

# Shelter Scotland supplementary evidence

## Equalities, Human Rights and Civil Justice Committee

### Access to Justice roundtable evidence session on 14 March 2023

Fiona McPhail, Shelter Scotland's Principal Solicitor recently gave evidence to the Equalities, Human Rights and Civil Justice committee on **access to justice** on 14 March 2023. Fiona had offered to provide further evidence in relation to the social return on investment into legal aid. On Fiona's behalf I attach the report she had in mind, which was published by the Law Society of Scotland. This dates back to 2017. Whilst now more than five years old, Fiona believes the key messages still stand. The report is 51 pages and examines legal aid in the context of family and criminal law as well as housing. Given that Fiona was speaking primarily to the importance of legal aid and access to justice in the context of housing and homelessness, she would draw your attention to the following findings in this report:-

- For every £1 spent by SLAB on Legal Aid in housing cases, there is a return of approximately £11 (page 3)
- The main benefit is fewer evictions and cases of homelessness. For NHS and local authority departments the main benefit is a reduced demand for health and social services due to fewer cases of homelessness. Further evidence suggested clients who receive legal aid being in better physical health due to avoided cases of homelessness. (page 3)

With regards all three areas of law considered the evidence suggests:

- Investment in legal aid increases trust in the legal system and the rule of law
- Investment also reduces stress for clients
- Investment avoids deterioration in family relationships and employment during the case (page 4)

Page 11 of this report provides further information on the cost to the taxpayer in relation to the three separate areas.

The money spent on housing is considerably less than in the areas of family and criminal law.

The average cost of a housing case is said to be £377. The comparatively lower cost of housing cases can be explained by the fact that the legal aid rates for housing cases are significantly lower than the average costs for criminal and family law cases (page 4).

This in turn likely explains why so few high street firms offer housing advice under legal aid and this area of law is predominantly practiced by solicitors in law centres and charities. Law centres and charities will be dependent on grants which subsidise their casework. Some of those grants will be grants from Scottish Legal Aid Board. As was said by several participants in the session, grant funding brings its own challenges. It is often time limited and increasingly competitive.

Shelter Scotland is in receipt of grant funding from Scottish Legal Aid Board. It has been for 11 years now and but for this grant it would not be able to deliver the service that it does. However this grant funding is subject to renewal every 12 months, leading to job insecurity as well as operational and planning challenges.

Fiona had also referred to Shelter Scotland's evidence on the cost of evictions. I have attached that report should this be of interest. It is well known that eviction has a damaging impact on people's mental and physical health. However, the financial cost of evictions is far less understood. This independent research commissioned by Shelter Scotland from the University of Liverpool examines the true financial cost of evictions in the social sector. To do this the research goes beyond examining simply the most commonly cited cost of eviction – lost rent arrears, to take into account both the direct and indirect costs of eviction. On page 4 they calculate the aggregate cost of eviction from social tenancies in Scotland of **£27,848,932** for 2019/20. This comprises of £22,264,288 in direct costs, and £5,584,644 in indirect costs. It is important to note however that this is a conservative assessment of indirect costs, the actual cost of eviction is likely to be higher. 'On this basis the average cost of each instance of eviction in Scotland during 2019/20 was **£14,924**. (page 5)

Whilst the number of eviction actions being initiated in the sheriff courts is far lower than pre-pandemic, the causes which result in eviction actions being initiated have not gone away, but if anything have been exacerbated by the cost of living crisis. The Cost of Living Act sets the level of 'substantial' rent arrears in the social sector at £2,250, and can be evicted under the emergency act if they have arrears above that level. This is much lower than the average level of arrears we see through our casework, and we called for this 'trigger point' to be set higher during the passage of the Act last year. Rent arrears remain a symptom of the wider housing emergency which existed pre-2020, and has since been exacerbated by the pandemic and cost-of-living crisis.

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Law Society  
of Scotland



# Social Return on Investment in Legal Aid

Technical Report

November 2017



## Contents

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<b>Key findings</b>	<b>3</b>
<b>Introduction</b>	<b>5</b>
<b>Chapter 1: Methodology and scope of this SROI</b>	<b>6</b>
<b>Chapter 2: Inputs of Legal Aid</b>	<b>9</b>
<b>Chapter 3: Measuring and valuing outcomes of Legal Aid</b>	<b>13</b>
<b>Chapter 4: Adjustments made</b>	<b>45</b>
<b>Chapter 5: Notes of interpretation</b>	<b>49</b>

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## Key findings

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Rocket Science was commissioned by the Law Society of Scotland to complete an independent assessment of the Social Return on Investment (SROI) of legal aid in three areas:

- **Criminal law**, which covers all criminal offences
- **Housing law**, which covers housing issues regarding tenancy or mortgage, such as evictions due to rent arrears
- **Family law**, which includes issues regarding finances and child contact or residence following divorce or separation

This SROI considers activities funded by the Scottish Legal Aid Board (SLAB) on a case-by-case basis defined by SLAB in the following three categories:

- **Advice and assistance**, which includes advice on rights and options and help with negotiations and paperwork
- **Assistance by way of representation (ABWOR)**, which includes a solicitor representing someone in certain types of proceedings before a court or tribunal, not covered by legal aid
- **Legal aid**, which covers a solicitor representing someone in court

For the purposes of this analysis, the term “Legal Aid” is used to cover all three of the above activities.

Based on our analysis and quantification of the impacts of Legal Aid, we have concluded that the SROI for Legal Aid is positive in all three areas. These results mean that for every £1 spent on housing, family or criminal Legal Aid, the benefit to society that is created during the case and after for a period of up to 12 months is more than £1. This does not necessarily mean that there is a direct financial return of this scale; the calculations also include social impacts without direct market value whose value to the beneficiaries we were able to express in financial terms.

For every £1 spent by SLAB on Legal Aid in housing cases, there is a return of approximately £11 made up of:<sup>1</sup>

- 80% for the recipients of Legal Aid. The main benefit is fewer evictions and cases of homelessness.
- 20% for public services, including NHS and Local Authority departments. The main benefit is a reduced demand for health and social services due to fewer cases of homelessness.
- Further benefits of Legal Aid in housing cases for which we found some evidence, but which we were unable to quantify, include clients who receive Legal Aid being in better physical health due to avoided cases of homelessness.

<sup>1</sup> Note that all returns are rounded to one decimal place and all percentages are rounded to the nearest 5% to avoid the impression that social outcomes can be valued to such a high degree of precision.

For every £1 spent by SLAB on Legal Aid in family cases, there is a return of approximately £5 made up of:

- 95% for the recipients of Legal Aid. The main benefit is that Legal Aid ensures equal access to justice. People receive legal support and are not forced to represent themselves in court, which has potential negative effects on employment, health and relationships.
- 5% for public services, including the Scottish justice system. The main benefit is that more cases are resolved outside the court.
- Further benefits of Legal Aid in family cases for which we found some evidence, but which we were unable to quantify, include better outcomes in terms of child residence and contact.

For every £1 spent by SLAB on Legal Aid in criminal cases, there is a return of approximately £5 made up of:

- 90% for the recipients of Legal Aid. The main benefit to an accused person is access to professional representation in an adversarial system.
- 10% for public services, including the Scottish justice system. The main benefit is lower costs for prison services due to lower numbers of custodial sentences.
- Further benefits of Legal Aid in criminal cases for which we found some evidence, but which we were unable to quantify, include reduced benefits costs and increased income from taxes due to greater employment.

There are a number of impacts that are consistent across cases in all three areas. For example:

- Investment in Legal Aid increases trust in the legal system and the rule of law
- Investment also reduces stress for clients
- Investment avoids a deterioration in family relationships and employment during the case

The return on investment from housing cases is particularly high when compared to family and criminal cases. This is largely because average Legal Aid costs for housing cases are significantly lower than average costs for criminal and family cases. Moreover, there are more outcomes in criminal and family cases that we were unable to quantify given the current state of evidence.

## Introduction

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In July 2017, the Law Society of Scotland commissioned Rocket Science UK Ltd (Rocket Science) to assess the preventive impacts of Legal Aid spending in the areas of criminal law, housing law and family law. We were asked to conduct a Social Return on Investment (SROI) impact analysis, which measures the financial, economic and social impacts of spending on Legal Aid in those three areas.

Legal Aid is provided by the Scottish Government and administered by the Scottish Legal Aid Board (SLAB) to help those who cannot afford to meet the costs of support from a solicitor.

In the context of the economic downturn and increased pressure on public services, there has been a debate about the sustainability and efficiency of spending on Legal Aid in Scotland and other jurisdictions. In England and Wales, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 has led to significant cuts to the scope of civil legal aid and there is currently an Independent Strategic Review of Legal Aid under way, examining the future of legal aid in Scotland in the next five to ten years.

This debate raises the question of the return from the money spent on Legal Aid or, put differently, what would be lost if money was not spent on Legal Aid.

Piecemeal research has been carried out on several aspects of this question in the UK context, much of it focusing on the impacts of cuts to civil legal aid in England and Wales. However, there is no research that assembles these pieces and provides a more general view, and there is very little research about the situation in Scotland.

This SROI goes some way towards filling this gap. It focuses on the Scottish context and combines data across housing, family and criminal cases. It identifies beneficiaries and how they benefit from Legal Aid, and also puts a financial value on each benefit. This makes it possible to compare directly spending on Legal Aid with the benefits it brings about, that is, to assess the return on investment in Legal Aid.

## Chapter 1: Methodology and scope of this SROI

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This chapter explains our approach to Social Return on Investment (SROI) analysis, the scope of this SROI and our methodology.

### 1.1 What is Social Return on Investment analysis?

SROI is a framework for measuring the extent, intensity and value of outcomes resulting from an intervention such as a project, programme or policy. This SROI has investigated economic and social impacts resulting from legal aid-funded advice, assistance and representation in a court or tribunal. It uses monetary values to represent these impacts and allow for a direct comparison between the amount of money spent on Legal Aid and the social and economic returns on this investment.

The analytical method for SROIs is similar to cost-benefit analysis (CBA) or other return on investment analyses. Where SROIs differ is in their focus on other types of impact, such as the social impacts of an intervention. While CBA and other return on investment approaches are theoretically capable of including social impacts, they tend to focus disproportionately on the fiscal and economic costs and benefits. SROI starts from the basis that social impacts matter just as much.

SROI produces a single Social Return on Investment figure for each intervention analysed. While these are useful summary figures, the potential of an SROI analysis goes much beyond these. It allows us to understand and describe:

- The impacts of each service
- Who the beneficiaries of those impacts are
- Why the impacts happen

To obtain values that are robust and reliable, all value judgements must be evidence-based and rigorously justified. The process of ascribing values has to be objective, transparent, replicable and compatible across the outcomes for all service users. To ensure rigour, a standardised approach needs to be applied wherever possible. Rocket Science's approach follows UK Government Cabinet Office guidelines and the Social Value UK methodology.



## 1.2 The scope of our analysis

- **Criminal law**, which covers all criminal offences
- **Housing law**, which covers housing issues regarding tenancy or mortgage, such as evictions due to rent arrears
- **Family law**, which includes issues regarding finances and child contact or residence following divorce or separation

This SROI considers activities funded by the Scottish Legal Aid Board (SLAB) on a case- by-case basis defined by SLAB in the following three categories:

- **Advice and assistance**, which includes advice on rights and options and help with negotiations and paperwork
- **Assistance by way of representation (ABWOR)**, which includes a solicitor representing someone in certain types of proceedings before a court or tribunal, not covered by legal aid
- **Legal aid**, which covers a solicitor representing someone in court

Children's legal aid and all cases going through the Children's Hearings System are not included in the scope of this SROI.

Moreover, activities funded by SLAB's grants programme, and grant funding from other sources, are not included in the scope of this analysis.

Our work does not analyse or provide conclusions on the efficiency and effectiveness of the administration of legal aid, or its current eligibility criteria.

## 1.3 Our methodology

Our methodology included the following steps:

- An **outcomes mapping workshop** with a range of solicitors and third sector organisations to help identify the beneficiaries of Legal Aid and the outcomes of Legal Aid to be included in the SROI
- **Interviews with solicitors** across Scotland working in Legal Aid to gain a more in-depth understanding of the beneficiaries and outcomes of Legal Aid and their importance
- **Literature review** to further refine the list of beneficiaries of Legal Aid and the mapping of outcomes to be included in the SROI
- A **survey of solicitors** across Scotland working in Legal Aid to ascertain the likely extent to which outcomes of Legal Aid are achieved

- **Literature and data review** to strengthen the evidence on the extent to which outcomes of Legal Aid are achieved and to value these outcomes, that is, to establish their monetary value
- **Analysis of data provided by SLAB** on the costs of, and number of individuals receiving, Legal Aid in 2016/17 (this was unpublished data at the time of our analysis)

The following chapters explain in detail how we used this research to analyse the SROI in Legal Aid.

## Chapter 2: Inputs of Legal Aid

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This Social Return on Investment (SROI) analysis relates to the legally aided activity that occurred between 1 April 2016 and 31 March 2017. It draws on Scottish Legal Aid Board (SLAB) data on:

- Cases paid during 2016/17
- Cost of legal aid during 2016/17
- Average duration of cases paid in 2016/17
- Average number of cases per client based on data between 2012 and 2017

This data was provided directly to Rocket Science by SLAB as their annual report had yet to be published at the time of our analysis. This chapter outlines the input figures used in the SROI from SLAB's data as well as a description of the services included under legal aid.

### 2.1 Definition of legal aid for this SROI

This SROI includes three elements of legal aid payments, which together make the definition of legally aided activity that we have used for this assignment:

This included:

- Advice and assistance, which includes payments to cover advice on rights and options and help with negotiations and paperwork
- Assistance by way of representation (ABWOR), which includes a solicitor representing someone in certain types of proceedings before a court or tribunal, not covered by legal aid
- Legal aid, which pays for a solicitor raising a court action and potentially representing someone in court

For the purposes of this analysis, the term "Legal Aid" is used to cover all three of the above payment schemes.

## 2.2 Client numbers

Our analysis needed to use the number of legally aided clients during 2016/17. To do this, we used the number of cases paid during 2016/17 for each area covered by this SROI:

- Criminal – there were 102,504 cases paid in 2016/17 (excluding duty cases)
- Housing – there were 5,381 cases paid in 2016/17
- Family – there were 27,387 cases paid in 2016/17

This included:

- Advice and assistance
- Assistance by way of representation (ABWOR)
- Legal aid

However, individuals may have multiple cases, so cases paid doesn't necessarily equate to the number of individuals that received legal aid during 2016/17. The only crossover expected to have a material impact on client numbers is where one individual received both advice and assistance and legal aid for the same issue. This would be recorded by SLAB as two separate payments, but it would relate to the same individual and the same legal issue.

SLAB provided us with a multiplier to apply to the cases paid total to derive the number of individuals this represented. When a grant of legal aid is made, each individual has a unique client identifier to be able to track an individual throughout the process. This figure is not available for "cases paid". The unique client identifier from "grants made" between 2012 and 2017 was used to identify what proportion of individuals have more than one case. The longer period of time was used to take into account that single issues may have multiple cases over more than one financial year as well as within the same year. These were calculated for both civil legal aid and criminal legal aid separately. Housing and family cases are included under civil Legal Aid along with all other civil cases.

2012-2017	Average number of cases per individual
Civil legal aid - AA/ABWOR & Legal Aid	1.98
Criminal legal aid - AA/ABWOR & Legal Aid	2.90

Figure 1: Average cases per individual between 2012 and 2017 [Source: SLAB]

These rates were applied to the number of SLAB cases paid to calculate the following client numbers for 2016/17:

- Criminal – there were 35,346 individuals receiving advice or representation paid for by Legal Aid in 2016/17
- Housing – there were 2,727 individuals receiving advice or representation paid for by Legal Aid in 2016/17
- Family – there were 13,832 individuals receiving advice or representation paid for by Legal Aid in 2016/17

From information provided by Shelter, one of the primary providers of housing services funded by Legal Aid, the vast majority of cases relate to housing arrears and eviction issues. Other issues such as the quality of housing are considered negligible and have therefore been removed from this analysis.

### 2.3 Legal Aid funding

SLAB drew together the following total cost to the taxpayer for all of the cases funded in 2016/17 in each area as follows:

- Criminal – £82,342,000
- Housing – £1,027,000
- Family – £19,581,000

The total cost to the taxpayer is derived as follows:

$$\text{Cost to taxpayer} = \text{Gross cost} - \text{Income received}$$

The income received includes any awards given by the court and any contributions to the cost of their case made by clients. The level of income varies between areas. Income received by SLAB is rare in criminal cases (as it is collected by solicitors for advice and assistance and ABWOR), but more common in housing and family cases.

This means an average annual cost to the taxpayer per individual of:

- Criminal – £2,330
- Housing – £377
- Family – £1,416

## 2.4 Average duration of case

We also needed information on the average duration of a housing case, a family case and a criminal case. Later in this report, you can see that we use these to determine the duration of impacts we have evidenced to occur during the case – eg reduced stress associated with the case. SLAB also provided us with data on case duration.

According to SLAB-provided data, the average duration of cases in each area is:

- Criminal - 150 days
- Housing – 206 days
- Family – 330 days

This was calculated by taking the weighted average case duration of all categories within each of the three areas. The case duration is the time between approval of Legal Aid funding and the submission of the account for payment to SLAB by the solicitor.

