants in 2007-2008. In the same period Shetland only sought a decree for 6 of its 1,815 properties and West Dunbartonshire for 49 out of a total stock of 11,670 properties. Interestingly, West Dunbartonshire Council is also the Scottish local authority which is furthest ahead in making progress to the 2012 homelessness target¹⁰.

Decrees obtained

Table 3 shows similar analysis, only this time looking at the “conversion rate” of actions to decrees granted.

⁹ This is not too surprising given that North Lanarkshire is also the council with the largest housing stock. Also it is fair to note, as we have later, that NLC’s use of evictions has fallen since 2001-02. However, it still compares unfavourably with other councils with large stock-holdings such as Fife and neighbouring South Lanarkshire.

¹⁰ See Corbett, Roof January/February 2009

Table 3: Number of eviction actions resulting in a decree being granted			
Area	No. of eviction actions	No. of decrees granted	Percentage (decrees granted/actions)
Scotland	13,382	5,063	37.8%
Aberdeen City	1,163	718	61.7%
Aberdeenshire	375	97	25.9%
Angus	121	52	43%
Argyll & Bute	n/a	n/a	n/a
Clackmannanshire	168	64	38.1%
Dumfries & Galloway	n/a	n/a	n/a
Dundee City	397	317	79.8%
East Ayrshire	1,031	277	26.9%
East Dunbartonshire	143	83	58%
East Lothian	492	133	27%
East Renfrewshire	168	60	35.7%
Edinburgh, City of	930	526	56.6%
Eilean Siar	n/a	n/a	n/a
Falkirk	498	268	53.8%
Fife	910	120	13.2%
Glasgow City	n/a	n/a	n/a
Highland	513	119	23.2%
Inverclyde	n/a	n/a	n/a
Midlothian	145	108	74.5%
Moray	120	32	26.7%
North Ayrshire	868	249	28.7%
North Lanarkshire	2,008	825	41.1%
Orkney	7	6	85.7%
Perth & Kinross	84	39	46.4%
Renfrewshire	948	347	36.6%
Scottish Borders, The	n/a	n/a	n/a
Shetland	6	3	50%
South Ayrshire	104	45	43.3%
South Lanarkshire	876	279	31.8%
Stirling	273	64	23.4%
West Dunbartonshire	49	36	73.5%
West Lothian	985	196	19.9%

Across Scotland 5,063 of the 13,382 court actions resulted in a decree being granted, which represents a conversion rate of 37.8%. North Lanarkshire had the greatest number of decrees granted, with a total of 825. However, in terms of proportion of actions resulting in decrees, Dundee City Council had over 300 decrees granted, which represents 79.8% of actions raised in 2007-2008. At the other end of the scale, the lowest

proportion of actions resulting in decrees can be found in Fife where only 13.2% of court cases led to a decree. Such variation is not easily explained by differences in context.

Tom and Sam* had a history of homelessness. But the couple, and their two young children, had settled well into their new social tenancy. Sadly, Sam had a miscarriage. The couple had emotional problems; Tom started drinking too much and after they split up, he lost his job. Tom didn't claim any benefits and existed on only his Tax Credit income, which was not enough to meet his rent. The couple got back together and offered a new payment plan for their rent to include the missed payments. However, due to continued missed payments, they were taken to court and because the solicitor who was due to represent them fell through at the last minute, an eviction order was granted. The arrears totalled £900. Shelter became involved to recall the eviction order and get the couple a new date to appear in court, and ensure they could secure legal representation. The eviction was cancelled and a new payment arrangement set up, which will be monitored by the courts.

* Names have been changed to protect clients' identity

Evictions

Table 4 shows that, on average 41.3% of decrees granted to Scottish local authorities result in an eviction or abandonment. Individual practice again varies widely from council to council with 87.5% of Moray's decrees leading to an eviction or abandonment compared to only 11.3% of East Lothian's.¹¹ Again this variation is difficult to explain away by differences in context. It may be reasonable to question why some local authorities are obtaining decrees that they do not end up using. Of course, this is not suggesting that local authorities should evict greater numbers of tenants; rather, if for some councils only a small percentage of decrees granted actually result in an eviction, this may be an indication that they should be exploring alternative courses of action before embarking on these expensive legal proceedings.

¹¹ 100% of Shetland's decrees resulted in eviction or abandonment; however only 3 decrees were granted so Shetland has not been used as a comparative example in this instance.

