

Safer Renting

Offences under the Protection
from Eviction Act 1977 in
England: 2022 update of the
annual count

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About Safer Renting

Safer Renting is one of a diversity of services delivered by Cambridge House, a social action charity established in 1889 to tackle poverty, social inequity, and social injustice across London.

Our work is funded by both charitable foundations and through partnership working with ten London Boroughs, for whom we provide a Tenancy Relations service that includes protecting renters from harassment and illegal eviction, sustaining tenancies and preventing homelessness, and working with our clients to navigate the legal system to secure justice and redress.

The Safer Renting model is unique among front line housing services in its partnership approach with local authorities. Working across so many districts allows us to monitor landlord and agent activities to help partner councils improve their intelligence building and combine approaches to target and deal with the worst offenders.

Our 2020 report, 'Journeys in the Shadow Private Rented Sector', was based on two and a half years of research interviewing renters, enforcement officers, solicitors, MPs and front-line housing providers. This project set out some of the very worst practices in the 'shadow' rented sector where landlords were using fear and intimidation as part of their letting strategy and experience of illegal eviction was commonplace. This report is a consequence of the one question that was invariably asked in response to our 'Shadows' report: just how often does illegal eviction take place?

Acknowledgements

This report updates a report originally compiled at the end of the year 2021, assisted by Simon Mullings and Marine Sergides of the Housing Law Practitioner's Association; thanks are owed to them and Jess Kelly for assistance with data gathering and to Rebecca Bicocchi, Scott Bryant and Vicky Pearlman at the Greater London Authority, for arranging for us to make several presentations to housing enforcement and homelessness managers across London and all the agencies that were happy to share their data and explain their collection processes.



Offences and prosecutions under the Protection from Eviction Act 1977 in England: rationale for the annual count

1. Rationale for the count

There are four main reasons why establishing an annual indicator of harassment and unlawful eviction is both necessary and timely. Firstly, there is no existing routine form of data collection on the issue. The private rented sector has long been associated with a range of difficulties including inflated rents, poor property condition and lax management standards. A number of statutory datasets are available that measure the incidence of particular issues. For example, the English Housing Survey (EHS) includes assessment of material property conditions against the Decent Homes Standard, creating longitudinal data that is used to inform and monitor policy interventions.

The EHS often collects data on other aspects of private renters' rental experience, but not every year and not using the same question format. No data are routinely collected on the incidence of harassment or unlawful eviction, and evidence of the problem is patchy. Renters were last asked why they left their last tenancy in 2019/20; then the vast majority indicated that tenancy had ended because they themselves had wanted to move (77.7 per cent) or that the tenancy term had been fixed in some way from the outset (9.7 per cent). A very small proportion indicated that they had had a poor relationship with their landlord (1.7 per cent) or had been asked to leave (8.3 per cent) although there is no indication in these cases that the tenancy ended anything other than legally. In 2019/20, the EHS asked renters if they were satisfied with the service of their landlord and 6.5 per cent indicated some degree of dissatisfaction. The survey did not collect why the tenant might be dissatisfied.¹

Secondly, H-CLIC data indicate that the incidence of harassment and unlawful eviction has increased as a reason for loss of last settled accommodation (Table 1). Some reasons for this increase are suggested by earlier research. The last relatively comprehensive review of harassment and unlawful eviction as it related to the operation of the Prevention from Eviction Act (PfEA) was funded by the Department for Environment and Transport in 2000.

This report concluded that definition of the offence was problematic and so made no attempt at quantification. However, the report did contain a number of important observations.

¹ *English Housing Survey 2019/20: private rented sector*. <https://www.gov.uk/government/statistics/english-housing-survey-2019-to-2020-private-rented-sector>. Annex tables 3.7 and 3.11.

The report included data drawn from expert stakeholder interviews and interviews with landlords and renters, and this information allowed the authors to list a number of circumstances in which these offences were likely to take place.

All the factors that were felt to contribute to the likelihood of harassment and unlawful eviction in 2000 have become more prominent in the PRS since that time:

- There has been an increase in the number of renters with vulnerabilities who are unable to secure access to a more limited social housing stock;
- An uptick in the number of economic migrants and asylum seekers has created a growing pool of renters with limited knowledge of their housing rights;
- There is a higher proportion of renters reliant on welfare payments to cover some or all their rental costs; and heightened complexities around Universal Credit that landlords are less willing or able to negotiate.