The exception for this was that the median case duration was taken for civil advice and assistance – which affects family and housing cases. The median was taken instead of the mean (ie it will be less influenced by longer-running cases) to account for the fact that there is usually a delay in solicitors submitting accounts for payment for advice and assistance as they are required to wait until the completion of any related Legal Aid cases to submit a claim to SLAB.

## Chapter 3: Measuring and valuing outcomes of Legal Aid

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### 3.1 Beneficiaries of Legal Aid

This Social Return on Investment (SROI) covers all people and/or organisations that are impacted by Legal Aid. Therefore, the impacts measured are not limited to the client only. To identify the relevant beneficiaries for this SROI, we identified potential beneficiary types through a mapping workshop we held with stakeholders. This beneficiary list was then refined on the basis of interviews with solicitors across Scotland working in Legal Aid and an extensive literature review.

We identified sufficient evidence to include impacts of Legal Aid on the following groups or agencies:

- The clients in receipt of Legal Aid
- The Scottish justice system, including courts and the Scottish Prison Service
- The National Health Service (NHS)
- Local authority housing departments and homelessness services

### 3.2 Outcomes of Legal Aid

We identified impacts – in the context of SROI, also called outcomes – on the basis of an outcomes mapping workshop with stakeholders, interviews with solicitors across Scotland working in Legal Aid, and an extensive literature review.

We have looked at both positive and negative impacts associated with Legal Aid. This is particularly important in the context of Legal Aid, where a gain for one beneficiary may represent a loss for another.

We only included an impact in our calculations if we were able to find enough evidence to determine:

1. That it is indeed an impact of Legal Aid
2. The extent of the impact – how many people was it an impact for and how big an impact for them?
3. The financial value of that impact – what is the value of the impact in pounds sterling?

In order to limit our analysis, we focused only on impacts that occur during a case and after for a period of up to 12 months from when Legal Aid was granted. We consider that after this one-year period, other factors are likely to contribute to the persistence of any impact and the causal link between Legal Aid and the impact weakens.

However, Legal Aid is still likely to contribute to certain impacts outside the considered timeframe. Moreover, Legal Aid is likely to have other impacts which are not included in this SROI because there is currently not enough evidence to enable us to quantify these for inclusion.

Section 3.2.1 describes the impacts which we were able to quantify and include in our SROI calculations. Section 3.2.2 describes potential further impacts and explains why we were unable to include them.

### 3.2.1 Quantified outcomes of Legal Aid

#### Clients in receipt of Legal Aid

The following impacts (Figure 2) were evidenced and included in the SROI for clients in receipt of Legal Aid:

Impact	Area	Description
Better outcomes in terms of housing: eviction avoided	Housing	In eviction cases, people who receive support from a solicitor due to Legal Aid are less likely to be evicted from their home than those who do not receive support from a solicitor.
Better criminal outcome: Custodial sentence avoided – loss of income avoided	Criminal	People who are represented in court by a solicitor due to Legal Aid are less likely to receive a custodial sentence than those who represent themselves. This benefits them because they can continue to be economically active.
Better criminal outcome: Custodial sentence avoided – social isolation avoided	Criminal	People who are represented in court by a solicitor due to Legal Aid are less likely to receive a custodial sentence than those who represent themselves. This means that their relationships with family and friends are not disrupted by a period of imprisonment.



<p>More employment and better employment prospects during the case</p>	<p>All</p>	<p>Self-representation in court typically puts a special strain on someone’s relationship with their employer because it is particularly time consuming and leads to elevated levels of stress and anxiety. People who are represented by a solicitor due to Legal Aid are therefore more likely to keep their employment and have better employment prospects during the case.</p>
<p>Better health during the case</p>	<p>All</p>	<p>People who represent themselves in court experience on average higher levels of stress and anxiety than those who are represented by a solicitor due to Legal Aid. This anxiety and stress is likely to have an impact on their health. We have focused on the impact on mental health for this analysis.</p>
<p>Better relationships with family and friends during the case</p>	<p>All</p>	<p>Self-representation in court typically puts a strain on someone’s relationship with family and friends because it is particularly time consuming and leads to elevated levels of stress and anxiety. Relationships with family and friends are typically affected to a lesser extent when someone is represented by a solicitor due to Legal Aid.</p>
<p>Access to justice that would not otherwise have happened</p>	<p>All</p>	<p>Legal Aid is provided to those who would not otherwise be able to afford a solicitor. It thus ensures that everybody who needs it receives support from a solicitor. Put differently, it fosters equal access to justice, which in turn increases people’s trust in the legal system and its fairness.</p>

Figure 2: Quantified impacts of Legal Aid on clients in receipt of Legal Aid

## Public services in Scotland

Below (Figure 3) are the impacts included in the SROI calculation for impacts on public services from Legal Aid.

Impact	Area	Description
Fewer cases going to court – Scottish courts	All	Legal Aid in all three areas leads to a decrease in court cases because cases in which a solicitor is involved are more frequently resolved outside court than cases in which clients do not receive legal support. The likely reason is that solicitors have in-depth knowledge of what and how legal issues can be negotiated outside court. For criminal cases, we have included fewer cases going to trial due to early resolution of the case.
Fewer custodial sentences – Scottish Prison Service	Criminal	In criminal cases, those who are represented in court by a solicitor due to Legal Aid are less likely to receive a custodial sentence than those who defend themselves. The likely reason is that solicitors have the skills and knowledge required to develop and implement an optimal defence strategy.
Clients of Legal Aid are in better mental health – NHS	All	People who represent themselves in court experience on average higher levels of stress and anxiety than those who are represented by a solicitor due to Legal Aid. As a result, Legal Aid decreases the demand for NHS services due to mental health issues. <sup>2</sup>

<sup>2</sup> This is particularly noteworthy considering that mental health issues are one of the main causes of the overall disease burden in Scotland and worldwide. See eg Grant, I, Mesalles-Naranjo, O, Wyper, G, Tod, E et al. 2017. *The Scottish Burden of Disease Study 2015. Overview Report* Edinburgh & Glasgow: The Scottish public Health observatory.

<p>Reduced costs because homelessness avoided – public services</p>	<p>Housing</p>	<p>In eviction cases, people who receive support from a solicitor due to Legal Aid are less likely to be evicted from their home than those who do not receive support from a solicitor. This in turn reduces homelessness and the costs for public services associated with it, including use of homelessness services, provision of temporary accommodation, and increased use of health services due to homelessness.<sup>3</sup></p>
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Figure 3: Quantified impacts of Legal Aid on Public Services in Scotland

### 3.2.2 Potential further impacts of Legal Aid

There are two groups of impacts of Legal Aid that were not included in the quantified impact analysis:

- Longer-term impacts that extend beyond the period which we included in our quantified analysis or occur at a later point.
- Likely impacts for which there is currently not sufficiently robust evidence. This is because we could not answer one or more of the criteria for inclusion:
  - Whether the impact was true – was it an impact of Legal Aid?
  - The extent of the impact – how many people was it an impact for and how big an impact for them?
  - The financial value of that impact – what is the value of the impact in pounds sterling?

These impacts, and why they were excluded, are outlined in this section of the report.

<sup>3</sup> The close link between homelessness and ill health is well established. See eg Hamlet, N and Hetherington, K. 2015. *Restoring the Public Health response to Homelessness in Scotland*. [no place]: Scottish Public Health Network. St Mungo's Community Housing Association. 2013. *Health and homelessness: Understanding the costs and roles of primary care services for homeless people*. London: Department of Health.

## Potential longer-term impacts

For our quantified analysis, we considered impacts of Legal Aid and their value in monetary terms during the case and for a period of time afterwards (a total of 12 months from the start of a case). Some of the impacts can be expected to extend beyond this period and others can be expected to occur at a later point. In order not to overstate the impacts of Legal Aid, our calculations do not consider impacts that occur long after the intervention.

The following list shows impacts that are likely to extend beyond the period considered for our calculations or can be expected to occur at a later point.

### Impacts on clients in receipt of Legal Aid:

- **Better outcomes in terms of housing – eviction avoided:** In housing cases, those who receive Legal Aid are less likely to be evicted compared to those who do not receive support from a solicitor. Our calculations include the benefits to the individual who is not being evicted for a period of one year from the start of the case. However, in those cases in which the tenant can sustain the tenancy for longer, this benefit extends beyond the period included in this SROI.
- **Better criminal outcome: Custodial sentence avoided – loss of income avoided:** Our calculations include the loss of financial self-sufficiency for someone while they are imprisoned. Research suggests that a custodial sentence also has considerable negative effects on future employment and earnings.<sup>4</sup> Therefore, it seems highly likely that in those cases in which Legal Aid funded court representation helps avoid a custodial sentence, there are positive effects on employment and earnings which are not included in our quantification.
- **Better criminal outcome: Custodial sentence avoided – social isolation avoided:** Our calculations focus on social isolation while someone is imprisoned. However, it seems likely that negative effects on friendships and social integration extend beyond the period of imprisonment. There might thus be additional positive effects on the clients' social integration over and above those included in our calculations.
- **More employment and better employment prospects during the case:** Our quantified analysis considers adverse effects of someone representing themselves in court on their relationship with their employer and their employment prospects *during the case*. In cases in which Legal Aid allows someone to be represented by a solicitor instead, these negative effects are somewhat mitigated. However, positive effects are highly likely to last past the end of legal proceedings. If relationships with an employer suffer less during court proceedings, they are likely to be better in the longer term as

<sup>4</sup> See eg Holzer, HJ. 2007. *Collateral Costs: The Effects of Incarceration on the Employment and Earnings of Young Workers*. (Discussion Paper No. 3118). Bonn: IZA Institute for Labor Economics. Geller, A, Garfinkel, I and Wester, B. 2006. *The Effects of Incarceration on Employment and Wages. An Analysis of the Fragile Families Survey*. (Working Paper #2006-01-FF). Princeton: Centre for Research on Child Wellbeing.

well. And if loss of employment during court proceedings can be avoided, this has long-term effects on income and employment prospects.

- **Better mental health during the case:** Our calculations consider adverse effects of someone representing themselves in court on their mental health *during legal proceedings*. If Legal Aid allows someone to be represented by a solicitor instead, they will on average experience less stress and anxiety for the duration of legal proceedings. Moreover, this is likely to have positive effects on that person's mental health *in the longer run*, which are not included in our calculations.
- **Access to justice that would otherwise not have happened:** Someone who feels that they have been treated fairly during legal proceedings and have received the support they need in order to present their view of the case will be more inclined to feel that they live in a society where they can trust other people. Our calculations include the financial value of this benefit assuming that it lasts for the duration of legal proceedings and for 12 months thereafter. However, it seems likely that this positive effect lasts even longer. We also only considered the impact on those who had access to justice that would not have otherwise. However, it is conceivable that there is benefit to others in society from knowing that they live with a system that ensure fair and equal access to justice for all, even if they are never a client receiving Legal Aid.
- **Better educational attainment by children who do not have to live in temporary accommodation:** Clients of Legal Aid are less likely to be evicted. It seems plausible to assume that where children are involved, these children have to move home less often as a result. Research shows that moving home frequently has a negative effect on educational attainment.<sup>5</sup> However, the beneficial effects of better educational attainment mostly occur many years after Legal Aid has been provided and thus lie outside the timeframe considered for our calculations.
- **Better educational attainment by children who do not have to live in temporary accommodation – Department for Work and Pensions:** Higher educational attainment is likely to lead to more employment and higher earnings, which in turn leads to more income from taxes and less benefits costs for the Department for Work and Pensions. However, these benefits occur many years after relevant Legal Aid-funded cases end and thus lie outside the timeframe considered for our calculations.

#### Impacts on public services in Scotland:

- **Clients of Legal Aid are in better mental health – NHS:** Clients of Legal Aid are in better mental health and require less medical attention. This reduces demand and costs for the NHS. Our SROI calculations include reduced costs for the duration of a case. However, better mental health over this period is likely to lead to increased mental wellbeing longer term and thus reduce demand for health

<sup>5</sup> See eg Hutchings, HA, Evans, A, Barnes, P, Demmler, J, Heaven, M et al. 2013. Do children Who Move Home and School Frequently Have Poorer Educational Outcomes in Their Early Years at School? An Anonymised Cohort Study. *PLoS ONE*. [Online]. 8(8).

services in following years. These likely longer-term savings to the NHS are not included in our calculations.

### Impacts that did not meet the three criteria for inclusion

For some potential impacts of Legal Aid, we were unable to find sufficiently robust evidence to answer all three of the criteria for inclusion:

1. That impact was true – was it an impact of Legal Aid?
2. The extent of the impact – how many people was it an impact for and how big an impact for them?
3. The financial value of that impact – what is the value of the impact in pounds sterling?

We also excluded impacts where we considered that it was not a material impact. That is to say, that the overall impact level was negligible and therefore not worth including.

The following list describes these potential impacts and why they were not included in the SROI calculations.

### Impacts on clients in receipt of Legal Aid:

- **Better outcomes in terms of financial arrangements in family cases:** In certain areas such as criminal cases, clients in receipt of Legal Aid achieve on average better outcomes for themselves than those representing themselves in court. However, a better financial outcome for one party often means a worse financial outcome for the other party. The Scottish Legal Aid Board (SLAB) data also tells us that, in most cases, Legal Aid is provided to both parties. Therefore, the benefits for one side would then be cancelled out by dis-benefits for the other. Therefore, we have excluded these from the analysis as we do not consider there to be a material net impact.
- **Better outcomes in terms of housing – Housing Health and Safety Rating System (HHSRS) hazards removed:** Clients in receipt of Legal Aid are less likely to be evicted than those who do not have support from a solicitor. Presumably, clients of Legal Aid also achieve better outcomes in cases around HHSRS hazards the landlord needs to remove. However, the data available to us suggests that most Legal Aid-funded housing cases concern evictions and only a relatively small number concern quality improvement. We therefore concluded that given the current state of evidence, this outcome is not material enough to be included in the SROI calculations.
- **Better outcomes for children of clients in receipt of Legal Aid in terms of residence and contact:** Clients in receipt of Legal Aid in family cases achieve on average better outcomes for themselves in terms of child residence and contact. However, the evidence available to us was insufficient to support the assumption that these outcomes are also better for the children affected by these arrangements.

## Impacts on public services in Scotland:

- **Reduction in demand for social work – local authorities:** The evidenced impacts of Legal Aid include a reduction in homelessness, a reduction in custodial sentences and an increase in stable family arrangements following separation and divorce. It seems plausible to assume that these impacts lead to a reduction in demand for social work and thus save costs to local authorities. However, there is currently not enough evidence to quantify the extent to which Legal Aid reduces the demand for social work. We were thus unable to include this impact in our quantified analysis.
- **Smoother court processes and shorter cases – courts:** Legal Aid reduces the number of people representing themselves in court. There is a lot of qualitative evidence suggesting that this, in turn, leads to smoother court processes for a variety of reasons, such as party litigants being less prepared than solicitors, and lacking an understanding of legal processes and which aspects of a case are legally relevant.<sup>6</sup> This clearly puts a strain on court staff,<sup>7</sup> but the evidence did not allow us to quantify this burden. A plausible assumption is that smoother court processes are shorter, which would allow us to quantify the impact in terms of the difference in duration of court cases with and without Legal Aid. However, research to date, which focuses mainly on family cases in England and Wales, is inconclusive as to whether Legal Aid actually results in shorter court cases. Thus, family cases without Legal Aid funding can be shorter than those with Legal Aid funding depending on such factors as which party receives Legal Aid and whether a party litigant actively participates. We have therefore been unable to include this impact in our calculations.<sup>8</sup>
- **Loss of income due to written off rent arrears – local authority housing services:** Clients of Legal Aid in housing cases are less likely to be evicted. Does this put landlords – in this case mostly local authorities (housing services) and housing associations – at a disadvantage because they have to write off more rent arrears? Advice from Shelter was that in most cases the arrears held by the client are:
  - due to an error, such as an issue with benefit payments, which is corrected, and the landlord is paid;
  - addressed through a repayment plan that still avoids eviction, so the landlord is paid.

As a result, we consider loss of income not to be a material impact and did not include it in our analysis. There was evidence from our field research to suggest that landlords are less likely to be

<sup>6</sup> See eg Trinder, L, Hunter, R, Hitchings, E, Miles, J et al. 2014. Litigants in person in private family law cases. (MoJ Analytical Series). London: Ministry of Justice.

<sup>7</sup> For an overview of relevant research, see Williams, K. 2011. Litigants in person: a literature review. (MoJ Research Summary 2/11). London: Ministry of Justice.

<sup>8</sup> For an overview of relevant research see Williams, K. 2011. *Litigants in person: a literature review*. (MoJ Research Summary 2/11). London: Ministry of Justice.

paid if the client is evicted as repayment plans are not put in place, and benefit errors are not addressed to enable payment.

- **Increased maintenance costs related to Housing Health and Safety Rating System (HHSRS) hazards – local authorities, housing services:** If clients of Legal Aid are more likely to achieve a better outcome in housing cases around HHSRS hazards the landlord needs to remove, this might put the landlord – in this case, mostly local authorities and housing associations – at a disadvantage by increasing their maintenance costs. However, the data available to us suggests that most Legal Aid-funded housing cases concern evictions and a relatively small number concern quality improvement. We therefore concluded that given the current state of evidence, this outcome is not material enough to be included in the SROI calculations.
- **Reduced benefits costs and increased income from taxes:** Legal Aid increases employment and earnings by reducing custodial sentences and the number of party litigants. This leads to an increased income from taxes and a reduction in benefits costs. However, this benefit is more difficult to directly attribute to Legal Aid so it was excluded from this analysis.