Table 4: Decrees resulting in an abandonment or eviction			
Area	No. of decrees granted	Abandonment and evictions	Percentage (decrees resulting in abandonment or eviction)
Scotland	5,063	2,089	41.3%
Aberdeen City	718	245	34.1%
Aberdeenshire	97	36	37.1%
Angus	52	14	26.9%
Argyll & Bute	n/a	n/a	n/a
Clackmannanshire	64	25	39.1%
Dumfries & Galloway	n/a	n/a	n/a
Dundee City	317	85	26.8%
East Ayrshire	277	179	64.6%
East Dunbartonshire	83	22	26.5%
East Lothian	133	15	11.3%
East Renfrewshire	60	10	16.7%
Edinburgh, City of	526	230	43.7%
Eilean Siar	n/a	n/a	n/a
Falkirk	268	110	41%
Fife	120	63	52.5%
Glasgow City	n/a	n/a	n/a
Highland	119	26	21.8%
Inverclyde	n/a	n/a	n/a
Midlothian	108	60	55.6%
Moray	32	28	87.5%
North Ayrshire	249	69	27.7%
North Lanarkshire	825	410	49.7%
Orkney	6	4	66.7%
Perth & Kinross	39	10	25.6%
Renfrewshire	347	170	49%
Scottish Borders, The	n/a	n/a	n/a
Shetland	3	3	100%
South Ayrshire	45	30	66.7%
South Lanarkshire	279	97	34.8%
Stirling	64	27	42.2%
West Dunbartonshire	36	29	80.6%
West Lothian	196	92	46.9%

Evictions by RSLs

At this point we can also introduce some of the RSL data. In all of the above tables the six councils which have transferred housing stock are excluded. However, we can then look at the evictions records for the RSLs which subsequently took on that stock as follows:¹²

- Dumfries and Galloway Council transferred to Dumfries and Galloway Housing Partnership (DGHP)
- Scottish Borders Council transferred to Scottish Borders Housing Association (SBHA)
- City of Glasgow Council transferred to Glasgow Housing Association (GHA)
- Argyll and Bute Council transferred to Argyll Community Housing Association (ACHA)
- Inverclyde Council transferred to River Clyde Homes (RCH)
- Western Isles Council transferred to Hebridean Housing Partnership (HHP)

So by looking at the RSL data for each of these 6 RSLs we can fill in some of the gaps in table 4 above.

RSL	No. evictions/abandonments
ACHA	24
DGHP	56
GHA	558
HHP	4
RCH	n/a
SBHA	35

Source: Annual Performance and Statistical Return (APSR) 2007-08 – Scottish Housing Regulator

Unfortunately there are no data for River Clyde Homes as this transfer was only completed late in the course of 2007-08, meaning that no legal actions resulted in decree or actual possession for the rest of 2007-08. However, for the other 5 RSLs, the number of eviction actions resulting in a home being lost was 677, of which Glasgow Housing

¹² It is acknowledged that the transfer may not be exactly 1 to 1, particularly as a result of secondary transfer.

Association (GHA) accounted for 558. This makes GHA the social landlord with the highest number of evictions in Scotland, which may be not be surprising given the GHA is the largest landlord in Scotland. However, a report produced before stock transfer in 2003 shows that in 2001-02 Glasgow City Council (GCC) evicted 259 tenants¹³, which is 299 fewer tenants than GHA evicted last year, despite GHA having less stock due to demolition work post-2003. GHA is currently evicting twice as many tenants as GCC did pre stock transfer.

Another way to look at it is, if the biggest social landlord should also be the biggest evictor, then it is reasonable to expect GCC to have had the highest number of evictions in the 2001-02 figures. In fact, GCC was the third highest evictor after North Lanarkshire and Edinburgh. It is interesting to note that although North Lanarkshire currently evicts the most tenants, it has reduced the actual number evicted from 535 in 2001-02 to 410 in 2007-08.

Evictions compared to lettings

Finally, table 6 shows actual evictions compared to lettings. This is a way of controlling for the size of local authority in a similar way to using housing stock figures, so that local authorities can be compared one with other.

While properties recovered in the course of eviction action account for just under 8% of lettings nationally, this varies from as high as 22% in Midlothian to around 2% in Angus, Perth and Kinross and Shetland. Other high evictors include Aberdeen, East Ayrshire, Falkirk, North Lanarkshire, Renfrewshire and West Lothian.