Thirdly, the Government has now brought forward its Renters Reform Bill proposing a range of changes to the structure of assured shorthold tenancies, including detailed changes to the current S.21 clause of the Housing Act 1998. A figure is useful as the Parliamentary Renters Reform Bill Committee considers the Bill and as a 'benchmark' and baseline for assessing impact of relevant provisions in any Act finally passed into law.

It is particularly important to establish a mechanism for measuring the incidence of harassment and unlawful eviction in advance of any change that might come with new legislation. It is difficult to anticipate the impact of legislation on a sector where unintended consequences have proliferated. The removal of easier options for tenancy termination is interpreted by landlords as an increase in the risk of letting property. Landlords are apprehensive about delays in being able to terminate tenancies where renters are inconsistent in rent payments or whose ASB causes difficulties for neighbours. As a consequence, landlords are less likely to let to renters on lower incomes.² Furthermore, there is evidence that a 'shadow' private rented sector is in operation, catering for unmet need at the very bottom of the market. This is the market in which unlawful eviction and harassment of renters is a rather more commonplace occurrence.³

Fourthly, the strongest rationale for establishing a count to monitor the incidence of offences under the PFEA is that these actions are – arguably – the very worst practices a tenant can experience. Loss of home in any circumstances constitutes a substantial injury to emotional and psychological wellbeing. A very sudden loss of home or a forced move following a prolonged campaign of intimidation visits unmeasurable harm on the victim's mental health, and in Spencer *et al.* was likened to trauma (see Box 1).

² J. Rugg and A. Wallace (2021) *Property Supply to the Lower End of the English Private Rented Sector*, Centre for Housing Policy.

³ R. Spencer, B. Reeve-Lewis, J. Rugg & E. Barata (2020) *Journeys in the Shadow Private Rented Sector*, Cambridge House/Centre for Housing Policy.

Box 1: Majid, who was illegally evicted by his landlord

Majid, now 40, came to Britain as a refugee 14 years ago after his mother and brother were murdered. He has been working and renting a home in London ever since.

"I have a lot of baggage", he says "but I live my life with grace. Only eternal factors make me angry".

This year a progressive disabling illness which caused such severe pain meant he was offered surgery, but while waiting for the operation, his landlord of 4 years started demanding he move out.

"Landlord had a relative who wanted the room to stay in for her holiday visit from the Philippines. I tried but couldn't find another rental, and I got more and more depressed because I was sick and he was harassing me.

"In September I was at an appointment with my surgeon, I got a text from the landlord saying 'Thanks for moving out. I've changed the locks'. I went home and kept texting the landlord and calling the police asking to be let in. I couldn't get my medication or inhaler. I thought I was going to die. I couldn't breathe. I was lying on the ground having palpitations. For 5 days I stayed outside and the landlord didn't answer. The police just said 'it's a civil matter.

"On the fifth day the landlord sent his grandson to let me get my belongings which were stuffed in black plastic bags in the hallway, but all my valuables had been taken.

"I couldn't work, I couldn't earn, I couldn't breathe - because of him. I am probably garbage: people can do anything to me."

Majid is now on anti-depressants and staying in temporary accommodation.

A failure by government to count the incidence of such egregious behaviour is a strong signal that harassment and unlawful eviction are in some way insignificant. This clearly cannot be the case.

Use made of the Prevention from Eviction Act

Despite the very serious nature of harassment and unlawful eviction, local authorities make little use of their powers under the PFEA. In part, the ability to pursue action reflects a reduction in staffing resource as a consequence of austerity measures.⁴ In addition, local authority regulatory attention has been directed elsewhere. A number of new measures have come into force that increase local authorities' abilities to penalise aspects of poor landlordism and offer some level of remuneration to the local authority to offset the cost of action.

⁴ J. Stewart & R. Moffatt (2022) *Regulating the Privately Rented Sector: Evidence into Practice*, Routledge.

There has been an expansion in the range and severity of civil penalties that might be served by a local authority where landlords are in breach of their responsibilities under the Housing and Planning Act 2016. A maximum penalty of £30,000 applies where landlords are in breach, and the penalty is retained by the local authority as a contribution to its regulatory work.⁵

Local authorities have historically had no similar incentive to pursue convictions for offences under the Protection from Eviction Act 1977. This Act is the main body of legislation available to local authorities to investigate and prosecute allegations of harassment and unlawful eviction of renters.

