



Protect tenants from arrears, evictions and homelessness – An urgent call to government for action during and after the coronavirus epidemic

The government has taken welcome action to protect tenants and help them meet their housing costs in the current crisis. By sustaining many people's incomes through the furlough scheme and other measures, and by calling a halt to evictions, it has created a temporary respite for tenants. This provides valuable time in which to find a 'post-Covid' solution to the potential crisis that will occur if there is a substantial spike in rent arrears and evictions when the current protections end.

The Chartered Institute of Housing, in conjunction with barrister Liz Davies, has prepared a detailed set of proposals to avert such a crisis. They are described in this paper and set out in detail in the accompanying table.

The paper applies to England, but equivalent measures are being proposed for Scotland, Wales and Northern Ireland.

Why is a 'post-Covid' solution needed?

Finding a longer-term solution and taking early steps to implement it are urgent for several reasons. First, for the eight million households who are tenants of private or social landlords, a key part of the hardship and suffering during the crisis has been the struggle to pay their rent and worrying if they will be able to keep their home. If society and the economy are to recover from the crisis it is vital that these fears are allayed quickly and thoroughly.

Second, local authorities' and social landlords' resources for dealing with homelessness were stretched before the epidemic and could be overwhelmed if there is a sudden growth in evictions due to rent arrears. This is readily apparent from pre-crisis figures. Loss of a home through rent arrears accounted for fewer than ten per cent of homelessness cases.¹ If even a small proportion of England's eight million tenants were to be evicted in a short period due to arrears, a system which is already stretched to deal with 70,000 households each quarter could be totally overwhelmed.

Third, while it is impossible to assess the potential scale of the problem it is easy to see that it could be huge. This is because:

- Of 5.6 million UK workers at high risk of losing their jobs in the crisis, more than 1.2 million are private tenants.²
- Other survey data suggest that 1.7 million tenants in England expect to lose their jobs within three months.³
- Almost two million new claims have already been made for universal credit.⁴
- Some 2.6 million private tenants have already missed a rent payment during the crisis.⁵
- Employed renters are more likely than homeowners to work in jobs bearing the greatest economic and health risks in this crisis.⁶

- Of 7.1 million ‘key workers’ who have kept services and supplies running across the UK, one-third earn less than £10 per hour. Many such households will be dependent on two incomes to pay the rent, and where partners may have lost their jobs.⁷
- Private renters already pay an average 40 per cent of their income (after housing benefit) in rents.⁸

Despite the government’s measures, millions of households therefore have reason to fear a financial cliff edge when the protections come to an end.

Fourth, government measures still leave significant gaps in the protection offered. These include:

- Universal credit’s five-week waiting period and other delays in accessing it allow arrears to build up.
- LHA rates, though now improved, still fall short of covering many rents.⁹
- Single person households are likely to be at high risk because of:
 - lower standard allowances in UC, for those under 25
 - the absence of a UC work allowance (earned income disregards)
 - LHA rates for under-35s based on shared accommodation even for those living in self-contained dwellings
 - lower minimum age rates for people aged under 25
- UC is not available to all those at risk, because of:
 - income limits that relate to pre-crisis conditions
 - some workers not being eligible for UC if they lose their jobs.

The furlough scheme helps to sustain incomes but has a shortfall of 20 per cent if not made good by employers. When the scheme ends people may lose jobs, have lower earnings than before or have used up their savings. In England, the court moratorium on the issue of hearing of possession cases and on the execution of warrants is due to end on 25 June 2020. There are, as yet, no published plans to extend it. Even if it is extended, landlords are still able to service notices to start the process if arrears accrue, resulting in a potentially massive number of eviction actions within a short period.

Fifth, the burden cannot simply be put onto landlords. While they can be expected to play a role, the diverse nature of landlords means that blanket solutions (such as a freeze on all rent payments during the crisis) are not practicable: they could lead to defaults on mortgages and enforced sales which could deplete the sector just when tenancies are most needed.

What are the main aims of a ‘post-Covid’ solution?

