


StepChange Debt Charity response to MHCLG consultation: A New Deal for Renting

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StepChange Debt Charity is the largest specialist debt advice charity helping people across the UK. We provide free debt advice to people over the telephone and online. In the first half of 2019, 331,337 people contacted us for help and support with their problem debt and we provided full debt advice to 190,484 people.

One-fifth (22%) of StepChange clients have rent arrears at the time they seek debt advice, with average arrears of £1,042. Sixty-nine per cent of StepChange clients rent their home (57% in the private sector and 43% in social housing), reflecting the greater likelihood of those in the rented sector at risk of housing insecurity experiencing financial difficulty and debt. Between 20% and 30% of StepChange clients who are renting have a vulnerable characteristic (in addition to financial difficulty); this includes those affected by physical and mental health problems, disability or addiction. Clients were most likely to be vulnerable if they rented in the private sector.

StepChange recently published the report *Locked Out*, which examines the housing experiences of those affected by problem debt.¹ We found that housing insecurity is both an outcome and cause of financial difficulty: survey evidence indicates that many StepChange clients renting in all sectors experience health, work and relationship problems due to threats and worries about eviction. If clients are evicted, securing new accommodation takes time, causes stress, disrupts relationship and is costly. Many will find it difficult to secure new accommodation that meets their needs and is of good quality: over half (56%) of our clients find that being in debt (and a poor credit rating) negatively affects their access to housing. For some forced to leave a tenancy through financial difficulty, it is not possible to secure a new home.

Clients articulated a variety of ways housing insecurity had affected them:

“The worry of not knowing whether I'd have to leave my home due to not affording rent and it not being covered fully by housing benefit, kept me awake at night and was all consuming. Led to me being on anti-depressants for a very long time.”

“[I] was in sheltered housing and threats of eviction caused stress and mental health issues.”

“Due to the insecurity and the way it affected my mind, I became depressed, irritable and this led to the end of a six-year relationship, which then led me even further in to depression.”

“You can't get a job with nowhere to live.”

“I have felt too ill with worry and lack of energy to play with my child as much as I should when he was younger.”

“[I] had to have one month off work because of stress [of not being able to access housing].”

“Due to insecure housing and the stress that's come with it, I have low mood, which impacts my well-being and unable to do more than I think I could be doing, regards to getting a better paid job and a nicer living standard for me and my daughter. This also prevents me from wanting to have guests.”

¹ StepChange Debt Charity (2018) *Locked Out: How problem debt affects people's housing situations*

In the majority of cases, problems with arrears and debt are linked to a combination of underlying financial fragility and unexpected life shocks such as unemployment or illness. The statutory framework should provide proportionate rights to tenants taking into account the extent of experience of financial insecurity: we estimate that, across Great Britain, three million people fall behind on an essential household bill, including rent, each year.² The framework should also take account of the increasing likelihood that those who are vulnerable will live in private rented accommodation. It should not be easy to remove those who are vulnerable and tenants who are taking steps to address financial difficulty from their home because the consequences of this are serious and detrimental. These impacts do not extend only to tenants, but affect wider public support and services including local housing and crisis services, the NHS and the social security system.

The government is taking positive steps to better support those affected by financial difficulty and debt. This includes the new Breathing Space scheme and statutory debt repayment plan, which will provide those struggling with debt the time and space to engage with debt advice and enter a sustainable debt solution.³ We note that the Breathing Space scheme includes protection against section 8 evictions. The government has also developed best practice Fairness Principles for government debt collection that seeks to identify those who cannot repay debt due to vulnerability or hardship and provide appropriate support and advice.⁴

Collectively, these steps help give those affected greater legal protection and build a framework for support to allow people affected by financial difficulty to recover and put their financial situation on a stable footing. We strongly welcome the government's proposals to end section 21 no-fault evictions for new tenancies: our clients often cite constant worries about eviction, regardless of arrears, as a source of stress, worry and insecurity. However, we believe that the proposals to revise ground 8 of schedule 2 of the Housing Act set out in this consultation threaten to undermine the benefit of this step as well as the aims of the government's wider policy to support those affected by debt. The proposals risk encouraging escalation from landlords in precisely the way protections such as Breathing Space are designed to prevent. We therefore do not agree the proposals strike the right balance.

We also note that those who begin receiving, or are transferred to Universal Credit, often experience problems with rent arrears due to delays in payments, difficulty repaying advance payments and the way that the housing element of Universal Credit is usually paid directly to claimants, alongside other issues. The first Universal Credit Full Service Survey found that one third of claimants were in rent arrears (36 per cent after three months and 35 per cent after eight to nine months).⁵ Among those in rent arrears, two thirds (65 per cent) said they fell into debt after they made their claim for Universal Credit. A higher proportion of claimants (44% after three months and 40% after eight to nine months) experienced more general difficulty keeping up with bills and commitments after a Universal Credit

² YouGov poll with responses from 5,326 GB adults. Fieldwork undertaken between 29 April – 2 May 2019. The figures have been weighted and are representative of all GB adults (aged 18+). Where we extrapolate national figures from this data, these are calculated by StepChange Debt Charity using 2017 population estimates from the Office of National Statistics.