This is the only legislation that construes a particular landlord action as a criminal offence, and where a conviction in either the Magistrate or Crown Court could lead to imprisonment.

All residential occupiers are protected from harassment and most residential occupiers cannot be evicted without a landlord following due process and seeking an order of the court.⁶

The PFEA now 46 years old, was passed in the context of widespread concern relating to the activities of landlords such as Peter Rachman although it has been argued that, in its earliest years, the Act was more often deployed to regulate disputes between resident landlords and their lodger/tenants.⁷ Local authorities can prosecute landlords under section 6 of the PFEA, but are not required to prosecute or to investigate any allegation of contravention of the Act. Furthermore, local authorities do have staff with TRO 'capability' working within Housing Options and housing enforcement teams; however a difficulty lies with the local authority willingness to pursue these cases in court.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697644/Civil_penalty_guidance.pdf

⁶ Exceptions include renters living with landlords in the landlord's property.

⁷ D. Nelkin (1983) *The Limits of the Legal Process: A Study of Landlords, Law and Crime*, Edinburgh: Academic Press.

Box 2: Protection from Eviction Act 1977, Part 1

Unlawful eviction and harassment of occupier.

1. In this section “residential occupier”, in relation to any premises, means a person occupying the premises as a residence, whether under a contract or by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession of the premises.
2. If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.
3. If any person with intent to cause the residential occupier of any premises:
 - (a) to give up the occupation of the premises or any part thereof; or
 - (b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof; does acts calculated to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.
- 3A. Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if:
 - (a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or
 - (b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence, and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.
- 3B. A person shall not be guilty of an offence under subsection (3A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.
- 3C. In subsection (3A) above “landlord”, in relation to a residential occupier of any premises, means the person who, but for:
 - (a) the residential occupier’s right to remain in occupation of the premises, or
 - (b) a restriction on the person’s right to recover possession of the premises,
 - (c) would be entitled to occupation of the premises and any superior landlord under whom that person derives title.
4. A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding the prescribed sum] or to imprisonment for a term not exceeding 6 months or to both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.
5. Nothing in this section shall be taken to prejudice any liability or remedy to which a person guilty of an offence thereunder may be subject in civil proceedings.

6. Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Note textual amendments at:

<https://www.legislation.gov.uk/ukpga/1977/43#commentary-c907907>

The Renters Reform Bill contains a clause which would introduce a new duty on local authorities to investigate any incidences of suspected illegal harassment or eviction and to take enforcement action where appropriate. However it is by no means the case that every local authority has officers with this specialism.⁸

This report updates the original count of advice activity focussed on and around offences under the PfEA to reveal the year-on-year trend from 2021 to 2022. The counts have two elements: the incidence of prosecutions under the Act, and evidence of offences committed under the Act. The two elements are deemed essential in order to highlight the disparity between convictions under the Act and the scale of problems that renters are encountering.

2. Problems with counting

Defining offences under the Act

There is a lack of clear understanding 'harassment' in law. There are two tests of harassment in the PfEA. Harassment by landlord or agent includes acts that are 'likely' to cause a residential occupier to give up their accommodation. However, harassment by 'any other person' must be shown to have been done with the 'intent' of causing a residential occupier to give up their accommodation.

Notwithstanding the niceties of wording, Marsh *et al.* established that renters, landlords, local authorities, police and solicitors had different views about what actions might be construed as harassment, and different levels of tolerance of particular actions depending on their circumstances. However, it was generally agreed that harassment included any action that led a tenant to feel uncomfortable in their tenancy and – ultimately – to want to move, which was the core intention of the landlord's harassment.⁹

⁸ https://www.nhas.org.uk/assets/docs/Tenancy_relations_-_what_it_means_now_-_Gerry_Glyde_-_Housing_Matters_October_2016.pdf

⁹ A. Marsh, R. Forrest, P. Kennett, P. Niner & D. Cowan (2000) *Harassment and Unlawful Eviction of Private Rented Sector Tenants and Park Home Residents*, DETR.