The epidemic has exposed the fragility of the private rented sector, in particular, which is ill-equipped to handle the crisis. Ultimately, the solutions must include more genuinely affordable housing to rent, and reform of the private sector to provide more security for tenants. But in the medium term, a ‘post-Covid’ solution is required which addresses the scale of the problem just described.

The key requirements of such a solution are that it:

- is as comprehensive as possible, covering all the main groups affected in the crisis and filling the gaps in current initiatives
- minimises evictions and hence the burden of homelessness on tenants and on local authorities
- builds on the steps already taken and makes use of the existing support mechanisms – principally universal credit – if possible without requiring new ones to be developed

- leaves neither landlords nor tenants with intractable financial problems resulting solely from the current crisis
- helps restore or build sustainability in the rented sectors (private and social).

What is CIH's 'post-Covid' solution?

The table annexed to this paper sets out our proposals for a 'post-Covid' solution that aims to meet these requirements. The key points are these:

- *Evictions – temporary protection.* Ban to be extended until evictions can take place safely and the pre-action protocol is in place.
- *Evictions – post-Covid.* Put a temporary ban on evictions solely arising from Covid-related arrears; end section 21 evictions and suspend those under Ground 8.
- *Arrears payments.* Require that payment plans for Covid-related arrears will not result in eviction provided the tenant agrees with and complies with the plan over a timescale of up to two years.
- *Reforms to universal credit.* End 5-week wait; temporary suspension of the benefit cap and the two-child limit; increase LHA to 50th percentile of rents for a limited period; reinstate three month protection for claimants who could afford their rent when they entered into their agreement (available in HB but not UC); end 'shared accommodation rate' for under 35s.
- *Rent arrears outside scope of UC.* Increase emergency fund for discretionary housing payments and ensure they are more widely available; tenants to be able to repay arrears over two years – no eviction possible if comply with repayment plan.
- *No access to UC because of immigration status.* One-year lifting of 'no recourse to public funds' and other restrictions on claiming benefits.
- *Landlords' loss of rental income.* Similar interest-free loan scheme to that proposed in Scotland; landlords given mortgage holidays on rented properties to pass relief onto tenants.
- *LAs and HAs lose rent income.* Consider one-off payments to stabilise landlord accounts where these can be shown to be needed.

Please see the table for more details and further proposals not included in this short summary.

Chartered Institute of Housing

May 2020

¹ In the quarter ending September 2019, of 71,570 households to which a homelessness duty was owed, 6,560 gave rent arrears as the reason for losing their accommodation (Statutory Homelessness Live Tables).

² New Economics Foundation (2020) *Suspending rents: how to protect renters from eviction during Covid-19.*

³ Shelter (2020) *1.7 million renters expect to lose their job in the next three months* (16th April).

⁴ <https://www.bbc.com/news/uk-politics-52536210>

⁵ Citizens Advice (2020) *Millions facing financial cliff edge when coronavirus protections end* (1st May).

⁶ Resolution Foundation (2020) *Risky business: Economic impacts of the coronavirus crisis on different groups of workers* (April).

⁷ IFS (2020) *Differences between key workers.* IFS Briefing Note BN285 (April).

⁸ MHCLG (2020) *English Housing Survey 2018 to 2019: headline report*, Annex Table 1.13 (figure based on income of household head + partner).

⁹ CIH (2018) *Missing the Target: Is targeted affordability funding doing its job?*

Table: Measures needed to avoid post-lockdown evictions, deal with rent arrears and avoid a substantial spike in homelessness