#### Impacts on the wider society:

- **Rule of law weakened for others affected by a case – victims of crime or party paying privately:** Legal Aid strengthens the rule of law by providing access to justice for those who cannot afford legal support. However, it is conceivable that it might weaken the rule of law for others affected by a case. One example suggested in interviews is that in a family case in which one party receives Legal Aid without having to pay contributions and the other party pays for a solicitor privately, the party paying privately carries the financial risk alone. Another example suggested to us in interviews is that if clients of Legal Aid achieve better criminal outcomes for themselves, there might be more victims of crime who feel that a criminal sentence is unduly lenient. However, there is currently not enough evidence to establish the extent to which this happens in Legal Aid cases compared to cases in which people represent themselves. We were thus unable to include these potential impacts in our calculations.
- **Employment opportunities for solicitors:** Because many clients of Legal Aid would not be able to pay privately for a solicitor, Legal Aid funding provides employment opportunities for solicitors. However, it is unclear to what extent this leads to more employment and less unemployment amongst solicitors. Put differently, how many would be unable to find other work if they could not get Legal Aid-funded work. We considered that this impact was not material and therefore was not included in our analysis.
- **More experts giving evidence in court:** From our engagement with stakeholders and our interviews with solicitors, it emerges that Legal Aid funded court representation leads to more experts (medical and others) giving evidence in court. People who represent themselves in court are typically not able to access and pay for an expert witness, but Legal Aid can cover these expenses. This is one factor



that contributes to better outcomes for Legal Aid clients. The question we sought to prove was whether this puts a burden on someone else, for example, the NHS or another employer who has to pay for someone to replace the expert while they are in court. However, the evidence we were able to access shows that most expert witnesses are paid over and above other work, such as a doctor in an NHS hospital. Their appearance in court does not typically affect the running of public services.

- **Reduction in crime:** Legal Aid funded court representation leads to a reduction in custodial sentences. If it is right, as argued, that imprisonment increases crime, Legal Aid funded court representation would contribute to reducing crime. However, our review of relevant literature suggests that research to date is inconclusive as to whether imprisonment increases or reduces crime rates.
- **Fewer witnesses being cross-examined by a party litigant:** Legal Aid reduces the number of party litigants who represent themselves in court. This in turn reduces the number of witnesses who are cross-examined by a party litigant. This could be particularly distressing where the witness is, for example, a victim of domestic abuse who would be cross-examined by the accused person. However, the evidence available to us did not allow us to identify the frequency of such problematic cases, in particular, because courts will typically attempt to avoid such distressing cross-examinations.

### 3.3 Measuring the extent of outcomes

Our SROI considers impacts that occur during the case and after up to a period of 12 months from the date when Legal Aid has been granted.

Our methodology

#### Solicitor survey

To identify the percentage for each impact, we included relevant questions for a range of impacts in a survey with solicitors and undertook an extensive literature review. Respondents were given the option to answer questions on one or more of the three areas: criminal, housing, and family cases. Figure 4 outlines the number of responses provided for each area.

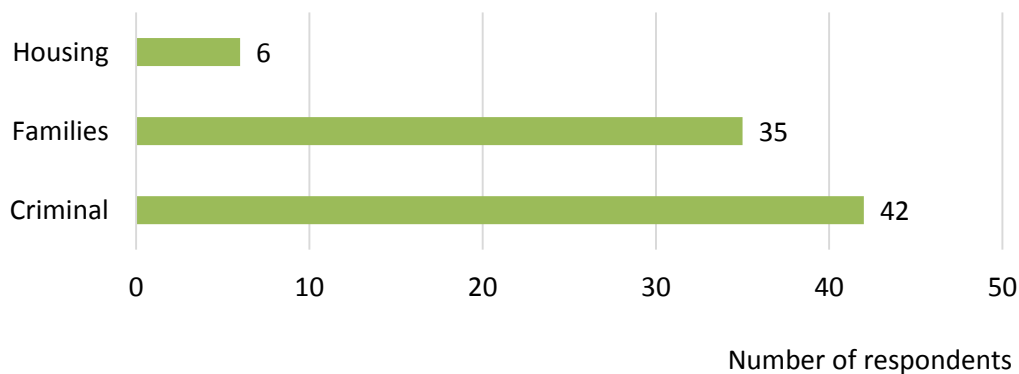


Figure 1: Number of respondents to our survey per area

68 solicitors across Scotland who work in Legal Aid completed our survey. Figure 5 outlines the local authority areas of the respondents.

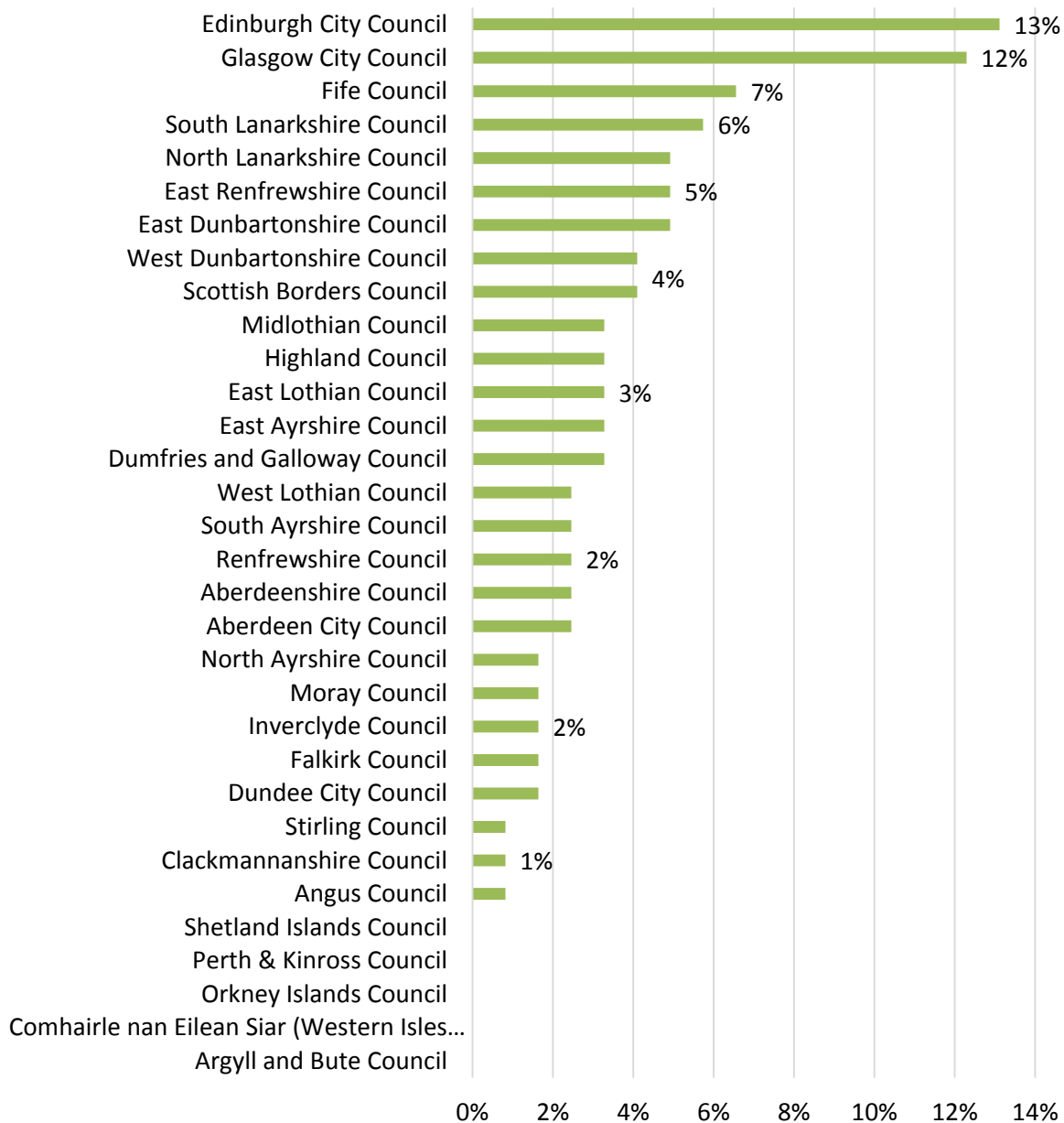


Figure 5: Local authority area of the solicitors who responded to our survey

In order to measure the extent of the main outcomes in each area, the survey asked solicitors to consider what would likely have happened without Legal Aid. More precisely, we asked what proportion of their cases in a relevant area would not have achieved a certain outcome without Legal Aid. For example, we asked:

- What proportion of your clients with criminal cases would not have had access to legal advice, assistance or representation if they had not received Legal Aid?
- What proportion of clients whose criminal case went to trial would have represented themselves if they had not received Legal Aid?

### **Interviews with solicitors**

We interviewed 13 solicitors who work in at least one of the relevant areas of law (criminal, housing, or family). These interviews sought examples by way of case studies on the impacts of Legal Aid. These were used to support the evidence identified in our survey and literature review. Where the findings of these interviews have been used is indicated in a later section of this chapter.

### **Literature review**

To complement numbers from the survey and interviews, we undertook an extensive literature review with the aim of finding high-quality research on the percentage of cases in each area that achieve a certain outcome due to Legal Aid.

### **Our analysis**

In order to bring together the evidence from the survey, interviews and literature review, we took the most appropriate source of evidence for each impact. Where there were multiple sources – for example, multiple pieces of literature, or literature and survey results – we took an average across the multiple sources. Where this has been done is indicated in Figures 6-11.

Importantly, the percentages in these figures do not take into account that some Legal Aid clients might have been able to get legal support even if they had not received Legal Aid. Because this discount applies across all cases and outcomes, we have included it in our overall adjustments as “deadweight”, that is, the extent to which an outcome would have happened anyway and without Legal Aid. This means that if the figures below show an extent of 100% for an outcome, our SROI calculations do not assume that the outcome is achieved by 100% of Legal Aid clients *due to Legal Aid*. The percentage we used will be lower and is based on our assumptions about what percentage of cases in each area would not have received any legal support if they had not received Legal Aid (see Chapter 4 for details).

## Housing cases

### Beneficiary: Clients receiving Legal Aid

Outcome	Extent	Sources of evidence
Better outcomes in terms of housing: eviction avoided	32% of Legal Aid clients avoid eviction as a result of the support they receive <sup>9</sup>	In a post-test randomised experiment carried out in the US in 2001 with tenants who had received a court order regarding unpaid rents, 24% of tenants who received legal advice, assistance or representation were evicted, compared to 44% of tenants who did not receive any legal support (P=0.001). Of those who were represented in court, only 10% were evicted, compared to 44% of unrepresented tenants (P < 0.0001). <sup>10</sup>
		An analysis of data from the English and Welsh Civil and Social Justice Survey shows that 36.7% of respondents with housing problems who receive legal support report that an agreement was reached, compared to 28% of respondents who received some qualified advice, but no formal legal support, and 23% of those who received advice from unqualified sources. These findings are statistically significant. <sup>11</sup>

<sup>9</sup> This is derived from a midpoint of the relevant evidence.

<sup>10</sup> Holl, M, van den Dries, Land Wolf, JRLM. 2016. Interventions to prevent tenant evictions: a systematic review. Health and Social Care in the Community, 24(5), p. 539.

<sup>11</sup> Bradley, L. 2011. Cutting Legal Aid: Advice sources and outcomes in civil justice. London: The Strategic Society Centre, p. 11.

Outcome	Extent	Sources of evidence
		<p>A 2011 meta-analysis of every known published quantitative analysis of the relationship between attorney representation and civil trial or hearing outcomes in the US claims that cases represented by lawyers (at least one party) are between 17% (1.17 times) and 1380% (13.79 times) more likely to win than cases in which people represent themselves. The only study included in the meta-analysis that randomly assigned focal parties to the conditions of lawyer representation or self-representation suggests that lawyer representation increases the chances of winning by 444% (4.44 times).<sup>12</sup></p> <p>In our survey, on average solicitors said that 53% of clients would have been evicted if they had not received Legal Aid.</p>
Better mental health during the case	21% of those who receive Legal Aid have improved mental health as a result of Legal Aid	In a 2014 survey with 1,001 GPs who represent the UK regions, 95% of GPs expressed the view that a lack of legal advice on social welfare issues, including housing problems, has a negative effect on their patients' health (48% to a large extent, 40% to some extent, 7% to a small extent). <sup>13</sup>

12 Sandefur, RL. 2015. Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact. *American Sociological Review*. 80(5), p. 34.

13 ComRes Omnibus GP survey 2014, conducted on behalf of Spire Healthcare.

Outcome	Extent	Sources of evidence
		Using professional judgement, we have interpreted “negative effect on health” conservatively as a 10% decrease and the associated benefit as 10% of the relevant financial value.
Better relationships with family and friends during the case	71% of those who receive Legal Aid have improved family relationships as a result of Legal Aid	<p>71% of those who participated in a survey of 293 Citizens Advice Bureau (CAB) advisers in England and Wales said the experience of going to court without a lawyer causes relationships with family and friends to suffer.<sup>14</sup></p> <p>Using professional judgement, we interpreted “suffer” conservatively as a 10% decrease and the associated benefit of improved relationships as 10% of the relevant financial value.</p>
More employment and better employment prospects during the case	47% of those receiving Legal Aid have improved relationships with employers as a result of Legal Aid	<p>47% of those who participated in a survey of 293 CAB advisers in England and Wales agree that going to the family court as a party litigant places extra pressure on people's relationship with their employer.<sup>15</sup></p> <p>Using professional judgement, we interpreted “extra pressure” conservatively as a 10% decrease in quality and the associated benefit as</p>

14 Vaughan, K. 2015. Standing alone. Going to the family court without a lawyer [no place]: Citizens Advice, p. 4.

15 Vaughan, K. 2015. Standing alone. Going to the family court without a lawyer. [no place]: Citizens Advice, p. 3.

Outcome	Extent	Sources of evidence
		10% of the relevant financial value.
Access to justice that would not otherwise have happened	Included as deadweight in adjustments (see Chapter 4)	In our solicitor survey, on average solicitors estimated that 67% of housing clients would not have had access to legal advice, assistance or representation if they had not received Legal Aid.

Figure 6: The extent of outcomes for clients receiving Legal Aid in housing cases



**Beneficiary: Public services**

Outcome	Extent	Sources of evidence
Fewer cases going to court – Scottish Courts and Tribunals Service	21%	In our solicitor survey, on average solicitors estimate that 49% of their housing cases don't go to court. Moreover, 42% of those cases that didn't go to court would have gone to court without legal support.
Clients of Legal Aid are in better mental health – NHS	21% of those who receive Legal Aid have improved mental health as a result of Legal Aid	<p>In a 2014 survey with 1,001 GPs who represent the UK regions, 95% of GPs expressed the view that a lack of legal advice on social welfare issues, including housing problems, has a negative effect on their patients' health (48% to a large extent, 40% to some extent, 7% to a small extent).<sup>16</sup></p> <p>Using professional judgement, we have interpreted “negative effect on health” conservatively as a 10% decrease and the associated benefit of improved mental health as 10% of the relevant financial value.</p>

<sup>16</sup> ComRes Omnibus GP survey 2014, conducted on behalf of Spire Healthcare.



Reduced costs because homelessness avoided – public services	32% of Legal Aid clients avoid eviction as a result of the support they receive <sup>17</sup>	See Row 1, Figure 6 above.
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Figure 7: The extent of outcomes for public services in Legal Aid housing cases

<sup>17</sup> This is derived from a midpoint of the relevant evidence.

## Family cases

### Beneficiary: Clients receiving Legal Aid

Outcome	Extent	Sources of evidence
Better mental health during the case	21% of those who receive Legal Aid have improved mental health as a result of Legal Aid	<p>In a 2014 survey with 1,001 GPs who represent the UK regions, 95% of GPs expressed the view that a lack of legal advice on social welfare issues, including housing problems, has a negative effect on their patients' health (48% to a large extent, 40% to some extent, 7% to a small extent).<sup>18</sup></p> <p>Using professional judgement, we interpreted “negative effect on health” conservatively as a 10% decrease and the associated benefit of improved mental health as 10% of the relevant financial value.</p>
Better relationships with family and friends during the case	71% of those who receive Legal Aid have improved family relationships as a	<p>71% of those who participated in a survey of 293 CAB advisers in England and Wales said the experience of going to court without a lawyer causes relationships with family and friends to suffer.<sup>19</sup></p> <p>Using professional judgement, we interpreted “suffer” conservatively as a 10% decrease</p>

<sup>18</sup> ComRes Omnibus GP survey 2014, conducted on behalf of Spire Healthcare.

<sup>19</sup> Vaughan, K. 2015. Standing alone. Going to the family court without a lawyer. [no place]: Citizens Advice, p. 4.

	result of Legal Aid	and the associated benefit of improved relationships as 10% of the relevant financial value.
More employment and better employment prospects during the case	47% of those receiving Legal Aid have improved relationships with employers as a result of Legal Aid	<p>47% of those who participated in a survey of 293 CAB advisers in England and Wales agree that going to the family court as a party litigant places extra pressure on people's relationship with their employer.<sup>20</sup></p> <p>Using professional judgement, we interpreted "extra pressure" conservatively as a 10% decrease in quality and the associated benefit of improved relationships as 10% of the relevant financial value.</p>
Access to justice that would not otherwise have happened	Included as deadweight in adjustments (see Chapter 4)	A study of party litigants suggests that 75-80% of party litigants in family cases represent themselves because they cannot afford legal representation rather than choosing freely to do so. The study cites two others that suggest similar percentages. <sup>21</sup>
		In our solicitor survey, on average solicitors estimated that 79% of family clients would not have had access to legal advice, assistance or representation if they had not received legal aid.