Verification and underestimation

Numerical evidence of tenant experience of offences under the Act is rather more difficult to establish. Shelter has undertaken YouGov surveys which have aimed to establish numbers of homes affected by a range of poor management practices.¹⁰

However, this information is self-reported and renters may not always be in the best position to judge the legality of particular actions. A study by the Legal Education Foundation found that 47 per cent of respondents to the English and Welsh Civil and Social Justice Survey Panel (2010 and 2012 waves) did not consider that their housing problems were legal issues.¹¹

The proposed count takes an alternative approach and aims to quantify the number of renters who make a complaint in a context where their circumstances are assessed by a housing or advice professional who then logs the complaint as an offence under the PFEA. As will be seen, the method draws on data collection across a number of agencies since there is no single data collection point.

The resultant counts are inevitably a substantial under-estimate. As the Legal Education Foundation study found, not all housing problems will be construed as legal problems where advice might provide a solution. In the view of this report, 'demand for services, is therefore, not a good proxy for the prevalence of legal problems'.¹²

In addition, there will be many circumstances in which a single complaint might well reflect the experience of more than one household. For example, where landlords seek to 'disestablish' an illegal house in multiple occupation. Nevertheless, the exercise still has value. The rough sleeper count is an appropriate analogy. The annual rough sleeper count was launched in 1996 with the intention of the data contributing to decision-making around the Housing Investment Programme. Guidance was provided on the counting process, depending on how local authorities judged the severity of the problem in their area. Over time, changes to the guidance and nature of the count has improved its robustness but it remains the case that local authorities do not apply exactly the same counting method. As a consequence, the rough sleeper count does not meet the 'National Statistics' standard.¹³

As a snapshot figure, the number is generally regarded as a substantial underestimate. Similarly, any attempt to measure harassment or unlawful eviction will also be unable to capture the degree to which such actions take place. However, the fact that an annual count is undertaken means that the issue is revisited annually and the overall trends are analysed particularly where trajectories indicate a worsening problem.

¹⁰ C. Sagoe, R. Ehrlich, L. Reynolds & H. Rich (2020) *Time for Change: Marking Renting Fairer for Private Landlords*, Shelter.

¹¹ The Legal Education Foundation (2015) *The Legal Problems of Renters Summary*, LEF, https://www.thelegaleducationfoundation.org/wp-content/uploads/2015/12/ULPR_summary.pdf

¹² See note 14.

¹³ *Ibid.*

Returning every year to a standardized count is a first step in acknowledging the importance of a problem and signals ongoing commitment to continued scrutiny.

Interpreting a count

There are problems with interpreting any count number since the figure can reflect other factors that do not necessarily pertain to the incidence of harassment or unlawful eviction. For example:

- an increase or decrease in the number of complaints could reflect growth or decrease in the size of the PRS;
- more effective regulation of harassment and unlawful eviction might be taking place through other means: a decrease in prosecutions under the PFEA does not preclude the successful prosecution and sentencing of landlords who are likely to be perpetrating PFEA-related offences, but who can be more readily pursued for other property-related offences under the various Housing Acts; and
- a fall or increase in staffing amongst participating agencies affects the ability to meet advice demand.

This type of critique is attached to any attempt to arrive at quantitative measures of any societal problem, and here are simply listed to signal that interpretation needs to be cautious.

3. Replicable counting method

The rough sleeper count is a strong indication that there needs to be clarity around what exactly is being counted. 'Rough sleeping' has no clear definition and a count of people who are sleeping on the street perforce excludes all individuals whose homelessness is invisible. Similarly, any count of unlawful eviction or harassment cannot encompass all the times renters have been induced to leave a tenancy unwillingly or been subject to practices 'calculated to interfere with the peace or comfort of the residential occupier'. The count will include two figures: the number of times individuals approached an advice/housing-related agency for assistance with problems they were having with their landlord, and where the agency logged that problem as harassment or unlawful eviction; and prosecutions under the PFEA as logged by the Ministry of Justice under crime code 87 (Protection from Eviction Act 1977).

Individuals approaching advice agencies

The original 2021 count was designed after first ascertaining which organisations were recording data on the incidence of harassment and unlawful eviction, and what kinds of information were being collected. This included extended discussion with:

- Local authority officers including Tenancy Relations Officers (TROs), Environmental Health Officers (EHOs) and Homelessness Officers;
- Law centres and private solicitors;
- Third sector housing advice agencies;
- Members of Parliament.