³ HM Treasury (2019) [Breathing space scheme: consultation on a policy proposal](#)

⁴ [Cabinet Office Fairness Group Joint Public Statement](#), 7 May 2019

⁵ Department for Work and Pensions (2018) *Universal Credit Full Service Survey*

claim. Given these issues with Universal Credit, it is vital that housing policy does not interact with Universal Credit policy to drive people into housing insecurity; we do not think the proposed framework achieves this aim.

In light of these concerns, we do not agree that the government should proceed with the proposed changes to ground 8. Instead, MHCLG should undertake further work with tenants and the private and social rented sector to understand the impact of the proposed changes and ensure any proposals will not increase housing insecurity or exacerbate financial and wider difficulties for those who are vulnerable.

In this response, we address specifically question 17 of the consultation on rent-arrears.

Question 17: Should the ground under Schedule 2 concerned with rent arrears be revised so:

The landlord can serve a two-week notice seeking possession once the tenant has accrued two months' rent arrears.

Yes: We believe the best approach is to retain the current ground 8 wording, which strikes a more appropriate balance and provides sufficient time in the majority of cases to enable those who can resolve arrears or come to a repayment arrangement before possession becomes necessary. This noted, we have general concerns about the inflexibility of ground 8: it is bad practice to establish a hard threshold that may encourage behaviour that leads to further arrears such as seeking out high cost credit. The organising principle of the process where rent arrears develop should be to support tenants wherever possible to take steps to manage and resolve the situation: this is ultimately in the interests of both tenants and landlords. We would like to see the statutory framework for arrears set out in the Housing Act reflect wider good practice principles for managing debt developed by the government.

The court must grant a possession order if the landlord can prove the tenant still has over one months' arrears outstanding by the time of the hearing.

No: We strongly believe this approach is misguided. As noted, the average rent arrears of our clients when they seek debt advice is £1,042 – given average rents, this is likely to be more than one month of arrears in many cases. Our evidence is that most people attempt to manage financial difficulty themselves and delay seeking advice: the average length of time people have experiences debt problems before seeking advice is almost one year: creditor or court action is often the prompt for people to finally seek advice. This criteria is unrealistic in general and would create a framework that is clearly unrealistic to resolve difficulty for those with multiple or complex needs. The proposed criteria is likely to lead to large numbers of people facing possession orders, exacerbating their difficulties, where it would be more appropriate to support them through advice to manage their finances appropriately, maximise income and reschedule arrears and debt.

Our experience of debt advice is that people in financial difficulty with arrears need time to go through the advice process and put in place a debt solution. The government's proposed Breathing Space scheme provides for 60 days of breathing space, crucially from the time that someone seeks advice.

Housing and debt advice often lead to income maximisation and application for social security payments, which takes time and can be subject to delays. We note that the Pre-Action Protocol for Possession Claims by Social Landlords states that possession proceedings should not be started against an individual with continuing rent arrears where they are waiting on a decision on a benefit claim. While the Breathing Space scheme will provide protection to those who are eligible, it will not be accessed by everyone. Introducing a mandatory grounds for possession that cuts short the time needed to realistically resolve financial crisis is not only counter to a fair and balanced approach but will undercut wider government policy on homelessness prevention and supporting those experiencing financial difficulty and problem debt.

It remains important that the grounds in schedule 2 signal to landlords their responsibility to seek to work with tenants to resolve arrears. The consultation suggests that tenants may sometimes 'game' the present system but does not provide evidence of the extent to which this is actually the case: the statutory framework should be designed to work well in a rights- and trust-based system where court intervention is a last resort. The framework should not be shaped by extreme scenarios that should rightly be dealt with through the discretion of courts.

The court may use its discretion as to whether to grant a possession order if the arrears are under one month by this time.

Yes: As noted, we disagree with the proposed approach on the grounds that it reduces the discretion of courts; we therefore agree that making clear the discretion of courts to decline to grant possession where there is a reasonable prospect of repayment of arrears. We do not, however, agree that this discretion should be limited to cases in which arrears are under one month.

The court must grant a possession order if the landlord can prove a pattern of behaviour that shows the tenant has built up arrears and paid these down on three previous occasions.

No: Financial difficulty is often complex and difficult to manage: people with multiple debts and arrears are likely to be faced with frequent demands for payments and may have money withdrawn from their account unexpectedly. This can lead to situations where rent may be missed unexpectedly or unavoidably on more than one occasion, even if rent may ultimately be paid. We note also that issues with Universal Credit, as noted above, may cause one or more periods of rent arrears, but also might add an additional period of arrears for someone who has independently experienced financial difficulty. A pattern of arrears over which someone has limited control could easily fall within this condition despite those concerned doing everything possible to manage their situation; as a result, the criteria is likely to prove arbitrary, with tenants exerting themselves to manage financial difficulty subject to disproportionately inflexible legal action.