Figure 8: The extent of outcomes for clients receiving Legal Aid in family cases

20 Vaughan, K. 2015. Standing alone. Going to the family court without a lawyer. [no place]: Citizens Advice, p. 3.

21 Trinder, L, Hunter, R, Hitchings, E, Miles, J et al. 2014. Litigants in person in private family law cases. (MoJ Analytical Series). London: Ministry of Justice, p. 13.

**Beneficiary: Public services**

Outcome	Extent	Sources of evidence
Fewer cases going to court – Scottish Courts and Tribunals Service	14%	In our solicitor survey, on average solicitors estimate that 60% of their family cases don't go to court. Moreover, 23% of those cases that didn't go to court would have gone to court without legal support.
Clients of Legal Aid are in better mental health – NHS	21% of those who receive Legal Aid have improved mental health as a result of Legal Aid	<p>In a 2014 survey with 1,001 GPs who represent the UK regions, 95% of GPs expressed the view that a lack of legal advice on social welfare issues, including housing problems, has a negative effect on their patients' health (48% to a large extent, 40% to some extent, 7% to a small extent).<sup>22</sup></p> <p>Using professional judgement, we have interpreted “negative effect on health” conservatively as a 10% decrease and the associated benefit of improved mental health as 10% of the relevant financial value.</p>

*Figure 9: The extent of outcomes for public services in Legal Aid family cases*

<sup>22</sup> ComRes Omnibus GP survey 2014, conducted on behalf of Spire Healthcare.

## Criminal cases

### Beneficiary: Clients receiving Legal Aid

Outcome	Extent	Sources of evidence
Better criminal outcome: Custodial sentence avoided – loss of income avoided, social isolation avoided	9%	Government statistics show that 13.74% of all convictions result in a custodial sentence. <sup>23</sup>  Research suggests that in Legal Aid cases, 64% of convictions not resulting in a custodial sentence avoided a custodial sentence due to Legal Aid. <sup>24</sup>
Better mental health during the case	21% of those who receive Legal Aid have improved mental health as a result of Legal Aid	In a 2014 survey with 1,001 GPs who represent the UK regions, 95% of GPs expressed the view that a lack of legal advice on social welfare issues, including housing problems, has a negative effect on their patients' health (48% to a large extent, 40% to some extent, 7% to a small extent). <sup>25</sup>

23 Scottish Government. 2017. Criminal Proceedings in Scotland, 2015-16. [Online]. [Accessed 25 October 2017]. Available from: <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Datasets/DatasetsCrimProc>

24 This is derived from a midpoint of the relevant evidence: (1) Dewar, J, Smith, BW and Banks, C. 2000. Litigants in Person in the Family Court of Australia. (Research Report No 20). Melbourne: Family Court of Australia, p. 2. This research reports that 59% of those representing themselves have been disadvantaged due to the lack of representation. (2) In our collection of case studies provided by solicitors in interviews, in 9 out of 13 criminal cases, a custodial sentence was avoided.

25 ComRes Omnibus GP survey 2014, conducted on behalf of Spire Healthcare.



		<p>Using professional judgement, we have interpreted “negative effect on health” conservatively as a 10% decrease and the associated benefit of improved mental health as 10% of the relevant financial value.</p>
<p>Better relationships with family and friends during the case</p>	<p>71% of those who receive Legal Aid have improved family relationships as a result of Legal Aid</p>	<p>71% of those who participated in a survey of 293 CAB advisers in England and Wales said the experience of going to court without a lawyer causes relationships with family and friends to suffer.<sup>26</sup></p> <p>Using professional judgement, we interpreted “suffer” conservatively as a 10% decrease and the associated benefit of improved relationships as 10% of the relevant financial value.</p>
<p>More employment and better employment prospects during the case</p>	<p>47% of those receiving Legal Aid have improved relationships with employers as a result of Legal Aid</p>	<p>47% of those who participated in a survey of 293 CAB advisers in England and Wales agree that going to the family court as a party litigant places extra pressure on people's relationship with their employer.<sup>27</sup></p> <p>Using professional judgement, we interpreted “extra pressure” conservatively as a 10% decrease in quality and the associated benefit of improved relationships as 10% of the relevant financial value.</p>

26 Vaughan, K. 2015. Standing alone. Going to the family court without a lawyer. [no place]: Citizens Advice, p. 4.

27 Vaughan, K. 2015. Standing alone. Going to the family court without a lawyer. [no place]: Citizens Advice, p. 3.



Access to justice that would not otherwise have happened	Included as deadweight in adjustments (see Chapter 4)	In our solicitor survey, on average solicitors estimated that 83% of clients in criminal cases would not have had access to legal advice, assistance or representation if they had not received Legal Aid.
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*Figure 10: The extent of outcomes for clients receiving Legal Aid in criminal cases*



**Beneficiary: Public services**

Outcome	Impact	Source
Fewer cases going to court – Scottish Courts and Tribunals Service	17%	In our solicitor survey, on average solicitors estimate that 67% of their criminal cases don't go to trial. Moreover, 26% of those cases that didn't go to trial would have gone to trial without legal support.
Fewer custodial sentences – Scottish Prison Service	9%	Government statistics show that 13.74% of all convictions result in a custodial sentence. <sup>28</sup> Research suggests that in legal aid cases, 64% of convictions not resulting in a custodial sentence avoided a custodial sentence due to Legal Aid. <sup>29</sup>
Clients of Legal Aid are in better mental health – NHS	21% of those who receive Legal Aid have improved mental health	In a 2014 survey with 1,001 GPs who represent the UK regions, 95% of GPs expressed the view that a lack of legal advice on social welfare issues, including housing problems, has a negative effect on their

28 Scottish Government. 2017. Criminal Proceedings in Scotland, 2015-16. [Online]. [Accessed 25 October 2017]. Available from: <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Datasets/DatasetsCrimProc>

29 This is derived from a midpoint of the relevant evidence: (1) Dewar, J, Smith, BW and Banks, C. 2000. Litigants in Person in the Family Court of Australia. (Research Report No 20). Melbourne: Family Court of Australia, p. 2. This research reports that 59% of those representing themselves have been disadvantaged due to the lack of representation. (2) In our collection of case studies provided by solicitors in interviews, in 9 out of 13 criminal cases, a custodial sentence was avoided.



	as a result of Legal Aid	patients' health (48% to a large extent, 40% to some extent, 7% to a small extent). <sup>30</sup>  Using professional judgement, we interpreted “negative effect on health” conservatively as a 10% decrease and the associated benefit of improved mental health as 10% of the relevant financial value.
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Figure 11: The extent of outcomes for public services in Legal Aid criminal cases

30 ComRes Omnibus GP survey 2014, conducted on behalf of Spire Healthcare.

### 3.4 Valuing outcomes

After establishing case numbers and the percentage of these cases in which each outcome is achieved, we assigned a value to each outcome. This section provides a detailed explanation of our procedure and the values we used for the SROI calculations.

We used values found in relevant literature and social value databases for all outcomes. These values, also called financial proxies, are an attempt to express the value of social outcomes for the beneficiaries in financial terms. This allows us to compare directly investment in Legal Aid to the social returns on this investment.

Assigning financial values to social outcomes is inevitably difficult and the number assigned depends on assumptions made about the outcome and the value of commodities in the vicinity that actually have a price or market value. It is therefore essential to explain each financial proxy that we have used for the SROI calculations and how it approximates the value of an outcome. This is shown in Figures 12 (outcomes for clients in receipt of Legal Aid) and 13 (outcomes for public services in Scotland) below, with sources of the proxies in the footnotes.

#### Outcomes for clients in receipt of Legal Aid

Outcome	Area	Financial proxy	Value in monetary terms
Better outcomes in terms of housing: eviction avoided	Housing	<p>Average value to an individual (living in the UK, but outside London) of being able to maintain and pay for their accommodation.<sup>31</sup></p> <p>To avoid overstating the benefits of Legal Aid, we have assumed that this includes benefits to the individual that come with maintaining their accommodation, such as better mental and physical health.<sup>32</sup></p>	£7,388 per person per year

<sup>31</sup> Fox, J. 2014. Social Return on Investment Forecast. Additional Services of South/South East Independent Living Support Team. Leeds: Housing Leeds.

<sup>32</sup> The close link between homelessness and ill health is well established. See eg Hamlet, N & Hetherington, K 2015, 'Restoring the Public Health response to Homelessness in Scotland', Scottish Public Health Network Report. St Mungo's Community Housing Association 2013, 'Health and homelessness: Understanding the costs and roles of primary care services for homeless people', Report for the Department of Health.

Outcome	Area	Financial proxy	Value in monetary terms
Better criminal outcome: Custodial sentence avoided – loss of income avoided	Criminal	<p>Midpoint between two credible data sources:</p> <ul style="list-style-type: none"> <li>Value of full-time employment to individuals (based on statistical analysis of large, national datasets from surveys of the UK population)<sup>33</sup></li> <li>Financial self-sufficiency, equivalent to a net full-time annual salary at minimum wage<sup>34</sup></li> </ul>	£12,948 per person per year
Better criminal outcome: Custodial sentence avoided – social isolation avoided	Criminal	Cost to the individual of not being able to meet up with friends a number of times a week (as perceived by the individual). <sup>35</sup>	£17,300 per person per year
More employment and better employment prospects during the case	All	<p>Midpoint between two credible data sources:</p> <ul style="list-style-type: none"> <li>Value of full-time employment to individuals (based on statistical analysis of large, national datasets from surveys of the UK population)<sup>36</sup></li> <li>Financial self-sufficiency, equivalent to a net full-time annual salary at minimum wage<sup>37</sup></li> </ul>	£12,948 per person per year

33 Fujiwara, D, Trotter, L and Vine, J. 2015. The health impacts of Housing Associations' Community Investment Activities: Measuring the indirect impact of improved health on wellbeing. An analysis of seven outcomes in the Social Value Bank. London: HACT.

34 Atkinson, E and Selsick, A. 2016. Refuge: A Social Return on Investment Evaluation. London: NEF consulting.

35 Fujiwara, D, McKinnon, E and Oroyemi, P. 2013. Wellbeing and civil society: Estimating the value of volunteers using subjective wellbeing data. (DWP Working Paper No 112). London: Department for Work and Pensions.

36 Fujiwara, D, Trotter, L and Vine, J. 2015. The health impacts of Housing Associations' Community Investment Activities: Measuring the indirect impact of improved health on wellbeing. An analysis of seven outcomes in the Social Value Bank. London: HACT.

37 Atkinson, E and Selsick, A. 2016. Refuge: A Social Return on Investment Evaluation. London: NEF consulting.

Outcome	Area	Financial proxy	Value in monetary terms
Better mental health during the case	All	<p>Value of increased levels of mental health and wellbeing (as perceived by the individual).<sup>38</sup></p> <p>This value is on the face of it very high. Even though the methodology behind it is very robust, we have made generous adjustments (optimism bias and others, see Chapter 4 for details) to avoid overstating the benefits of Legal Aid.</p>	£44,237 per person per year
Better relationships with family and friends during the case	All	<p>Cost to the individual of not being able to meet up with friends a number of times a week (as perceived by the individual).<sup>39</sup></p> <p>We have assumed that this also covers costs to the individual of disrupted family relationships to be conservative.</p>	£17,300 per person per year
Access to justice that would not otherwise have happened	All	<p>Value to the individual of living in a society where they feel they can trust others (as perceived by the individual).<sup>40</sup></p>	£15,900 per person per year

Figure 12: Financial proxies used for valuing outcomes for clients in receipt of Legal Aid

38 Fujiwara, D, Dolan, P. 2014. Valuing mental health: How a subjective wellbeing approach can show just how much it matters. London: UK Council for Psychotherapy.

39 Fujiwara, D, McKinnon, E and Oroyemi, P. 2013. Wellbeing and civil society: Estimating the value of volunteers using subjective wellbeing data. (DWP Working Paper No 112). London: Department for Work and Pensions.

40 Fujiwara, D, McKinnon, E and Oroyemi, P. 2013. Wellbeing and civil society: Estimating the value of volunteers using subjective wellbeing data. (DWP Working Paper No 112). London: Department for Work and Pensions.

## Outcomes for public services in Scotland

Impact	Area	Financial proxy	Value in monetary terms
Fewer cases going to court – Scottish courts	All	Average additional cost per procedure if it progresses to trial rather than being resolved earlier, in Scotland, across High Court, sheriff court and justice of the peace court. <sup>41</sup>	£8,375 per court case avoided
Fewer custodial sentences – Scottish Prison Service	Criminal	Average cost of keeping an offender in prison, with the average duration of custody of 292 days <sup>42</sup> at an annual cost of £34,840. <sup>43</sup>	£27,581 per avoided custodial sentence
Clients of Legal Aid are in better mental health – NHS	All	Average fiscal cost to the NHS of service provision for adults suffering from depression and/or anxiety disorders. <sup>44</sup>	£1,005 per person per year
Reduced costs because homelessness avoided – public services	Housing	Average reduction in public spending from avoiding homelessness. <sup>45</sup>  This includes reduced spending on homelessness services, provision of temporary accommodation, health services and other services.	£9,266 per household per year

Figure 13: Financial proxies used for valuing outcomes for public services in Scotland

41 Our calculation based on data from: Scottish Government. 2016. Costs of the Criminal Justice System in Scotland. [Online]. [Accessed 20 October 2017]. Available from: <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot/costcrimjustdataset>

42 Scottish Government. 2017. Criminal Proceedings in Scotland, 2015-16. [Online]. [Accessed 25 October 2017]. Available from: <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Datasets/DatasetsCrimProc>

43 Manchester New Economy Unit Cost Database.

44 Manchester New Economy Unit Cost Database.

45 Pleace, N and Culhane, DP. 2016. Better than Cure? Testing the case for Enhancing Prevention of Single Homelessness in England. London: Crisis.

## Chapter 4: Adjustments made

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Once we had determined the extent and value of the impacts, as outlined in Chapter 3, we needed to make some technical adjustments as per the Social Return on Investment (SROI) and other cost-benefit analysis guidance. We made the following adjustments:

- Deadweight
- Attribution
- Optimism bias

### Deadweight

We asked solicitors for their professional judgement on what proportion of their clients would have had access to legal support if Legal Aid was not available to them. The solicitors' survey revealed that:

- 67% of housing clients would not have had access to legal support without Legal Aid
- 79% of family clients would not have had access to legal support without Legal Aid
- 83% of criminal clients would not have had access to legal support without Legal Aid

From this, we assume that 33% of housing clients, 21% of family clients and 17% of criminal clients would have had access to legal support in some other way, for example, access to support from the advice sector. These are excluded from our SROI calculation. This is because the benefit of legal support would have been achieved anyway.

### Attribution

After looking at a number of case budgets from a range of cases across the three areas, we have established that generally Scottish Legal Aid Board (SLAB) funding covers the following proportion of the costs of Legal Aid cases:

- 70% of criminal cases
- 40% of housing cases
- 75-80% of family cases

We understand that solicitors cover the remaining cost through reduced profits or other revenue sources other than SLAB Legal Aid or grant funding.

Therefore, we need to reduce the benefits by 60% for housing, 25% for family (to be conservative), and 30% for criminal cases, to take into account that the SLAB funding isn't responsible for 100% of the benefit in each case. The remaining benefit is due to the revenue from other sources. To derive these attributions, we used the following methodologies:

- For criminal cases, we used the median result from the solicitors' survey, which shows that the median answer by solicitors was that SLAB funding covered around 70% of their costs.
- For housing cases, providers of legal assistance estimated an average case cost of £1,000 on a cost-recovery basis only where the case cost includes solicitor salary and overheads). The average SLAB payment per housing case is £376.60. This means that 60% of the costs for a case (rounded to the nearest 5%) is sourced from other funding streams.
- For family cases, we have used a sample of case costs provided by solicitors, which shows that on average SLAB funding covers 75-80% of case costs.

Different approaches were used to derive these attributions across the three cases due to the availability of data.

## Optimism bias

According to the Manchester New Economy Cost Benefit Analysis Guidance<sup>46</sup>, optimism bias needs to be applied to all calculations to account for the fact that analyses such as these tend to overestimate the benefits and underestimate the costs. Their grading system is outlined in Figures 14 and 15. As the cost data is the actual accounts from 2016/17, as provided by SLAB, we have applied a 0% optimism bias to all costs. We have used the best evidence available to us to identify the extent and value of outcomes and have only included outcomes for which we had sufficiently robust evidence. However, some of the evidence currently available could be of even higher quality and more research will be needed to consolidate relevant findings. Therefore, we have applied a 40% optimism bias to all impacts in this calculation to ensure that findings are as robust as possible and maintain the integrity of this research. This means that all benefits have been reduced by 40%.<sup>47</sup>

46 Manchester New Economy. 2014. Supporting public service transformation: cost benefit analysis guidance for local partnerships. London: HM Treasury.

47 This also takes into account concerns of Cookson and Mold regarding the quality of the evidence that is currently available on the benefits of social welfare advice services. See Cookson, G and Mold, F. 2014. The business case for social welfare advice services: An evidence review. London: Legal Action Group.