This process indicated that although individuals or agencies might well routinely encounter cases of harassment or unlawful eviction, it was not necessarily the case that a formalised count was being made. For example, MPs might regularly take meetings with constituents who have problems with their landlord, but even where an MP's office might log problems, there is no method of centralised collection.

Discussions indicated that a replicable measure should rest on the incidence of individuals seeking advice from agencies that had the capacity to judge whether or not the tenant had been subject to or threatened with offences under the PFEA. Specifically, attention would be paid to descriptions of activities under Section 1(2) and Section 1 (3):

- **Section 1(2):** If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.
- **Section 1(3):** If any person with intent to cause the residential occupier of any premises:
 - (a) to give up the occupation of the premises or any part thereof; or
 - (b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof; does acts calculated to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

Data and agencies included in the count

Taken together, this update report follows the methodology of the 2021 original in referring to 'offences under the Protection from Eviction Act 1977' as reported in five data points:

- Logged as part of local authority H-CLIC returns on people presenting to the local authority as either homeless or threatened with homelessness;
- Centralised data collection by Citizens Advice caseworkers logging complaints made by individuals;
- Centralised data collection by Shelter caseworkers logging complaints made by individuals;

- Cases dealt with by the Legal Aid Agency; and
- Safer Renting Caseload Data.

A brief summary of each data collection mode

H-CLIC data

Nature of the data

Since 1996, each local authority has been obliged to submit a quarterly summary of homelessness activity, logging the incidence of homelessness and local authorities' response to acute housing need. These data – the 'P1E' returns – were submitted by all local authorities, and this information provides essential longitudinal data on homelessness trends. The P1E system was revised with the introduction of the Homelessness Reduction Act in 2018. This process introduced the Homeless Case Level Information Collection (H-CLIC). The new system aimed to collect more data on why households become homeless.

The value of the system rests in the fact that local authorities will be seeking information to justify their accepting a homelessness prevention or relief duty. The local authority officer will therefore need to be satisfied that an illegal eviction is being threatened or has actually taken place. To log a case under this heading, local authorities have to agree that "The applicant was evicted by their landlord or agent without due legal process when they had the right to continue to occupy."¹⁴

Notwithstanding their limitations, the H-CLIC returns contribute valuable time-series data and are collected quarterly in a uniform way from each local authority. Even a limited time-series indicates that incidence may be increasing.

Table 1 shows that the number of households owed a prevention or relief duty by either threat or actual loss of home due to illegal eviction has decreased over time. However, the incidence of the problem has increased as a proportion of households presenting as homeless as a consequence of loss of AST. Similarly, Table 2 indicates that the proportion of households threatened with homelessness as a consequence of illegal eviction is small, but the proportion of households presenting with that problem is increasing.

¹⁴ https://gss.civilservice.gov.uk/wp-content/uploads/2018/05/H_CLIC_v1.4.1_guidance.pdf

Table 1. Number of households owed a relief duty by reason of loss of last settled home England, 2018 Q2 to 2022 Q3

	Total number of households losing last accommodation as a consequence of end of Assured Shorthold Tenancy	Number of households losing accommodation due to illegal eviction	Proportion of households homeless as a consequence of end of AST where an illegal eviction took place (%)
2018/19	13,570	520	3.83
2019/20	14,560	720	4.95
2020/21	9,520	690	7.25
2021/22	14,480	830	5.73

Source: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness>, Table A2.

Table 2. Number of households owed a relief duty by reason of threat of loss of last settled home England, 2018 Q2 to 2022 Q3

	Total number of households threatened with loss of accommodation as a consequence of end of Assured Shorthold Tenancy	Number of households losing accommodation due to illegal eviction	Proportion of households homeless as a consequence of end of AST where an illegal eviction took place (%)
2018/19	45,090	310	0.69
2019/20	43,410	340	0.78
2020/21	24,750	340	1.37
2021/22	44,480	340	0.76

Source: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness>, Table A2.

The data in Tables 1 and 2 which go up to the end of financial year 2021-22, for which updated figures are shown in Table 4 below, may well reflect the impact of pandemic lockdowns in March and November 2020. The data show an increasing proportion of homeless households having lost their home as a result of threatened or actual illegal eviction.

The data give cause for concern that future regulation restricting landlords' options for legal eviction may have unintended consequences of driving up the number of illegal evictions.