¹³ Shelter Scotland and Legal Services Agency (April 2003), 'Evictions by local authorities in Scotland: an interim joint paper from Shelter and LSA'. This report includes analysis of figures for court actions, decrees granted and evictions carried out by local authorities for 2001-02.

Table 6: Abandonments and evictions compared to total lettings			
Area	Abandonment and evictions ¹⁴	Total lettings 07/08	Percentage (abandonment or eviction/total lettings)
Scotland	2,089	26,877	7.8%
Aberdeen City	245	2,234	11%
Aberdeenshire	36	895	4%
Angus	14	690	2%
Argyll & Bute	n/a	n/a	n/a
Clackmannanshire	25	488	5.1%
Dumfries & Galloway	n/a	n/a	n/a
Dundee City	85	1,374	6.2%
East Ayrshire	179	1,334	13.4%
East Dunbartonshire	22	261	8.4%
East Lothian	15	422	3.3%
East Renfrewshire	10	248	4%
Edinburgh, City of	230	2,501	9.2%
Eilean Siar	n/a	n/a	n/a
Falkirk	110	1,092	10.1%
Fife	63	2,148	2.9%
Glasgow City	n/a	n/a	n/a
Highland	26	1,009	2.6%
Inverclyde	n/a	n/a	n/a
Midlothian	60	272	22.1%
Moray	28	336	8.3%
North Ayrshire	69	1,001	6.9%
North Lanarkshire	410	3,260	12.6%
Orkney	4	63	6.3%
Perth & Kinross	10	427	2.3%
Renfrewshire	170	1,409	12.1%
Scottish Borders, The	n/a	n/a	n/a
Shetland	3	159	1.9%
South Ayrshire	30	661	4.5%
South Lanarkshire	97	2,166	4.5%
Stirling	27	313	8.6%
West Dunbartonshire	29	961	3%
West Lothian	92	721	12.8%

¹⁴ Throughout this report we refer to evictions as recovery of a tenancy where a decree was enforced by Sheriff Officers or where the tenant abandoned the property **during legal action** and the property was formally recovered through using abandonment procedures.

4. Are evictions rational?

So far we have argued that social landlords are evicting far more people than can be justified by the argument that it is a last resort. There will be tenants who are wilful non-payers of rent or those whose conduct is inexcusable and there will be examples of councils and RSLs patiently exploring every option before reluctantly seeking the court option. But among those 3,600 tenants and their families there will also be those who are mired in the complexity of housing benefit or slumped deep in personal health problems or facing a life crisis for whom eviction is neither warranted nor appropriate.

Brian*, 40, has been a tenant of his council house, now a housing association house, for 24 years. He is self-employed but has seen his work dry up recently. He was threatened with eviction after accruing rent arrears while trying to change his benefits because of his change of circumstances. The arrears totalled around £400 - about two months rent. A payment plan was set up between Brian and the housing association. However, due to a mix-up over which office to pay the arrears to, the extra payments were not made. The housing association then followed through with the eviction threat and because Brian was not represented in court, a decree for eviction was granted. Brian contacted Shelter. His caseworker managed to have his case recalled and it will be re-heard. She also helped find him legal representation in his area.

* Names have been changed to protect client's identity

Of course, social landlords need to collect the rent. That is how they pay for services which benefit all tenants. If rent is not collected then services suffer. However, for social landlords eviction is scarcely rational either. Yes, for rent arrears cases an eviction stops a debt escalating; but only at the cost of converting it to former tenants' arrears, which are notoriously difficult to recover. For those minority of cases where conduct is an issue, evicting someone does not solve it; it simply displaces it – it becomes someone else's issue.

Councils are gradually moving towards a situation where they are expected to house all homeless people, including intentionally homeless people. It simply makes no sense to be evicting one person today, only to have to house them tomorrow. This is true of RSLs as well, given their duty in section 5 of the 2001 Housing Act, to take homeless referrals from councils.

And then there is the sheer cost. Estimates of the cost of eviction are very hard to provide but Shelter has come across plausible examples of eviction costing up to £20,000 per family, once legal, administrative, support and temporary accommodation costs are taken into account. Is this really rational in the era of efficient governance?

So what can be done?