Confidence grade	Colour coding	Data source	Age of data	Known Data error		Optimism bias correction
1	Green	Independently audited cost data	Current Data (<1 year old)	+ -2%		0%
2	Light Green	Formal service delivery contract costs	1-2 years old	+ -5%		+5%
3	Yellow	Practitioner monitored costs	2-3 years old	+ -10%		+10%
4	Orange	Costs developed from ready reckoners	3-4 years old	+ -15%		+15%
5	Light Orange		4-5 years old	+ -20%		+25%
6	Red	Uncorroborated expert judgement	>5 years old	+ -25%		+40%

Figure 14: Optimism bias grading guidance for costs [Source: Manchester New Economy Cost Benefit Analysis Guidance <sup>48</sup>]

<sup>48</sup> Manchester New Economy. 2014. Supporting public service transformation: cost benefit analysis guidance for local partnerships. London: HM Treasury, p. 33.







Confidence grade	Colour coding	Population / Cohort Data	Evidence base (engagement / impact)	Age of data / analysis	Known data error		Optimism bias correction
1	Green	Figures taken from agency data systems	Randomised Control Trial in UK	Current Data (< 1 year old)	+/-2%		0%
2	Light Green	Figures derived from local stats	International Randomised Control Trial	1-2 years old	+/-5%		-5%
3	Yellow	Figures based on national analysis in similar areas	Independent monitoring of outcomes with a robust evaluation plan	2-3 years old	+/-10%		-10%
4	Orange	Figures based on generic national analysis	Practitioner monitoring of outcomes with a robust evaluation plan	3-4 years old	+/-15%		-15%
5	Light Orange	Figures based on international analysis	Secondary evidence from a similar type of intervention	4-5 years old	+/-20%		-25%
6	Red	Uncorroborated expert judgement	Uncorroborated expert judgement	> 5 years old	+/-25%		-40%

Figure 15: Optimism bias grading guidance for benefits [Source: Manchester New Economy Cost Benefit Analysis Guidance<sup>49</sup>]

<sup>49</sup> Manchester New Economy. 2014. Supporting public service transformation: cost benefit analysis guidance for local partnerships. London: HM Treasury, p. 34.

## Chapter 5: Notes of interpretation

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The Social Return on Investment (SROI) calculation tells you the social return from every £1 spent on Legal Aid. When interpreting these findings, it is important to note the following.

### Unquantified values

We have only included impacts that we are able to evidence and quantify. This means we needed to establish whether:

1. The impact was true – was it an impact of Legal Aid?
2. The extent of the impact – how many people was it an impact for and how big an impact for them?
3. The financial value of that impact – what is the value of the impact in pounds sterling?

If we were unable to prove all three elements, then we were unable to include these in the analysis. There are a number of impacts we identified that met the first criteria – we have been able to establish that these were impacts of Legal Aid, but we were unable to establish 2, or 3, or both. These impacts are outlined in section 3.2.2 of this report.

This means that it is important to read the returns on investment calculation within the context of all the impacts, quantified and unquantified. For housing cases, we were able to evidence and quantify many more impacts than for family and criminal cases. For those two areas, we were able to identify impacts that met only criteria 2 or 3, but not both.

### Cashability

Social return does not equate to financial savings to services. In economic analysis, the impacts that equate to financial savings are called cashable benefits. We have not specifically studied which of the impacts would produce cashable savings to organisations as this was not the scope of our task.

We anticipate that the impacts included in our SROI will have an impact on the demand for the following services:

- Reduced use of NHS services due to improved health of clients
- Reduced court resources due to fewer cases proceeding to court due to early resolution
- Reduced costs to local authorities of providing emergency accommodation due to reduced evictions

Other impacts are considered to create social value. While we have provided a financial proxy to that social value, it does not represent a monetary gain for anyone. Some of these social values may lead to financial

gain – for example, avoiding eviction is likely to make it easier to obtain or retain employment. However, we have not broken down these impacts into those with financial impact and those of social value.

Examples of impacts that will create a social value but not necessarily a monetary gain include:

- For clients – avoiding a deterioration in health during a case due to reduced stress
- For clients – avoiding a deterioration in relationships with friends and family due to reduced stress
- For clients – avoiding a deterioration in relationships with employers during case due to reduced stress



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JUNE 2021



# UNDERSTANDING THE TRUE COST OF EVICTIONS IN SCOTLAND

Professor Alexander Lord and Dr Yiquan Gu

University of Liverpool



	<b>About the Authors</b>	<b>3</b>
	<b>About the University of Liverpool</b>	<b>3</b>
	<b>Acknowledgment</b>	<b>3</b>
	<b>Executive summary</b>	<b>4</b>
<b>1</b>	<b>Introduction</b>	<b>6</b>
<b>2</b>	<b>Understanding the full cost of evictions – methods and study design</b>	<b>8</b>
<b>3</b>	<b>The geography of evictions from social tenancies in Scotland</b>	<b>10</b>
<b>4</b>	<b>The direct costs of eviction in Scotland</b>	<b>14</b>
<b>5</b>	<b>The indirect costs of eviction</b>	<b>19</b>
<b>6</b>	<b>The costs of evictions from social tenancies in Scotland</b>	<b>25</b>
<b>7</b>	<b>Scenarios</b>	<b>27</b>
<b>8</b>	<b>Conclusions</b>	<b>30</b>
<b>9</b>	<b>References</b>	<b>32</b>
<b>10</b>	<b>Appendix</b>	<b>34</b>

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This report was commissioned by Shelter Scotland.

## About the University of Liverpool

The University of Liverpool has, since 1881, worked for the advancement of learning and ennoblement of life. This remains our mission today and will give focus to all our efforts in the coming years as we strive to achieve our ambitions and aspirations, tackle the grand challenges of the age and make our vision a reality.

As a connected, global University with multiple physical and virtual campuses – Liverpool, London, Suzhou, Singapore and online – our worldwide influence and impact is unrivalled in higher education.

The University is an inclusive institution, committed to the provision of opportunity for those with the capacity to benefit as individuals but also as members of a wider community dedicated to a sustainable and just society.

## Acknowledgment

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# Executive Summary

Eviction can be a formative experience. Any household which has been subject to eviction proceedings will, at minimum, have experienced the stress of the process and the personal costs associated with seeking alternative accommodation. For some it can be the first disruptive step on a pathway into homelessness that ultimately shows up in statistics that describe lengthy stays in temporary accommodation and the servicing of support needs. This portfolio of activities required to get a household back into housing is necessitated by the initial decision to evict in the first place – and it can be expensive.

In this study we provide an account of just how expensive by quantifying the costs of eviction in Scotland for each of the past six years, 2014/15–2019/20.

## The report contains seven main findings:

- i. Despite having some of the most progressive aspirations in Europe with regard to tackling homelessness, Scotland still records a significant number of legal proceedings in pursuit of eviction from social tenancies each year. In 2019/20 a total of 10,431 cases of eviction proceeding were initiated by social landlords – the fewest of the period considered as part of this study. In 2016/17 a total of 13,565 cases were initiated.
- ii. The legal process of eviction results in a maximum of 20% of dwellings being recovered. For example, in 2019/20 a total of 1866 dwellings were recovered as a result of eviction from a social tenancy from the 10,431 instances of legal proceedings issued. Over the course of the six-year period under review in this study the proportion of recovered properties was as low as 15% in 2014/15 and 2015/16.
- iii. The number of households evicted from social tenancies into homelessness is significant. Data presented in this report shows that in 2019/20 a total of 805 households went on to present as homeless or threatened with homelessness as a result of being evicted. In 2018/19 this figure stood at a high for the six-year period under consideration of 890.
- iv. To quantify the economic costs of eviction we distinguish between ‘direct’ and ‘indirect’ costs. It is important to examine all of the costs associated with an eviction, in order to get a true picture of how much evicting a household from a social home actually costs. By direct costs we mean those costs internal to the process of evicting a household from a social tenancy – lost rent arrears, void losses and legal fees. The indirect costs of eviction are understood to include the extended costs resulting from homelessness such as temporary accommodation. We aggregate cost of eviction from social tenancies in Scotland of £27,848,932 for 2019/20. This comprises of £22,264,288 in direct costs, and £5,584,644 in indirect costs. This total cost of eviction in 2019/20 is down from £30,648,662 in 2018/19. It is important to note however that this is a conservative assessment of indirect costs, the actual cost of eviction is likely to be higher.

- v. The aggregate costs of eviction can perhaps be more meaningfully represented as an average cost per eviction. On this basis the average cost of each instance of eviction in Scotland during 2019/20 was £14,924.
- vi. Having specified the costs of eviction from social tenancies we go on to note that the perception of such costs can vary significantly depending on the perspective of the evicting agency. The question of who bears which costs is highly relevant. The decision to pursue eviction (or not) will often be strongly informed by the significance accorded to direct versus indirect costs. One of the findings of this report is that the under-representation of the indirect costs of eviction might encourage the misperception of the full economic cost of eviction.
- vii. In the final section of this report we provide a series of scenarios that serve to illustrate the variation in how the costs of eviction may be perceived. The degree of mis-accounting could be significant. For example, an RSL (which typically bears no subsequent duty to an evicted household following eviction) may understand the costs of eviction to be restricted to direct costs – possibly even as little as three months’ rent arrears. By contrast a local authority, which will usually bear a homelessness duty to an evicted household that subsequently goes on to present as homeless, may take better account of the broader indirect costs of homelessness – particularly temporary accommodation costs. Our findings quantify this variation in the perception of the costs of eviction: £11,944 to an RSL, £18,881 to a local authority.
- Although our study does not explore the wider social costs of eviction it is important to mention that these are often profound for the household which is evicted. The negative impact that eviction has on tenants, and particularly children, is well documented. Going through the eviction process is highly stressful and can be damaging to both mental and physical health. The upheaval of being evicted and potentially having to move away from friends and family and changing schools also adds an extra layer of emotional distress. Housing upheaval can have a lasting impact on children in particular: children who are homeless are three to four times more likely to have mental health problems than other children, even one year after being rehoused (Shelter Scotland, 2009).
- In presenting these findings our goal is to inform the ongoing debate regarding evictions policy in Scotland. The results of our study show that the decision to evict may be both personally distressing to the evicted household and a great deal more expensive than the evicting agency may superficially believe.

# 1 Introduction

- 1.1 There is long-standing evidence of a clear connection between the eviction of tenant households and homelessness (Böheim and Taylor, 2000; Crane and Warnes, 2000; Desmond, 2012). In recent times academic interest has grown in evictions as an important episode along a pathway into homelessness (Cooper and Patton, 2018; Watt, 2018; Wilde, 2020). Indeed, *Housing Policy Debate*, one of the leading journals in the field, published a special issue in early 2021 – “Evictions: shedding light on the hidden housing problem” – that points to the need for more research on all aspects of the relationship between evictions and homelessness.
- 1.2 On the basis of the trans-national evidence that we do have it is possible to identify a broad chain of consequences that follow from eviction that are mirrored in diverse settings. Specific studies in European contexts such as Germany, Ireland, the Netherlands and Sweden (see essays in Kenna et al., 2018) chime with sub-national research on evictions in cities such as London (Watt, 2018) and Vancouver (Collins et al., 2018): eviction acts as a stimulus to homelessness that has attendant implications for a wide range of public services. This case-based evidence has been assembled by Soderberg (2018) to arrive at the conclusion that the readiness with which evictions are effected in many otherwise advanced nations constitutes a global problem.
- 1.3 The multi-faceted and longitudinal implications of the decision to evict are tangled and complex. Newly evicted households are forced to engage with a range of public and third sector services. This begins with the legal and judicial process that governs evictions in the first place but then often extends to include social services, healthcare, formal homelessness support and third sector support services.
- 1.4 The frequency and complexity of these interactions is related to the period of time over which those suffering eviction remain homeless and in temporary accommodation. But this simple observation ignores the fact that those who experience eviction once are more likely to experience it on multiple occasions. In this respect evidence from the USA would suggest that the first occasion of eviction can be an important trigger that initiates a regressive cycle. Garcia and Keuntae’s (2020) research identifies a relationship between those suffering longer-term or repeat homelessness with eviction. In short, “many of us have been previously evicted” (Garcia and Keuntae, 2020).
- 1.5 The implications of research of this type are clear: the initial decision to evict can be a formative moment in establishing a process that can have implications for a broad range of agencies over a sustained period of time. It is for this reason that many have argued that the decision to evict should be a “last resort” (Ho, 2017: 39).
- 1.6 Yet evictions by local authorities and Registered Social Landlords (henceforth RSLs) are not unheard of. In Scotland, the subject of this study, the number of court actions initiated in pursuit of eviction stood at 10,431 in 2019/20, which represented a significant decline in the context of recent years. Between 2014/15 and 2018/19, the average number of court actions initiated was 12,964 with a high of 13,565 in 2016/17<sup>1</sup>.

<sup>1</sup> The figures are authors’ own calculations based on returns to the Scottish Housing Regulator.

- 1.7 In this report we set out to explore the logic for the decision to evict as the point of departure. We propose an understanding of the full costs of eviction that goes beyond a simple understanding of the most commonly cited cost of eviction – lost rent arrears. Instead we seek to make a distinction between the direct and indirect costs of eviction, the latter category including the extended costs of homelessness discussed earlier that can result from eviction.
- 1.8 Our focus in this report is confined to evictions from local authority and Registered Social Landlord properties. We use the traditional definition of eviction, “The term eviction refers to the civil process by which a landlord may legally remove a tenant from their rental property. Eviction may occur when the tenant stops paying rent, when the terms of the rental agreement are breached, or in other situations permitted by law”. The scale and significance of evictions from properties in the private rented sector has elicited a great deal of academic and media scrutiny (for example, Butler, 2016; Moore, 2017). However, evictions in the social rented sector have received far less attention. Considerable time has also passed since the last occasion on which a larger scale, systematic study was conducted with respect to eviction from needs-based housing provision (Pawson, 2005).
- 1.9 In the next section we describe these objectives in greater detail including a statement of methodology and research design. Following **Section 2** we go on to report research findings. In **Section 3** we set out the incidence and geography of evictions from local authority and RSL properties before going on to provide an account of the direct costs of these evictions in **Section 4**. In **Section 5** we discuss the indirect costs of eviction and set out an estimate of these extended costs that result for that proportion of evicted households that go on to experience homelessness and temporary accommodation. Section 6 provides an aggregate account of both the direct and indirect costs of eviction in Scotland for each of the five years 2014/15 – 2019/20. Both totals for Scotland and average statistics per eviction are reported in **Section 6**. In **Section 7** we go on to provide some scenarios to illustrate how the full economic cost of the decision to evict a household from a social tenancy may be misperceived. The report concludes with **Section 8** which provides a discussion of the reported findings. It argues that there is a significant difference between the full economic costs of eviction (combining direct and indirect costs) compared to the individual (direct) costs to local authorities and RSLs that often inform the decision to evict in the first instance.

# 2 Understanding the full cost of evictions – methods and study design

- 2.1 In computing the full economic cost of eviction it is essential to be clear about which agencies bear which costs. There is ample evidence in mainstream economics that the mis-perception of costs can have a profound impact on sub-optimal decision making (for example, Grossner and Steiner, 2018). It is, therefore, essential to make a distinction between the direct and indirect costs of eviction.
- 2.2 The direct costs of eviction can be understood to include all those costs 'internal' to the process: the costs borne by the evicting agency and the evicted household. This can include costs such as lost rent arrears, legal costs and storage of a tenant household's belongings. We set out an itemised account of the direct costs of eviction in **Section 4** of this document.
- 2.3 However, in order to arrive at a full computation of the costs associated with eviction it is important to take a broader view. For some tenant households eviction results in a period of homelessness and temporary accommodation which places additional demands on a broad range of public service providers. These indirect costs are a critical part of the computation of the full economic implications of eviction as they are often not met by the evicting agency and so are potentially under-represented in the decision-making process. To arrive at a full account of the costs of eviction it is necessary to combine both direct and indirect costs. In the language of mainstream economics this composite measure takes into account the full externality costs of eviction – those unintended costs that result from an economic decision that are borne by a range of service providers other than the agency that makes that decision.
- 2.4 It is likely that the incidence of indirect costs will be perceived quite differently for RSLs and local authorities. The termination of a tenancy by eviction typically represents the conclusion of a formal relationship between a tenant household and a RSL. Any broader indirect costs resulting from a period of homelessness are subsequently borne by other agencies. However, for local authorities the decision to evict can effectively place a demand for services on a different part of the same organisation. For example, the

homelessness duty all local authorities in Scotland bear requires them to find alternative accommodation for all households assessed as unintentionally homeless – which applies equally to those evicted from either local authority or RSL accommodation.

2.5 In producing a computation of the full economic costs of eviction we must consider how deeply we should go into this broader range of attendant costs and upon which organisation they fall. This requires us to be clear about what can be meaningfully measured and what the available data will allow. We set out the full range of indirect costs in Section 5 before going on to present an aggregate cost incorporating both the direct and indirect costs of eviction in **Section 6**.

2.7 We would also like to gratefully acknowledge the support of the Homelessness Statistics team in Scottish Government who provided a key set of statistics for homelessness presentations where the household's previous property was either a Local Authority or RSL tenancy.