Citizens Advice data

Nature of the data

Citizens Advice (CA) is a third sector agency delivering advice through 265 independent local charities spread throughout England and Wales.¹⁵ Arguably, CA is the most visible and well-known of all national advice agencies, and as a consequence its services are in heavy demand. The annual report indicates that the CA website was visited by 6.1m people seeking advice on housing.

The 2020-21 annual report indicates that a total of 265,000 people were given advice on issues related to housing. Clients seeking one-to-one advice contact CA via a range of methods including in person, on-line and by telephone. CA clients are given a unique identifying number: there is, therefore, no risk of double counting within the CA data.

The complaint type is logged by the trained professionals and volunteers working for CA after advice is given to the client. CA records three separate measures that are relevant to this project:

- **Harassment and illegal eviction (threatened homelessness):** recorded when an individual seeking advice has informed CA that they have been the victim of harassing behaviour and/or the client has informed CA that the landlord has used the threat of illegal eviction as a harassing tool;
- **Harassment and illegal eviction (actual homelessness):** recorded when a client has informed CA that they have been illegally evicted and when a client has informed CA of harassment pre- or post-eviction; and
- **Illegal eviction:** logged where an individual seeking advice has told CA that they have been illegally evicted.

All three measures are relevant to the aim of this project. The measure 'Harassment and illegal eviction (threatened homelessness)' refers to complaints of harassment of the occupant by the landlord, including using the threat of eviction as a harassing tool. Here harassment is not clearly defined, therefore there is potential for cases to be recorded as a harassment, which might not strictly speaking constitute an offence under the Act.

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https://assets.ctfassets.net/mfz4nbgura3g/3lpSJ0vGvM7psV02BYGqSU/8717ac2738259318ce1d5a1d32127fba/CA_annual_report_2020-21.pdf

Limited information is available on what conditions would constitute a case to be recorded under this measure. However, the advice is being given by trained housing law advisors, and this provides some reassurance that the figures recorded under this measure reflect the legal definitions of the Act.

'Harassment and Illegal Eviction (Actual Homelessness)' refers to breaches of both Section 1(2) and Section 1(3) as it encompasses people who have reported harassment to CA and where an illegal eviction has actually taken place. There is greater confidence that this measure accurately reflects a breach of the Act since it only includes cases where an illegal eviction has occurred.

The measure 'Illegal Eviction' refers to a complaint of illegal eviction, which is a clear breach of section 1(2) of the Protection from Eviction Act 1977.

Shelter data

Shelter offers specialist housing advice, support and legal services. According to its annual report, in the financial year 2020/21, Shelter handled a total of 39,943 telephone calls to its help line¹⁶.

Nature of the data

Shelter data counts 'cases'. This unit does not specify whether each case dealt with an individual, household or property. The figure is collected annually rather than quarterly. Shelter logs each of its cases against a pre-set list of problems. Two categories under this listing have relevance to an annual count. Advisors are able to log instances of harassment and/or illegal eviction, and in some cases a follow-up investigation might ensure although this is not always the case.

A second measure is reports of illegal eviction or harassment by people who have no tenure and/or limited rights. These data have been excluded as it is likely that these individuals would fall outside the protections of the Act.

Legal Aid Agency (LAA) Data

The Ministry of Justice operates the Legal Aid Agency which provides a network of legal aid centres throughout the country. The LAA provides services for people who would otherwise be unable to secure legal advice, and deals with both civil and criminal matters. Legal Aid is available for housing matters including unlawful eviction and harassment injunctions.

¹⁶

https://assets.ctfassets.net/6sxvmndnnp0s/5uHMRgbRLOZhyCGhd0ZuCz/4013b7ae381ae8c967da449d37f786b3/202021_Annual_Report_-_FINAL_.pdf

Nature of the data

The unit being measured in the data provided by LAA is cases dealt with by the LAA. The 'case' may comprise an individual, a household or a whole property. The LAA logs cases against pre-determined criteria, and three are relevant to this count.

- **Harassment – injunction:** cases where representation was funded by the LAA and the intended action in the case was for an injunction under section 3 of The Protection from Harassment Act 1977. Section 1(1) of said Act states, 'A person must not pursue a course of conduct – (a) Which amounts to harassment of another and (b) which he knows or ought to know amounts to harassment'. The legal aid data on injunctions pursued for harassment subdivides and here the count only includes the numbers of injunctions that have been pursued in relation to housing.
- **Harassment/wrongful eviction:** cases in which representation was funded by the LAA and the intended action was for harassment and or wrongful breach of quiet enjoyment and or trespass and or assault and or eviction against the opponent.
- **Harassment/unlawful eviction:** cases assisted via the Legal Help (Advice Service) for harassment and or wrongful breach of quiet enjoyment and or trespass and or assault and or eviction against the opponent. This measure does not refer to cases in which representation was funded, but where expert advice was given over the phone.