Before anything else there needs to be a renewed acceptance that eviction has little place in a modern Scotland. Over the last few months a huge number of initiatives have been launched by the UK Government, the Scottish Government and the lending industry all designed to make inroads into the anticipated 75,000 mortgage repossessions across the UK in 2009.

Perhaps the highest profile of these has been the commitment to give 2 years grace to pay for those mortgage holders who face reduced incomes, with any default being underwritten by national government.

In many ways this is a remarkable commitment. Would that tenants of social landlords had such a safety net! Of course, it could be argued that tenants do have a safety net in the shape of housing benefit which is not available for home-owners. But this only means something if housing benefit works properly and too often it does not.

Samantha, 23, has lived in her house for two and a half years, with her partner and three children. Part of her rent to the landlord from which she rented her house was being paid through housing benefit, or so she thought. She received a letter saying she was £1,000 in rent arrears due to a housing benefit error. A proportion of her rent arrears were paid off by the housing benefit but she was still liable for rent and court costs. She missed payments, due to spending time in hospital with her pregnancy, and eviction proceedings were started again. She received notification she was due to be evicted on the day she was to be induced with her fourth child. She contacted Shelter. Case workers for Shelter have asked for the case to call again in court so she can be represented and try to stave off the eviction.

Our clients' experiences with housing benefit problems are to some extent supported by recent performance information on the time taken to process new housing benefit claims.¹⁵ On average it takes 25.8 days for new claims to be processed in Scotland,

¹⁵ Figures from Audit Scotland – Benefits Administration performance information 2007-08

however there is a wide variation in performance across local authorities. It seems that tenants living in certain council areas have to wait much longer for their claim to be processed. For example, it takes an average of 38.6 days for new claims to be processed in Midlothian, whereas in South Lanarkshire new claims are processed, on average, in 13.5 days.

Shelter would like to see for social tenants a comparable package of reforms to that which has been assembled for home-owners these last few months.

Secondly, the Scottish Housing Regulator needs to make eviction a much more important feature of the way it assesses the performance of social landlords. If social landlords are to have credibility in preventing homelessness then they need to get their own house in order. To this end the introduction, in early 2009, of section 11 of the Homelessness Act 2003 – which requires RSLs to tell councils when they are taking legal action against a tenant – offers new opportunities to look at alternatives to eviction. But only if councils themselves are prepared to swallow the same medicine. It is important for councils to improve their own internal systems of early warning of evictions.

Thirdly, greater attention needs to be paid to existing and possibly new mechanisms to deal with the problems that undoubtedly do come with tenancies. For example, Shelter has posed the question as to whether eviction for rent arrears should be consigned to the history books¹⁶. Partly we have done so by drawing attention to other means of more directly addressing recovery of debt such benefit deductions, earnings arrestment, account arrestment or small claims actions.

Equally we should be capable of thinking creatively about new ways of addressing behaviour issues rather than eviction. Anti Social Behaviour Orders (ASBOs) started out as an attempt to do just that but were later seriously compromised by them being wrapped up with eviction action. But there may be new powers to allow authorities and landlords to deal with problems directly rather than obliquely.

And there is the provision of advice, including legal and in-court advice, which is still patchy despite legal duties to secure it going back to 2001.

The alternative to the alternatives – the persistence of the current system, which clogs up the courts, costs millions of pounds and runs counter to Scotland's well-deserved international reputation on homelessness – is scarcely worth preserving.

¹⁶ See Dunlop, 'Can't pay? You can stay', ROOF magazine, (Nov/Dec 2007)

Appendix 1: data collection systems for evictions

Data on local authority evictions are collected in the annual Housing Statistics Performance Return to the Scottish Government and published each year in the Housing Statistics for Scotland bulletin. The data reported on evictions for the period 2001-2002 to 2007-2008 cover the following;

- Number of court actions raised to obtain a decree for eviction
- Number of decrees for eviction granted
- Number of cases resulting in an eviction or abandonment after decree granted

The data for RSL evictions are collected in the Annual Performance and Statistical Return (APSR) to the Scottish Housing Regulator. The data reported for the period 2004-2005 to 2007-2008 cover the following;

- Number of court actions raised to obtain a decree for eviction
- Number of decrees for eviction granted
- Number of cases resulting in an eviction or abandonment after decree granted

Please note that for 2003-2004 there are no data for court actions raised or decrees granted.