2.8 In addition to secondary sources we also undertook a programme of qualitative interviews using online meeting software such as MS Teams and Zoom over the period March – May 2021 with local authority, RSL and legal professionals. These interviews were essential in both supporting the estimation of some costs for which there was no secondary source and providing qualitative corroboration where a secondary source did exist.

## Data Collection

2.6 Throughout this document we draw on a broad range of secondary statistics. Data on evictions and homelessness are drawn from Housing Statistics for Scotland <sup>2</sup> and the Scottish Housing Regulator <sup>3</sup>.

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<sup>2</sup> Scottish Government, *Housing Statistics*

<sup>3</sup> Scottish Housing Regulator, *Statistical Information*

# 3 The geography of evictions from social tenancies in Scotland

- 3.1 The legal process by which a local authority or RSL can seek to pursue eviction requires the formal issue of a notice of proceedings followed by a court action, which is a court summons that is issued to the tenant if the dispute is not resolved. Data from the returns made by local authorities (LA) and Registered Social Landlords (RSL) to the Scottish Housing Regulator presented in **Table 1** and **Figure 1** shows that the most recently available data points to 10,431 instances of formal eviction proceedings being initiated in Scotland during 2019/20. This is significantly lower than the high of 13,565 in 2016/17 and is perhaps best understood in the context of an average of 12,456 for the five-year period 2014/15–2019/20<sup>4</sup>.
- 3.2 Another relevant finding of the data presented as **Table 1** and **Figure 1** is the relative propensity for local authorities and RSLs to initiate eviction proceedings. Over the period 2014/15–2018/19 the proportion of total cases initiated by local authorities grew from 67% in 2014/15 to a high of 72% in 2017/18. Concomitantly, the fraction of total cases initiated by RSLs fell over the same period from 33% in 2014/15 to 28% in 2017/18. This finding is important as it might have been logically assumed that local authorities may have been more reluctant to pursue eviction as they will owe a homelessness duty, which will involve finding the evicted household temporary accommodation (almost always at greater cost). As one interviewee described the situation, “if you evict on Monday you have to re-house on Tuesday” (Local Authority interviewee A). However, the statistics presented in Table 1 point to the opposite finding – a generally stable relationship over time tending towards a general increase in local authorities’ propensity to pursue eviction.
- 3.3 Not all formal proceedings ultimately result in eviction. **Table 2** and **Figure 2** present data on the number of properties recovered as a result of eviction proceedings.

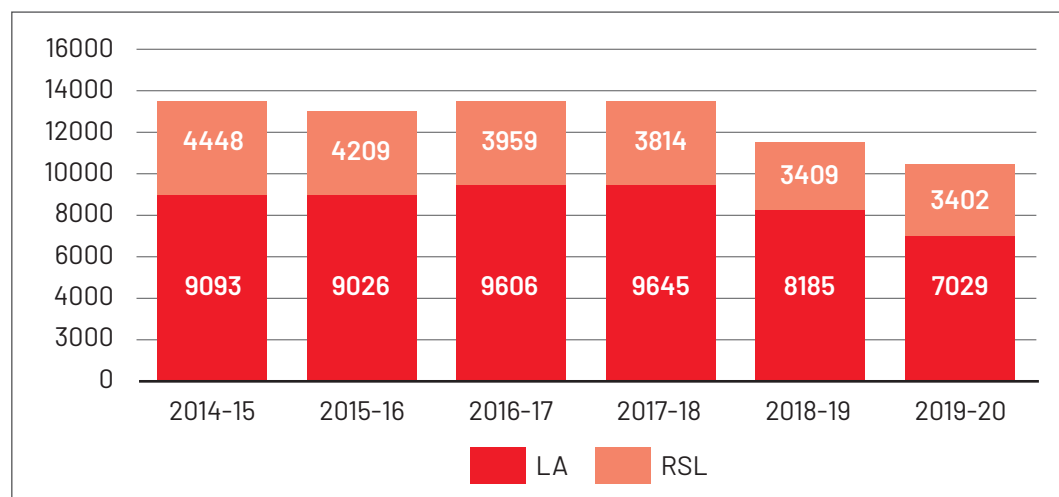
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<sup>4</sup> For consistency, all the numbers reported in this table were compiled using returns to the Scottish Housing Regulator although the corresponding information for local authorities is also available in *Housing Statistics for Scotland*. While they do not always coincide, the differences were insignificant and hence we have opted for consistency to use information from a single source.

**Table 1:** Number of court actions initiated in pursuit of eviction in Scotland, 2014/15 – 2019/2020

	2014-15		2015-16		2016-17		2017-18		2018-19		2019-20	
LA	9,093	67%	9,026	68%	9,606	71%	9,645	72%	8,185	71%	7,029	67%
RSL	4,448	33%	4,209	32%	3,959	29%	3,814	28%	3,409	29%	3,402	33%
<b>Total</b>	<b>13,541</b>	<b>100%</b>	<b>13,235</b>	<b>100%</b>	<b>13,565</b>	<b>100%</b>	<b>13,459</b>	<b>100%</b>	<b>11,594</b>	<b>100%</b>	<b>10,431</b>	<b>100%</b>

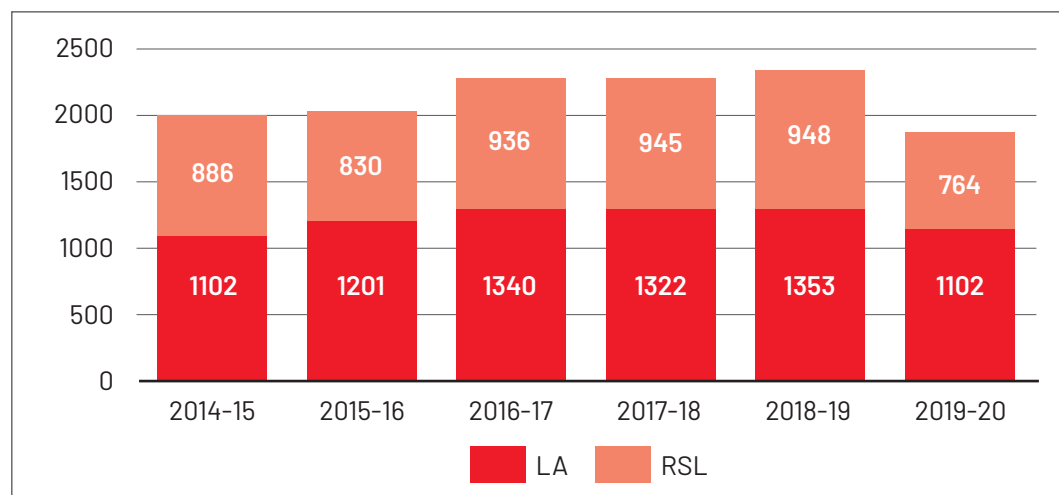
**Figure 1:** Number of court actions initiated in pursuit of eviction in Scotland, 2014/15 – 2019/2020



**Table 2:** Total properties recovered in Scotland, 2014/15 – 2019/20

	2014-15		2015-16		2016-17		2017-18		2018-19		2019-20	
LA	1,102	55%	1,201	59%	1,340	59%	1,322	58%	1,353	59%	1,102	59%
RSL	886	45%	830	41%	936	41%	945	42%	948	41%	764	41%
<b>Total Recovered Properties</b>	<b>1,988</b>	<b>15%<sup>5</sup></b>	<b>2,031</b>	<b>15%</b>	<b>2,276</b>	<b>17%</b>	<b>2,267</b>	<b>17%</b>	<b>2,301</b>	<b>20%</b>	<b>1,866</b>	<b>18%</b>
<b>Total Initiated Proceedings</b>	<b>13,541</b>		<b>13,235</b>		<b>13,565</b>		<b>13,459</b>		<b>11,594</b>		<b>10,431</b>	

**Figure 2:** Total properties recovered in Scotland, 2014/15 – 2019/20



<sup>5</sup> Here we report the percentage of total recovered properties versus the total number of court actions initiated in that year.



- 3.4 **Table 2** and **Figure 2** both point to a stable relationship between the proportion of properties recovered by local authorities and RSLs as a result of pursuing eviction. However, in aggregate the number of properties recovered as a proportion of total cases initiated is relatively low. The 20% of formal proceedings that resulted in the recovery of a property in 2018/19 represented the most attained in any of the previous five years under review. This may be significant as the legal costs associated with initiating and pursuing eviction proceedings must be considered in relation to the relatively modest number of properties that are recovered through this process.
- 3.5 Given the evidence presented above there is clearly a case for specifically considering eviction proceedings originating with local authorities across Scotland. **Table 3** provides data for 2014/15-2019/20 for each of the 32 local authority areas in Scotland with regard to the number of cases of an eviction decree being issued.
- 3.6 The data presented in **Table 3** illustrates some significant variation in the geography of eviction cases initiated by local authorities in Scotland. For example, significant concentrations of activity can be found in North Lanarkshire, North Ayrshire and Aberdeen City Councils - although in the case of Aberdeen City Council it should be noted that the totals for 2018/19 and 2019/20 total were considerably lower than those recorded in the period 2014/15 - 2017/18.
- 3.7 With regard to interpreting the data set out in **Table 3** it is also important to note that there may also be significant variation in the size of the housing stock managed by each local authority. For example, it is unsurprising that some of the less heavily populated and more rural local authorities record fewer instances of eviction than, for example, North Lanarkshire which, anecdotal evidence would suggest, accommodates approximately 37,000 tenancies.
- 3.8 In aggregate the findings of this section suggest that recent years have seen a substantial number of instances of proceedings initiated to evict tenant households across Scotland by both local authorities and RSLs. The data would suggest a fairly stable situation with regard to the proportion of proceedings initiated respectively by RSLs and local authorities, with a general tendency for an increased propensity to pursue eviction amongst local authorities, despite the fact that proceedings result in the recovery of a property in fewer than 20% of cases. **Table 3** demonstrates that the Scottish geography of court actions initiated is highly variable with significant instances of eviction proceedings recorded in some local authority areas.
- 3.9 Establishing the scale and geography of the issue of evictions in Scotland allows us to go on in **Section 4** to provide an analysis of the direct costs of evictions across Scotland.

**Table 3:** Number of cases proceeding to court that were initiated by Local Authorities across Scotland, 2014/15 – 2019/20 <sup>6</sup>

Number of cases proceeding to court by Local Authorities												
	2014-15	% of total	2015-16	% of total	2016-17	% of total	2017-18	% of total	2018-19	% of total	2019-20	% of total
Aberdeen City	1130	12%	1046	12%	1018	11%	766	8%	331	4%	378	5%
Aberdeenshire	246	3%	184	2%	208	2%	223	2%	256	3%	143	2%
Angus	232	3%	225	2%	180	2%	268	3%	243	3%	121	2%
Argyll and Bute	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Clackmannanshire	155	2%	80	1%	74	1%	132	1%	106	1%	93	1%
Comhairle nan Eilean Siar - Western Isles	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Dumfries and Galloway	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Dundee City	491	5%	321	4%	344	4%	345	4%	359	4%	332	5%
East Ayrshire	548	6%	489	5%	596	6%	677	7%	456	6%	242	3%
East Dunbartonshire	111	1%	71	1%	66	1%	29	0%	33	0%	36	1%
East Lothian	44	0%	61	1%	29	0%	114	1%	51	1%	65	1%
East Renfrewshire	119	1%	70	1%	163	2%	157	2%	149	2%	122	2%
Edinburgh, City of	448	5%	657	7%	587	6%	675	7%	417	5%	653	9%
Falkirk	464	5%	360	4%	409	4%	604	6%	728	9%	420	6%
Fife	367	4%	348	4%	365	4%	416	4%	574	7%	480	7%
Glasgow City	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Highland	559	6%	482	5%	524	5%	418	4%	401	5%	354	5%
Inverclyde	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Midlothian	84	1%	24	0%	116	1%	157	2%	117	1%	90	1%
Moray	100	1%	68	1%	79	1%	61	1%	58	1%	78	1%
North Ayrshire	794	9%	789	9%	841	9%	933	10%	888	11%	753	11%
North Lanarkshire	1484	16%	1736	19%	1662	17%	1584	16%	1545	19%	1517	22%
Orkney Islands	9	0%	10	0%	11	0%	16	0%	11	0%	3	0%
Perth & Kinross	17	0%	19	0%	96	1%	145	2%	127	2%	122	2%
Renfrewshire	222	2%	243	3%	265	3%	272	3%	277	3%	245	3%
Scottish Borders	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Shetland Islands	13	0%	5	0%	18	0%	11	0%	6	0%	10	0%
South Ayrshire	194	2%	151	2%	286	3%	214	2%	152	2%	91	1%
South Lanarkshire	654	7%	938	10%	939	10%	696	7%	356	4%	84	1%
Stirling	71	1%	108	1%	72	1%	61	1%	56	1%	51	1%
West Dunbartonshire	187	2%	200	2%	178	2%	189	2%	214	3%	145	2%
West Lothian	350	4%	341	4%	480	5%	482	5%	274	3%	401	6%
<b>Total</b>	<b>9,093</b>	<b>100%</b>	<b>9,026</b>	<b>100%</b>	<b>9,606</b>	<b>100%</b>	<b>9,645</b>	<b>100%</b>	<b>8,185</b>	<b>100%</b>	<b>7,029</b>	<b>100%</b>

<sup>6</sup> Following housing stock transfers, figures for Dumfries & Galloway, Glasgow City, Scottish Borders, Eilean Siar, Argyll & Bute and Inverclyde are not included.

# 4 The direct costs of eviction in Scotland

4.1 The direct costs of evictions includes all those costs that are clearly attributable to the decision to evict a tenant household. **Table 4** provides an inventory and explanation of the costs taken to be a direct outcome of the decision to end a social tenancy through eviction:

4.2 In some instances it is not possible to quantify all the direct costs set out in **Table 4**. For example, interview testimony gathered through this project points to the fact that both local authorities and RSLs frequently have to undertake a programme of repair and renovation in order to make a property suitable to be re-let following eviction. However, although interview testimony points to these costs often being significant it was not possible to collect a reliable estimate for the average costs of repair and renovation from which to extrapolate experiences across Scotland. Similarly, no average cost for the storage of an evicted household's belongings could be clearly established. Our estimate of the direct costs of eviction should correspondingly be understood as conservative and a likely under-representation of the average costs experienced across local authorities and RSLs in Scotland. In the remainder of this section we consider the three main direct costs of eviction in turn.

## Unpaid Rent Arrears

4.3 The returns to the Scottish Housing Regulator directly account for former tenant arrears that have been written-off by local authorities and RSLs. This data is presented in **Table 5** for the period 2014/15-2019/20. Although it is likely that the principal component of the total rent arrears written off would be the result of eviction it is not possible to disaggregate the totals presented in **Table 5** to differentiate for any rent arrears written off as a result of an alternative conclusion to a tenancy.

4.4 It is clear from **Table 5** that lost rent arrears represents a significant cost to local authorities and RSLs. The cumulative total of £17m in 2019/20 represents a significant reduction on the previous year.

4.5 It is also instructive to note from **Table 6** that there was significant variation in the geography of written-off rent arrears. For example, in 2018/19 local authorities in Scotland wrote-off nearly £10.8m of outstanding rent. However, this was geographically variable with just £0.04m written off in Clackmannanshire, Stirling, Shetland and Orkney compared to £1m in Edinburgh.

**Table 4:** The direct costs of eviction

Category	Explanation
Unpaid rent arrears	Losses resulting from any unpaid rent which may, or may not, be part of the case for eviction
Void period losses	Losses associated with any rental void - the period of time following eviction required to re-let a property
Storage costs	The evicting agency has the responsibility to store tenant households' belongings for a period following eviction proceedings
Reparation and Renovation Costs	Costs associated with renovation and reparations to a property following eviction in order to make it suitable to be re-let subsequently
Legal Fees	All eviction proceedings in Scotland are handled through the Sherriff's court which has a standardised fee structure

**Table 5:** Former tenant arrears written off

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
LA	7,441,031	8,119,427	9,335,776	8,568,637	10,783,638	9,682,280
RSL	8,718,219	7,565,381	7,935,535	8,363,527	8,005,771	7,401,110
<b>Total (£)</b>	16,159,250	15,684,808	17,271,311	16,932,164	18,789,409	17,083,390

### Void Period Losses

4.6 Following the termination of a social tenancy there is frequently a period of time during which the property remains un-let, often to allow for repair and renovation. This period of time for which the dwelling remains unoccupied is known as a letting void.

4.7 The Annual Return on the Charter statistics provide two measures that allow us to estimate the value of void losses:  
(17.2) 'Empty dwellings that arose in the year in self-contained stock' and (18.2) 'Rent lost through empty properties'. **Table 7** presents these statistics for the year 2019/20.

4.8 The statistics presented in **Table 7** were explored qualitatively through the programme of interviews conducted as part of this research. Interview testimony produced a range of estimates with a median of 7 weeks of letting void which was reported as the expectation following an eviction.

4.9 Taking a conservative average of £70 per week for properties managed by local authorities and RSLs across Scotland<sup>8</sup>, produces an average lost rent per property due to eviction proceedings of approximately £490. This qualitative estimate resulting from interviews undertaken across a variety of urban and regional settings in Scotland corroborates the use of the secondary statistics presented in **Table 8**.

4.10 We can combine the respective average of void rental lost per property for local authorities (£509) and RSLs (£422) as reported in **Table 7** with the number of properties recovered following eviction reported in **Table 2**. **Table 8** reports the estimated lost rent due to eviction for LAs and RSLs respectively.