All three of these measures are valid indicators of offences committed under the Protection from Eviction Act 1977. The cases are recorded by legally trained solicitors, who are capable assessing the legal circumstances of a cases. The assessment is for civil redress rather than a criminal prosecution. However, the grounds of civil action overlap with those of a criminal prosecution.

Safer Renting Caseload Data

Safer Renting is a charitable agency that employs seven caseworkers to provide a specialist Tenancy Relations service to 10 Boroughs across London. Safer Renting receives referrals from partner boroughs on issues relating to landlord tenant law. Clients are assisted on a range of issues including but not limited to disrepair, harassment, illegal eviction and defending possession proceedings.

Nature of the Data

The unit of measurement for the data provided by Safer Renting is the 'case'. This does not differentiate between individual, household or property, and cases range across all types. It is not possible to differentiate due to the nature of recording system. There is no risk of double counting within the data, as each case is assigned a unique code.

Caseworkers use a system called AdvicePro to manage and record their caseload. AdvicePro's functionality allows caseworkers to record details that describe the nature of the case, this includes the strategies the caseworker intends to pursue and details about what has occurred to date. The AdvicePro system is able to produce a report summarising all cases with a particular strategy or a particular detail recorded. For the purpose of this research, a report was produced for all cases that were open on the AdvicePro database in the year 2021 with case strategies or details that indicated an offence under the PFEA was likely to have taken place. All of these cases were then sent to the relevant caseworker, who was able to confirm whether or not an offence under the PFEA had been committed.

In line with the purpose of this report, cases were assessed by caseworkers through reference to the offences under the PFEA and were recorded if the caseworker believed that the actions of the landlord in that case were likely to merit an offence under section 1(2) or section 1(3) of the act.

Caseworkers are well positioned to make this assessment, as they are required to have an in-depth understanding of both the legislation and the facts of each of their own cases.

Limitations of the data

This report measures the number of times that advice was given to an individual whose problems were classified as offences under the PFEA. As indicated above, the count underestimates the scale of the problem. Agencies included in this count have far more requests for advice than they are able to handle, and provision can be patchy. For example, cuts to legal aid have radically reduced the number of provider offices, from 755 in 2011/12 to 322 in 2020-21.¹⁷ It was found that in February, 2021 almost 40 per cent of the population of England and Wales did not have a housing legal aid provider in their local authority area.¹⁸

Further, the count only measures the number of people who were both willing *and able* to access advice and support. One of the measures only counts cases where the applicant has the right to access advice.

H-CLIC data is collected by local authorities from households who are eligible for assistance and does not include applicants whose immigration status excludes them from homelessness by virtue of section 185 of the Housing Act 1996.

Renters who may have the right to seek assistance sometimes do not do so out of fear of the consequences, or because they know that the local authority would be unable to offer better accommodation. Indeed, they may have been placed in that accommodation by the local authority itself.¹⁹ Renters are perhaps tending to see little point in complaining since their housing situation is unlikely to improve as a consequence.

¹⁷ The Law Society (2021) *Civil legal aid: A review of its sustainability and the challenges to its viability*, 17.

¹⁸ <https://www.lawsociety.org.uk/campaigns/legal-aid-deserts/housing>, accessed 11 Apr 2022.

¹⁹ As indicated in Spencer *et al.*, note 5.

Both Safer Renting and Citizens Advice logs their assistance using a unique reference number which prevents double-counting where an individual might approach the agency twice or more with the same problem. Other agencies included in the count do not follow this protocol. However, it is reasonable to presume that incidence of double counting will be substantially outweighed by the under-estimation of the count.

Cases are recorded against pre-set categories, with no explicit expectation that the cases should meet the strict legal definition of offences under the PFEA as required by this measurement exercise. Nevertheless, in all cases advice is being given by a trained housing advice provider and it is reasonable to presume that use of the classification is informed by legal definitions of the Act.