Problem	Measures already taken by government	What more is needed now?	What more is needed after lockdown?
Evictions			
Evictions – tenants threatened with homelessness <u>during</u> epidemic	Temporary halt to evictions (until June 25) by staying all possession claims and bailiffs’ warrants. Extension of notice periods to 3 months (from 2 months for s.21 and 4 weeks for other grounds)	Temporary ban to be extended until evictions can take place safely, the pre-action protocol is in place and time has been allowed for landlords/tenants to agree plans for paying arrears; temporary ban to include tenancies without security of tenure (e.g. introductory tenancies)	Advice during possession action to check if tenant entitled to any benefit to help with arrears
Evictions – sudden increase when the temporary ban on possession proceedings is lifted, potentially leading to huge homelessness increase and unrealistic demands on local authorities	Possible ‘pre-action protocol for possession claims brought by private landlords’ to give some protection after that date. Difficulty is that non-compliance with protocol does not prevent possession order being made.	<p>If possession claims are resumed before the end of lockdown, suspend use of s.21 and mandatory ground 8.</p> <p>Legislate to require private landlords and HAs to use only discretionary grounds 10 or 11 for rent arrears, giving courts the flexibility either to decide that possession is not reasonable, or to make a suspended order so that the tenant repays the arrears on terms and remains in possession.</p> <p>Make corresponding changes to bankruptcy law to prevent this being used as an alternative</p> <p>Provide guidance on what are and are not Covid-related arrears, including a start date and end date, and on a recommended two-year period over which arrears can be paid.</p>	<p>Legislate to implement promised end of s21 so it takes effect before epidemic ends. Legislate to abolish Ground 8 either completely or in respect of arrears accrued from March 2020. Landlords are protected by discretionary grounds for possession.</p> <p>Put a ban on evictions that result solely from Covid-related arrears which have arisen since March 2020 until a defined end date, unless tenants fail to agree a plan to repay arrears within two years.¹</p>

Problem	Measures already taken by government	What more is needed now?	What more is needed after lockdown?
		<p>Pre-action protocol to include reasonable repayment arrangements and time periods, as well as a referral process to local authorities when possession action begins.</p> <p>Landlords to be required to notify the local authority when possession action begins</p> <p>LA housing options services should have advisors available at court to pick up people threatened with homelessness Legal help should be fully funded; maintain the housing possession duty scheme and extend to all courts hearing possession claims. Provide funding for legal advice on welfare benefits so as to reduce rent arrears.</p> <p>LAs to review temporary accommodation requirements and prepare; additional funding needed. Government to enable private sector leasing, to make more effective provision.</p>	<p>Specifically require local housing authorities under their relief duty to take practical steps to help those unable to comply with repayment plans to secure new accommodation</p> <p>Devise and implement a national plan to ensure there is a duty possession scheme in every county court</p> <p>Collect and monitor more granular statistics (e.g. about household type, benefit status) of possession proceedings to better identify high risk groups and adjustments made to policy</p>
Rent arrears and access to universal credit			
<p>Rent arrears from loss of income not covered by present UC scheme - inadequate general allowances and a near six-year freeze put household budgets under severe stress reducing resilience to homelessness</p>	<p>Raised LHA rates to the bottom 30th percentile of local rents (but LHA has not recovered its original levels)</p> <p>Work-related conditions for UC suspended for three months during lockdown can be extended if required</p>	<p>Following reforms to UC should take effect asap:</p> <ul style="list-style-type: none"> • end 5-week wait • temporary suspension of the benefit cap and the 2-child limit • increase LHA to 50th percentile of rents for a limited period² • reinstate three-month rule (present in HB but not UC) when claiming help for first-time housing costs, based on actual rent before LHA starts to bite 	<p>Retain £20 increase going forward and conduct independent inquiry into the general adequacy of UC benefit levels with attention to resilience to homelessness</p> <p>Abolish minimum income floor or extend new business start-up exemption period to two or three years</p>

Problem	Measures already taken by government	What more is needed now?	What more is needed after lockdown?
<p>Notional self-employed earnings rule (the 'minimum income floor') in UC assumes income that claimant does not have</p>	<p>Eight-month suspension of minimum income floor</p> <p>Prisoners on temporary release allowed to claim UC/HB until 12 November (can be extended)</p> <p>£20 per week increase in standard allowance for 2020/21</p>		
<p>Rent arrears among single people under 35 who were not expecting to need UC</p> <p>Very low allowances for under 25s, the zero-rated work allowance and a lower minimum wage (especially apprentice rate) mean people in work get no support even at low levels of pay</p>	<p>No special measures – still affected by the 'shared accommodation rate' limit</p> <p>NB. Budget 2020 introduced limited new exemptions for under 25s (at risk of violence/trafficking, etc.) but these are not due to start until 2023/24</p>	<p>End shared accommodation rate for under 35s – they should get one-bed LHA rate unless actually sharing, when they should get 100% of rent³</p> <p>Temporary partial help for those with reduced earnings just outside UC</p>	<p>Permanently withdraw shared accommodation rate</p> <p>Align standard allowances for under 25s with general benefit rates</p> <p>Reinstate the work allowance for childless households</p>
<p>Rent arrears from loss of income – but income level means</p>	<p>Discretionary Housing Payments (DHPs) can be used to help meet</p>	<p>Increase emergency fund for DHPs and ensure they are more widely available</p>	<p>Tenants to be able to repay arrears over two years – no</p>