<sup>8</sup> See rent information published in Housing Revenue Account (HRA) statistics: local authority housing income and expenditure 1997-1998 to 2019-2020 (near actuals) and 2020-2021 (budgeted estimates). Available at <https://www.gov.scot/publications/housing-revenue-account-hra-statistics-scottish-local-authority-housing-income-expenditure-1997-98-2019-20-near-actuals-2020-21-budgeted-estimates>

**Table 6:** Former tenant arrears written off by local authorities <sup>7</sup>

Former tenant arrears written off by local authorities												
	2014-15	% of total	2015-16	% of total	2016-17	% of total	2017-18	% of total	2018-19	% of total	2019-20	% of total
Aberdeen City	682,864	9%	1,118,486	14%	601,382	6%	151,967	2%	810,148	8%	171,006	2%
Aberdeenshire	114,695	2%	143,608	2%	198,881	2%	267,735	3%	306,439	3%	187,208	2%
Angus	123,048	2%	193,983	2%	212,989	2%	178,119	2%	729,631	7%	601,365	6%
Argyll and Bute	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Clackmannanshire	54,247	1%	33,510	0%	109,023	1%	217,377	3%	44,047	0%	71,082	1%
Comhairle nan Eilean Siar - Western Isles	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Dumfries and Galloway	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Dundee City	418,396	6%	561,988	7%	514,992	6%	460,805	5%	564,919	5%	614,113	6%
East Ayrshire	106,030	1%	12,268	0%	73,579	1%	125,732	1%	644,994	6%	266,714	3%
East Dunbartonshire	157,732	2%	19,409	0%	222,061	2%	106,960	1%	79,067	1%	78,540	1%
East Lothian	161,449	2%	69,088	1%	83,282	1%	465,779	5%	347,998	3%	185,723	2%
East Renfrewshire	302,897	4%	78,599	1%	318,500	3%	27,768	0%	28,251	0%	78,621	1%
Edinburgh, City of	708,638	10%	801,364	10%	1,765,912	19%	1,601,533	19%	1,038,288	10%	1,129,469	12%
Falkirk	215,594	3%	535,044	7%	435,157	5%	380,682	4%	448,413	4%	487,877	5%
Fife	748,478	10%	593,542	7%	806,788	9%	779,759	9%	797,999	7%	501,115	5%
Glasgow City	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Highland	783,357	11%	76,304	1%	167,705	2%	218,586	3%	213,581	2%	212,926	2%
Inverclyde	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Midlothian	3,238	0%	143,975	2%	100,693	1%	34,556	0%	12,535	0%	140,881	1%
Moray	77,886	1%	43,098	1%	47,409	1%	45,032	1%	49,657	0%	19,343	0%
North Ayrshire	318,037	4%	238,560	3%	262,208	3%	293,288	3%	296,582	3%	341,273	4%
North Lanarkshire	679,800	9%	838,297	10%	891,582	10%	1,213,350	14%	1,071,137	10%	1,362,164	14%
Orkney Islands	2,712	0%	9,695	0%	18,082	0%	29,500	0%	31,447	0%	37	0%
Perth & Kinross	84,593	1%	42,987	1%	205,782	2%	187,891	2%	909,541	8%	360,837	4%
Renfrewshire	542,500	7%	781,500	10%	431,100	5%	390,100	5%	386,500	4%	390,300	4%
Scottish Borders	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL	NULL
Shetland Islands	18,841	0%	34,241	0%	20,453	0%	33,772	0%	32,807	0%	34,423	0%
South Ayrshire	200,303	3%	76,493	1%	128,403	1%	199,071	2%	165,699	2%	183,531	2%
South Lanarkshire	464,325	6%	450,511	6%	498,374	5%	426,645	5%	481,748	4%	542,442	6%
Stirling	37,598	1%	103,128	1%	98,985	1%	129,335	2%	31,996	0%	453,291	5%
West Dunbartonshire	136,374	2%	876,976	11%	830,351	9%	196,403	2%	791,228	7%	920,948	10%
West Lothian	297,399	4%	242,773	3%	292,103	3%	406,892	5%	468,986	4%	347,051	4%
<b>Total</b>	<b>7,441,031</b>	<b>100%</b>	<b>8,119,427</b>	<b>100%</b>	<b>9,335,776</b>	<b>100%</b>	<b>8,568,637</b>	<b>100%</b>	<b>10,783,638</b>	<b>100%</b>	<b>9,682,280</b>	<b>100%</b>

<sup>7</sup> Figures are drawn from local authorities' returns to Scottish Housing Regulator. Amounts of arrears written-off by councils can be influenced by councils' accounting policies and judgments on whether arrears are recoverable.

**Table 7:** Average void period losses

	Sum of 17.2 'Empty dwellings that arose during reporting year in self-contained lettable stock'	Sum of 18.2 'Rent lost through empty properties'	Rent lost per property (£)
LAs	25,189	12,826,227	£509
RSLs	25,011	10,542,475	£422
<b>Total</b>	<b>50,200</b>	<b>23,368,702</b>	<b>£466</b>

**Table 8:** Void period losses

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
LA	560,918	611,309	682,060	672,898	688,677	560,918
RSL	373,892	350,260	394,992	398,790	400,056	322,408
<b>Total (£)</b>	<b>934,810</b>	<b>961,569</b>	<b>1,077,052</b>	<b>1,071,688</b>	<b>1,088,733</b>	<b>883,326</b>

## Legal Fees

4.11 Legal costs are incurred for all court actions initiated irrespective of whether the action results in eviction or not. In this sense these costs contrast to some of the other direct costs such as lost rent arrears, storage fees and renovation costs which only occur in the event of an actual eviction.

4.12 All social sector evictions proceedings in Scotland are brought to the sheriff court as summary court actions. However, no clear secondary source exists to provide an average cost of legal proceedings in relation to eviction cases. In the absence of a rigorous secondary source we sought estimates of legal costs through the programme of interviews conducted as part of this research. In the event that an evicted household contested the decision to evict – where a case was defended – interviewees suggested an average cost across Scotland of between £3000 and £4000. In instances where a case was not defended interviewees argued that a cost of around £300 would apply in accordance with standard sheriff court fees.

4.13 The Civil Justice in Scotland report for 2019/20 provides statistics on the breakdown of eviction cases that were defended and those which were not. This data shows that in 2019/20 a total of 6177 cases were pursued through the sheriff court of which 363 were

defended and 5814 which were not. A further 4252 were dismissed (Scottish Government, 2021: 61).

4.14 On the basis of these statistics the implied proportions are approximately 3.5% of cases which were defended and 96.5% of cases which were not. It should be noted that the total for all cases reported in Civil Justice in Scotland, 2019/20 (10,429) is solely related to social tenancies as eviction cases in the private rented sector go through the First-Tier Tribunal (Housing and Property Chamber) rather than the sheriff's court.

4.15 Using these proportions for defended and undefended cases together with the statistics on proceedings initiated in **Table 1** we can arrive at an account of the aggregate costs associated with evictions from social tenancies. Using the median estimate of costs presented to us through our programme of interviews (£3500) we can calculate the total legal costs for the fraction of these cases which we might expect to have been defended. For 2019/20 this was 363 cases (about 3.5% of the total initiated proceedings of 10,429). The remaining 10,066 undefended cases would incur the lower fee of £300. **Table 9** provides statistics for each previous year under consideration using the same proportions for defended versus undefended cases.

4.16 From the foregoing analysis we can produce national scale estimates for the three main direct costs associated with eviction for each of the last five years, as illustrated in **Table 10**. In 2019/20, our calculations estimate the direct eviction costs as £22,264,288.

4.17 It is instructive to go beyond these national scale aggregate totals to investigate the average direct cost per eviction using our estimation of total

eviction costs to Local Authorities and RSLs. As previously noted, there are legal costs even when an eviction proceeding is dismissed by the court or fails to result in an eviction decree. Therefore, the average direct cost per eviction is usually higher than the average cost directly associated with an eventual eviction case. **Table 11** presents the average direct cost per eviction in Scotland for 2014/15-2019/20.

**Table 9:** The cost of legal fees associated with initiating eviction proceedings in Scotland, 2014/15 – 2019/20

	2014-15	Cost of Legal Fees (£)	2015-16	Cost of Legal Fees (£)	2016-17	Cost of Legal Fees (£)	2017-18	Cost of Legal Fees (£)	2018-19	Cost of Legal Fees (£)	2019-20	Cost of Legal Fees (£)
<b>Defended cases (3.5% of court actions initiated)</b>	474	1,658,773	463	1,621,288	475	1,661,713	471	1,648,728	406	1,420,265	365 <sup>9</sup>	1,277,798
<b>Non-defended cases (96.5% of court actions initiated)</b>	13,067	3,920,120	12,772	3,831,533	13,090	3,927,068	12,988	3,896,381	11,188	3,356,463	10,066	3,019,775
<b>Total (£)</b>	<b>13,541</b>	<b>5,578,892</b>	<b>13,235</b>	<b>5,452,820</b>	<b>13,565</b>	<b>5,588,780</b>	<b>13,459</b>	<b>5,545,108</b>	<b>11,594</b>	<b>4,776,728</b>	<b>10,431</b>	<b>4,297,572</b>

**Table 10:** The direct cost of evictions in Scotland, 2014/15-2019/20

Category	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
<b>Unpaid rent arrears</b>	16,159,250	15,684,808	17,271,311	16,932,164	18,789,409	17,083,390
<b>Void period losses</b>	934,810	961,569	1,077,052	1,071,688	1,088,733	883,326
<b>Legal Fees</b>	5,578,892	5,452,820	5,588,780	5,545,108	4,776,728	4,297,572
<b>Total (£)</b>	<b>22,672,952</b>	<b>22,099,197</b>	<b>23,937,143</b>	<b>23,548,960</b>	<b>24,654,870</b>	<b>22,264,288</b>

**Table 11:** The average direct cost per eviction in Scotland, 2014/15-2019/20

Category	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
<b>Total direct eviction cost</b>	22,672,952	22,099,197	23,937,143	23,548,960	24,654,870	22,264,288
<b>Total recovered properties</b>	1,988	2,031	2,276	2,267	2,301	1,866
<b>Average direct cost per eviction case (£)</b>	11,405	10,881	10,517	10,388	10,715	11,932

<sup>9</sup> For consistency, we have applied the 3.5/96.5 split across all years, and as a result this number of defended cases (365) is slightly higher than the reported number (363) in Civil Justice in Scotland, 2019/20 due to rounding errors.

# 5 The indirect costs of eviction

- 5.1 The direct costs of eviction only provide a partial account of the full economic cost of the decision to evict a household. Eviction is a crucially significant episode that can have multi-dimensional and long-term effects on a household (Collinson and Read, 2018). These wider implications of eviction include direct effects experienced by evicted households with respect to, for example, an increased probability of engagement with the police and the criminal justice system (Alm and Bäckman, 2018) as well as effects on the mental health of those facing the legal proceedings relating to eviction (Tsai, Jones, Szymkowiak and Rosenheck, 2020; Watt, 2018). The full healthcare implications of eviction that results in homelessness are likely to be considerably greater due to the treatment of physical and mental health problems that stem directly from homelessness. As Hatch and Yun (2020) pithily argue, “losing your home is bad for your health”.
- 5.2 Thinking about the broader costs of eviction in this way means according this important event in the history of a household the significance it warrants as a key moment on a pathway into homelessness. From this perspective the decision to evict a household represents a significant episode that can be understood as a trigger for “Multiple Exclusion Homelessness” (Fitzpatrick, Bramley and Johnsen, 2013) - and all the attendant costs associated with a household coming to be in this position.
- 5.3 The indirect costs of eviction, therefore, pertain only to those households that, having been evicted, go on to experience homelessness and temporary accommodation. It should be noted here that many homeless households do not make use of temporary accommodation at all. Previous research by Shelter Scotland (2017) demonstrates that 40% of homeless households spend no time in temporary accommodation at all.
- 5.4 Whilst it is clear that many households that experience eviction may have been in receipt of support services prior to eviction there is also ample evidence that there are significantly greater costs to a broad range of service providers that result from a household becoming homeless. For example, Hopkin et al.’s (2020) study of homeless and non-homeless individuals used a matched cohort methodology to examine varying engagements with support services amongst two otherwise statistically similar groups, one homeless, one not. This research shows that in almost all cases those experiencing homelessness required a greater degree of engagement with social and healthcare services than those not experiencing homelessness. In addition to this research, work by Kerman et al., (2018) provides estimates of the proportionate change in the use of services resulting from a transition from homeless to non-homeless status in the US. The research concludes that evidence of significantly greater use of services by people experiencing



homelessness could be explained by the fact that “people’s housing stability is a key factor contributing to many of the observed changes in service use”.

5.5 In this section we set out to provide an account of the proportion of evictions that result in homelessness and extrapolate an estimate from secondary statistics for the costs incurred from homelessness resulting through the termination of a social tenancy.

### Quantifying the indirect costs of eviction in Scotland

5.6 Scottish Government statistics on homeless applications can be disaggregated by the number of households, which previously held either a local authority or RSL tenancy, presenting as homeless where the

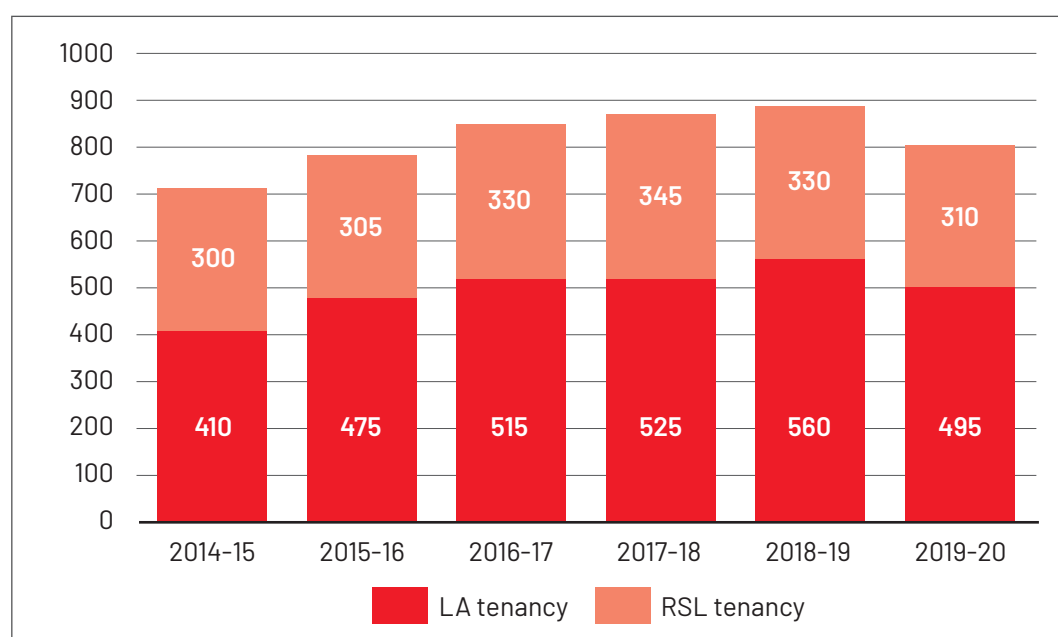
reason cited for the presentation was eviction. This data, presented in **Table 12** and **Figure 3** shows that households evicted from social tenancies who went on to be assessed as homeless or threatened with homelessness over the time period 2014/15–2019/20 ranged from a low of 710 in 2014/15 to a high of 890 in 2018/19.

5.7 It should be noted that it is likely that many of the affected households represented in **Table 12** and **Figure 3** may well have incurred additional costs associated with eviction between the moment at which their tenancy was terminated and their presentation as homeless. There is great deal of evidence that homeless presentations rarely occur immediately following eviction (Mallett et al., 2010; Fitzpatrick, 2013). It is often the case that individuals

**Table 12:** Households assessed as homeless or threatened with homelessness as a result of eviction <sup>10</sup> in Scotland, 2014/15 – 2019/20

	2014-15		2015-16		2016-17		2017-18		2018-19		2019-20	
<b>LA tenancy</b>	410	58%	475	61%	515	61%	525	60%	560	63%	495	61%
<b>RSL tenancy</b>	300	42%	305	39%	330	39%	345	40%	330	37%	310	39%
<b>Total</b>	<b>710</b>	<b>100%</b>	<b>780</b>	<b>100%</b>	<b>840</b>	<b>100%</b>	<b>870</b>	<b>100%</b>	<b>890</b>	<b>100%</b>	<b>805</b>	<b>100%</b>

**Figure 3:** Households assessed as homeless or threatened with homelessness as a result of eviction in Scotland, 2014/15 – 2019/20



<sup>10</sup> Note: Figures have been rounded to the nearest 5 for disclosure control purposes.

will exhaust all other options prior to presenting as homeless. As no reliable statistics exist for the average time spent by evicted households between the termination of a tenancy and the formal presentation as homeless it is not possible to quantify any costs associated with this period borne by evicted households or other agencies. As with similar points made earlier in this report on the absence of reliable information on the renovation costs for properties post eviction and the costs of storing tenants' belongings, this omission means that the aggregate costs of eviction will be under-represented.