Prosecutions under the Act

Counting the incidence of prosecutions under the PFEA is not straightforward. One possible source of data is the national rogue landlord database. The Housing and Planning Act 2016 requires local housing authorities to enter an individual's details if they receive a banning order or have in the past twelve months received a banning order or been convicted of two or more civil penalties. An entry would also be made with regard to landlords or letting agents convicted under the PFEA. This database is only available to local authorities and data are not available in a format conducive to isolating or counting the incidence of specific offences. Furthermore, EHOs do not always enter the relevant data: reporting is patchy.

A more robust count is undertaken by the Ministry of Justice, which collates annual data on crime under specific codes. Code '087' relates to offences under the PFEA. In 2021 their adjusted data show 112 prosecutions were brought for offences under the PFEA with just 29 successful convictions. In 2022, 48 landlords were proceeded against (compared with 112 in 2021), and 26 (compared with 29 in 2021), were convicted of offences under the Act. This shows prosecutions were better targeted but the actual conviction rate is slightly lower than the previous year.

Comparing the conviction rate for 2022 against the count of offences identified from the combined five data points in this report, suggests that 1% of illegal eviction cases resulted in a successful landlord prosecution.

Arguably, the number of prosecutions under the Act is less an indicator of the scale of offences, and more an indicator of local authority willingness to take action. In response to a written Parliament question asked in March 2021, data were presented indicating that around half the prosecutions in England under the PFEA were being undertaken by just two

police force areas (South Yorkshire and Metropolitan Police) of the 41 English areas listed.²⁰²¹

4. The 2022 Count

This count for 2022 updates the 2021 baseline report. The data collection method includes individuals who were willing and able to approach an advice agency and so constitutes a substantial under-estimate of the incidence of this kind of crime. No similar caveat as to under-reporting can be given for the landlord prosecution data.

Table 3. Reported offences under the Prevention from Eviction Act, by selected agencies, 2020-2022¹

	2020	2021	2022
Shelter	not available	797	885
Citizens Advice	4,505	5,475	6,366
Legal Aid Agency	1,355	151	128
HClic	1,070	830	1,170
Safer Renting	not available	88	200
Total	6,930	7,341	8,748
Prosecutions under the Eviction Act 1977, as reported by the Ministry of Justice²			
Proceeded against	32	112	46
Convicted	17	29	26

¹ As collated in this report; ² MoJ: <https://www.theyworkforyou.com/wrans/?id=2021-10-26.63835.h&s=illegal+eviction#g63835.q0>

²⁰ Source : MOJ : https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987731/HO-code-tool-principal-offence-2020.xlsx

²¹ <https://questions-statements.parliament.uk/written-questions/detail/2021-03-08/HL13982>, accessed 24 March 2022.

5. Results and Trends in the 2022 Count

It is important to compare the figures for illegal evictions from private rented sector tenancies with the number of households in the sector and for the trends to be seen in that frame: between 2020-21 and 2021-22 the total numbers of households renting in the private rented sector, according to the English Housing Surveys, was broadly stable at 4.6m. The increase in offences cannot, therefore, be explained through an expansion in the size of the private rented sector.

Owing to the absence of official data that might help explain the incidence of illegal eviction, the reasons for an increase remain a matter for conjecture. Factors which may have an influence include:

- i) Court backlog post-emergency pandemic restrictions may be affecting landlord access to lawful evictions.
- ii) Cost of living crisis: the current cost of living crisis emerged led by a surge in energy costs triggered by the Russian invasion of the Ukraine in February 2022. Domestic and other fuel cost increases is likely to have had a significant impact on the bottom end of the private rental market, particularly HMOs where landlords are more likely to be charging rent inclusive of fuel bills, sometimes without a mechanism for recovering increased costs. It is not possible to assess the scale of this impact.
- iii) Interest rate increases: the sharp rise in inflation resulted in a series of increases in Bank of England base rate from 0.25% at the beginning of 2022 to 3% by the end. Some landlords' finances may have been impacted by consequent increases in Buy-to-Let mortgages interest. Financial difficulties may have provoked some to adopt unlawful ways to achieve vacant possession on their rental properties.

The 2022 count of illegal evictions under the Protection from Eviction Act shows an increase from 7,341 to 8,748. This is an increase of 19%. These offences are committed roughly once every hour, 24 hrs a day, 365 days a year.

A total of 26 landlords were prosecuted and convicted under this legislation.