Problem	Measures already taken by government	What more is needed now?	What more is needed after lockdown?
still not eligible for UC even when strengthened as above	emergency gaps in housing costs.		eviction possible if comply with repayment plan
Rent arrears from loss of income – no access to UC because of immigration status	None except limited emergency funding via LAs	One-year lifting of NRPF and other restrictions on claiming benefits	End this aspect of the ‘hostile environment’ permanently
Loss of landlord income			
Landlords lose rent income; ability to sustain lettings at risk	Scotland – zero interest loans for small landlords; none in England; payment holiday for buy-to-let landlords whose tenants have lost income - landlords are expected to pass on this relief to their tenants	<p>Similar zero-interest loan scheme to that in Scotland, predicated on no evictions for arrears and agreed plan with tenants to pay arrears.</p> <p>Require any landlords given mortgage holidays on rented properties to pass relief onto tenants.</p>	No evictions for arrears reasons while arrears plan is in place and/or loan is in place and tenant is complying with plan
LAs and HAs lose rent income – social landlord finances destabilised, jeopardising tenant services and new investment	None except changes in UC noted above	Just as the government has made payments to LA General Funds, it should consider one-off payments to stabilise social landlord accounts where these can be shown to be needed.	<p>Compensation scheme to apply to local authority HRAs and registered provider accounts for the year 2020/21 where the landlord can show that it has a potential serious deficit that cannot be eliminated by making other reasonable savings.</p> <p>In long term, provide substantial funding to allow social landlords to invest in building safe, secure, social housing</p>

Problem	Measures already taken by government	What more is needed now?	What more is needed after lockdown?
Other tenure issues			
Asylum seekers lose supported accommodation once a decision is made on their case	Suspended evictions from Home Office asylum accommodation	Further delay to and then phasing of evictions to reduce the impact on homelessness services Request LAs to provide homelessness assistance now in cases where an asylum application is approved	
Starting a new tenancy is more difficult because of social-distancing requirements	Right to rent checks can be carried out by video calls, and applicants can send scanned documents by email or mobile app; but full checks on these tenancies are required when restrictions end	Suspend right to rent checks completely for duration of the crisis Do not require retrospective checks once crisis over.	Retain suspension until current pending Supreme Court case on discriminatory nature of checks is resolved

References relating to the table:

¹ Nearly Legal has pointed out that this requires reform to both s.8, HA 1988 (especially Ground 8, although probably best extended to the other rent arrears grounds) and s.21, HA 1988 (otherwise landlords will just use s.21 to evict and then seek to cut their losses on the unpaid rent by deductions from the deposit). It would be important to extend the same protections to tenants of local authorities and amend the rent arrears grounds under the HA 1985. And, although they are now rare, Rent Act 1977 tenants should be protected in the same way (see <https://nearlylegal.co.uk/2020/05/a-five-point-plan/>).

² The 50th percentile rent is on average around 9% higher than the 30th percentile rent, the cost would be something less than that because the award if based on the actual rent if that is lower than the LHA figure – and also because in some areas (but not very many) the LHA has reached the maximum figure (and presumably would do so in more areas if it was raised to the 50th).

³ Under-35s are one of the groups where there could be a huge increase in possession cases as things stand because the median gap between UC payments and rent is £37 per week and in many cases a lot higher. Resolution Foundation work ('Risky Business', April 2020) shows that 16-24 year-olds are most at risk of losing their job and least able to do their job from home: "Overall, 2.9 million 16-34-year-olds are in the 'shutdown sectors' group, which comprises notoriously low-paid work. Four-in-ten of those working in retail and whole get less than the real Living Wage."