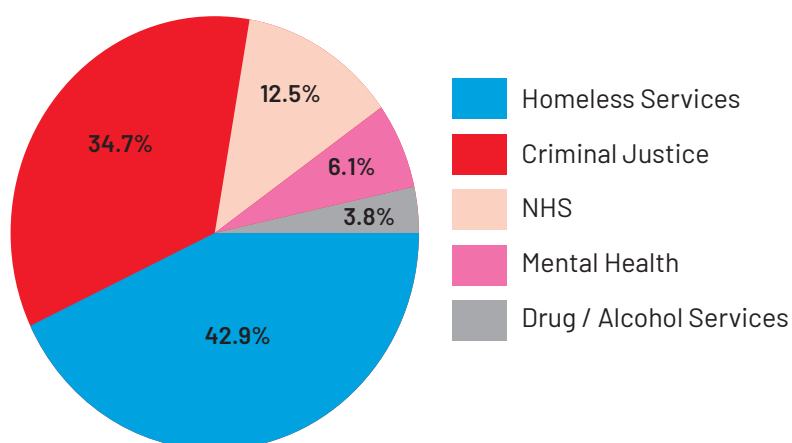
- 5.8 Beyond this caveat it is clear from the data presented in **Table 12** and **Figure 3** that there is a clear trajectory of increased instances of homelessness resulting from eviction for each year between 2014/15 and 2018/19.
- 5.9 When assessing the cost of homelessness as a result of evictions from social housing, it is important to understand the size of the household assessed as homeless as larger households displaced into homelessness are likely to make greater use of support services.
- 5.10 In this study, however, we conservatively assume that all households evicted from social tenancies in Scotland were single-occupancy households: we treat the 805 households that experienced eviction from a social tenancy in 2019/20 as comprising 805 individuals. This is a significant assumption in our analysis that we acknowledge will under-represent the number of affected individuals, and, correspondingly, the costs of eviction. Data and statistics presented in the appendix to this document shows that there are grounds to believe this is an under-representation of the true number of individuals that have experienced eviction as a result of being part of an evicted household. However, it is impossible to establish how many of the individuals in evicted households are children, who will not incur the same costs as adults. For this reason we have chosen to take the conservative approach of assuming only single occupancy households have been affected by eviction from social tenancies in Scotland.
- 5.11 In order to arrive at an understanding of the indirect costs of eviction resulting from those households that go on to experience some form of homelessness following eviction we have to produce a profile of the average experience of an evicted household in these circumstances. This requires invoking some assumptions about the period of homelessness experienced by a household following eviction and the average amount of time spent in temporary accommodation following a presentation as homeless.
- 5.12 The most recently available research (Dunn, 2020) on the costs incurred through the provision of services to people experiencing homelessness in Scotland (referred to in the research as the costs of 'servicing homelessness') ranges from £14,808 (primarily temporary accommodation with no or low support needs) to £34,518 (complex needs) with £24,663 being a plausible median case. **Table 13** and **Figure 4** provide a breakdown for how these annualised costs of homelessness are computed.
- 5.13 The indirect costs of eviction set out in **Table 13** and **Figure 4** fall on a broad range of agencies including the NHS, police and charitable organisations. However the single largest component of the indirect costs of eviction, homeless services, which accounts for 43% of the total, is principally comprised of temporary accommodation costs. This fraction of the costs of homelessness are borne by local authorities (Pleace and Culhane, 2016: 33; Dunn 2020).

**Table 13:** Estimated costs of servicing homelessness in Scotland

Cost	Estimated average per person
Drug / alcohol services	£1,320
Mental Health	£2,099
NHS	£4,298
Criminal justice	£11,991
Homeless services	£14,808
<b>Total</b>	<b>£34,518</b>

**Source:** Dunn (2020) and Pleace & Culhane (2016)

**Figure 4:** Estimated costs of servicing homelessness in Scotland



**Source:** Dunn (2020) and Pleace & Culhane (2016)

5.14 More generally, there are a number of potential problems with using a national average for the cost of homelessness such as the one presented in Dunn (2020). For example, it is often difficult to differentiate between the costs of servicing homelessness of qualitatively different types. Research by Cobb-Clark et al. (2014) points to the issues associated with quantifying costs attributable to the now well-accepted distinction between ‘literal’ and ‘cultural’ homelessness, the former being consistent with rough sleeping and the latter representing a transitional period during which an individual makes a gradual return to some form of housing. It may also be the case that the national average masks regional variations in experience.

5.15 Nevertheless, in this report we follow the example set by Dunn (2020) as our goal is to provide a national scale portrait of the costs of eviction across Scotland as a whole. Moreover, the approach taken to arrive at the average costs of homelessness in Scotland in Dunn (2020) has some methodological similarities with similar approaches found elsewhere in the academic literature that seek to take a similar macro view (Culhane, 2008; DCLG, 2012; Joffe et al., 2012).

5.16 To arrive at an estimate of the costs of homelessness resulting from eviction in Scotland we take the conservative approach of assuming that the annualised figures for Scotland presented in Dunn (2020) applies to evicted households that go on to present as homeless only for the average number of weeks for which

they would be housed in temporary accommodation. This approach is consistent with the conservative approach taken throughout this report. However, we must acknowledge that it potentially ignores any period during which an evicted household exhausts other options between the moment of eviction and their subsequent presentation as homeless.

5.17 The Scottish Government issues an annual report, Homelessness in Scotland, which provides data on the average duration a household without children spent in temporary accommodation across Scotland. The most recently available data (Scottish Government, 2020: 22) records average time period spent by a household without children in temporary accommodation in Scotland in 2019/20 was 171 days or 24.4 weeks. In 2018/19 this stood at 166 days and in 2017/18 it was 161 days. Reports prior to 2017/18 do not include comparable statistics. We therefore take the average of the three available years (166 days) to provide an indicative estimate for years prior to 2017/18.

5.18 Combining this Scottish average for the time spent by households in temporary accommodation with Dunn’s (2020) annualised estimates of the aggregate costs of servicing homelessness in

Scotland (which includes temporary accommodation) we can produce three pro-rata estimates for those costs applicable to households that find themselves in these circumstances as a result of eviction. This data is presented in **Table 14** and **Figure 5**.

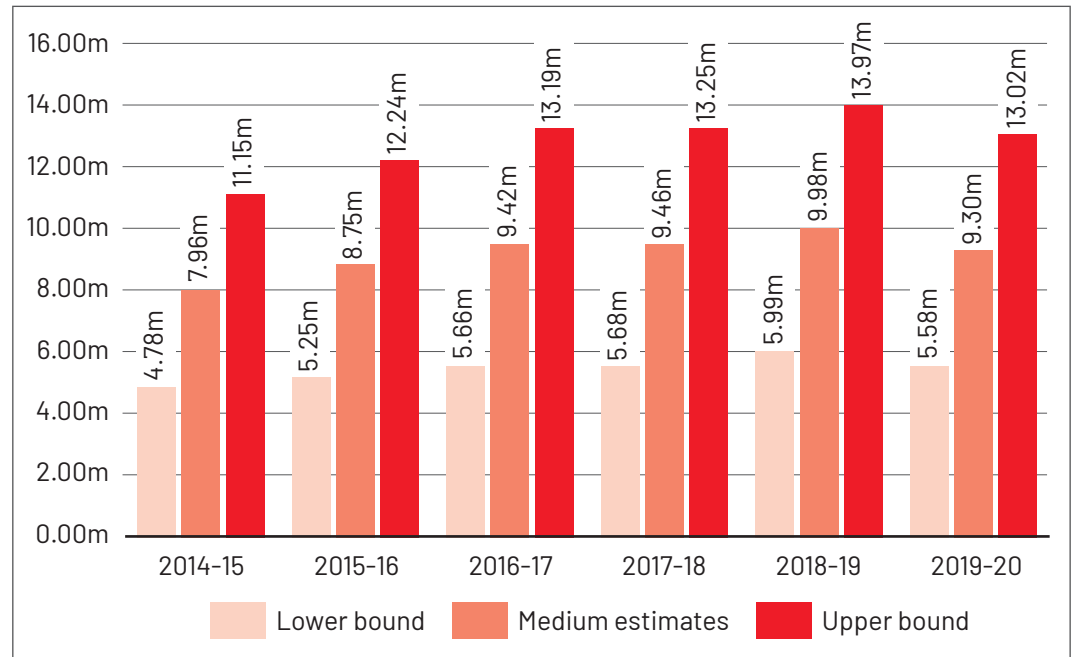
5.19 The data presented in **Table 14** and **Figure 5** shows that the costs of servicing homelessness resulting from eviction are very significant. For the year 2019/20, which had the lowest number of cases of homelessness resulting from eviction since 2016/17, the annual indirect cost of evictions was in the range £5.58m to £13.02m.

5.20 It is important to reiterate that taking a national average for Scotland is likely to mask significant variations in experience. For example, it is well known that there are considerable variations in the nature and costs of rural versus urban homelessness (Milbourne and Cloke, 2006). In Scotland there is considerable geographic variation with respect to the period of time spent by households in temporary accommodation – a key input to the calculation set out above in **Table 14**. In some parts of Scotland the average number of weeks that a household might expect to be in temporary accommodation could be significantly longer than 26 weeks.

**Table 14:** Estimated costs of servicing homelessness in Scotland, 2014/15 – 2019/20

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Total households from Table 12 (assuming all single households)	710	780	840	870	890	805
Average time period spent in temporary accommodation	166	166	166	161	166	171
Lower bound (No or low support needs at £14,808 per person * average time period/365)	4,781,564	5,252,986	5,657,062	5,682,621	5,993,792	5,584,644
Medium estimate (Moderate to high support needs at £24,663 per person * average time period/365)	7,963,784	8,748,946	9,421,942	9,464,511	9,982,772	9,301,329
Upper bound (Complex needs at £34,518 per person * average time period/365)	11,146,004	12,244,906	13,186,822	13,246,401	13,971,752	13,018,014

**Figure 5:** Estimated costs of servicing homelessness in Scotland, 2014/15 – 2019/20



# 6 The costs of evictions from social tenancies in Scotland

6.1 To arrive at an account of the full economic costs of evictions from social tenancies we take the conservative approach of aggregating the lower bound estimate of the indirect costs of eviction and the direct costs compiled in **Section 4. Table 15** presents this data for each of the previous five years under consideration.

6.2 The data presented in **Table 15** shows that the most commonly considered cost of eviction - lost rent arrears -

typically represents around 60% of the aggregate total of the full economic costs of ending a social tenancy.

6.3 By contrast, the indirect costs of evicting a household from a social tenancy are estimated, at the conservative lower bound, to represent on average 20% of the full costs of eviction from properties of this type in Scotland over the period 2014/15 - 2019/20. It is worth re-iterating that this lower bound estimate comprises

**Table 15:** The cumulative cost of evictions from social tenancies in Scotland, 2014/15 - 2019/20

Direct Costs (from Table 10)												
	2014/15	%	2015/16	%	2016/17	%	2017/18	%	2018/19	%	2019/20	%
Unpaid rent arrears	16,159,250	59%	15,684,808	57%	17,271,311	58%	16,932,164	58%	18,789,409	61%	17,083,390	61%
Void period losses	934,810	3%	961,569	4%	1,077,052	4%	1,071,688	4%	1,088,733	4%	883,326	3%
Legal Fees	5,578,892	20%	5,452,820	20%	5,588,780	19%	5,545,108	19%	4,776,728	16%	4,297,572	15%
Subtotal	22,672,952		22,099,197		23,937,143		23,548,960		24,654,870		22,264,288	
Indirect Costs (from Table 14)												
Indirect Costs (Lower bound estimates)	4,781,564	17%	5,252,986	19%	5,657,062	19%	5,682,621	19%	5,993,792	20%	5,584,644	20%
Total	27,454,516	100%	27,352,183	100%	29,594,205	100%	29,231,581	100%	30,648,662	100%	27,848,932	100%

temporary accommodation costs which would fall on local authorities.

6.4 An alternative way of presenting the same data is on the basis of an average per evicted household. This data is set out for each year in the period 2014/15-

2019/20 in **Table 16**. On the basis of the research presented in this report, for the year 2019/20 each eviction in Scotland from a social tenancy cost an average of £14,924.

**Table 16:** The average full cost per evicted household in Scotland, 2014/15-2019/20

Category	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Total full eviction cost	27,454,516	27,352,183	29,594,205	29,231,581	30,648,662	27,848,932
Total recovered properties	1,988	2,031	2,276	2,267	2,301	1,866
Average full cost per eviction case	13,810	13,467	13,003	12,894	13,320	14,924

# 7 Scenarios

- 7.1 The total aggregate costs of evictions from social tenancies and the corresponding average per evicted household presented in **Section 6** provides an informative account premised on the full range of experiences across Scotland as a whole. However, national scale averages can mask significant variations in experience. Also, as noted at the start of this document, the decision to pursue eviction is qualitatively different for a local authority and Registered Social Landlord. Some of the indirect costs quantified in **Section 5** of this document explicitly fall directly on the same local authority that pursued eviction in the first place. This is quite distinct from RSLs where the termination of a tenancy usually concludes the tenant-landlord relationship.
- 7.2 The question of who bears which costs is highly relevant. The decision to pursue eviction (or not) will often be strongly informed by the perception of various costs and the potential return on a dwelling upon which rent arrears have accumulated. One of the findings of this report is that the under-representation of the indirect costs of eviction might encourage the misperception of the full economic cost of eviction.
- 7.3 In order to capture the extent of variations in experience across Scotland and between local authorities and RSLs we seek in this section to provide 3 scenarios that serve to describe how a difference in perception of costs might lead to alternative interpretations of whether eviction would be a logical course of action or not.
- Scenario 1a: An average case for a Registered Social Landlord**
- 7.4 In this first scenario we present the simple averages experienced across Scotland to consider a potential case from the perspective of an RSL. In this instance the evicted household goes on to present as homeless and experiences 171 days in temporary accommodation, the Scottish average for 2019/20. We also make the conservative assumption that this would result in the lower bound estimate for the costs of servicing an individual experiencing homelessness with modest support needs.
- 7.5 **Table 17** shows that it would be possible for a RSL to pursue eviction on the basis of a perceived cost of just £11,944 – approximately 63% of the full economic cost of the eviction. On this understanding the majority of

**Table 17:** The perceived cost of eviction by RSL vs the full cost of eviction for scenario 1a

Direct Costs	2019/20 estimates	%
Average rent arrears written off per evicted household for RSL	9,687	51%
Typical void period loss for a RSL property	422	2%
Expected legal cost (3.5% defended and 96.5% undefended adjusted by RSL success rate) <sup>11</sup>	1,835	10%
<b>Subtotal: RSL perceived cost of eviction</b>	<b>11,944</b>	
Indirect Costs		
Indirect Costs (Lower bound estimate, 171 days of homeless services for a single evicted household)	6,937	37%
<b>Full cost</b>	<b>18,881</b>	<b>100%</b>

<sup>11</sup> The expected legal cost is derived by  $(0.035*3500+0.965*300)/(764/3402)$  where 764 and 3402 are the number of properties obtained and the number of court actions initiated by RLSs in 2019/20. The same logic applies to Table 18 and 19.



the costs would be the result of rent arrears and void losses. However, **Table 19** also shows that, on average, the full costs of the eviction would extend to include the lower bound estimate for the indirect costs that would apply for the 171 days for which the evicted household could expect to be in temporary accommodation. These indirect costs fall on a variety of other agencies and so may not be considered by an RSL when determining if eviction is a logical course of action.

### Scenario 1b: An average case for a local authority

- 7.6 Using precisely the same method as that used to produce **Table 18** but considering the situation from the perspective of the relevant local authority produces a very different account, as illustrated in **Table 18**.
- 7.7 The indirect costs of eviction resulting from the subsequent presentation as homeless represents a cost to the local authority of £6,937. Therefore, if the eviction had occurred from a local authority dwelling instead of one managed by an RSL the perceived cost to the local authority would be represented by the same direct costs considered by the RSL (arrears and void losses) but in combination with a significant proportion of the indirect costs arising as a consequence of subsequent homelessness duties.

### Scenario 2: A more extreme case

- 7.8 In the previous two scenarios it was assumed that the average period of time spent in temporary accommodation by an evicted household was the 2019/20 average of 171 days. However, it is important to recognise that this average masks significant variations across Scotland. For example, in 2018/19 the local authority with the greatest average number of days spent in temporary accommodation by a single person household was Midlothian with 293 days. **Table 19** illustrates the significant difference that changing this one variable can make to the indirect costs of a failed social tenancy.
- 7.9 **Table 19** illustrates the degree of misperception of costs resulting from a decision to evict in these more extreme circumstances. In this scenario the termination of an RSL tenancy may be understood as just £11,887 – less than 40% of the full economic cost of the decision to evict.
- 7.10 In presenting these scenarios it should be noted that we have made some conservative decisions. Firstly, we have only modelled the lower bound estimate of the costs of homelessness which assume relatively low support needs on the part of the evictee. This lower bound estimate does not include potential costs to the NHS and the criminal justice system. Secondly, we have restricted ourselves to considering length of

**Table 18:** The perceived cost of eviction by LA and the full cost of eviction for scenario 1b

Direct Costs	2019/20 estimates	%
Average rent arrears written off per evicted household for LA	8,786	47%
Typical void period loss for a LA property	509	3%
Expected legal cost (3.5% defended and 96.5% undefended adjusted by LA success rate)	2,628	14%
<b>Subtotal</b>	<b>11,923</b>	
Indirect Costs		
Indirect Costs (Lower bound estimate, 171 days of homeless services for a single evicted household)	6,937	37%
<b>Total</b>	<b>18,860</b>	<b>100%</b>

stay in temporary accommodation for single-occupancy households. Homelessness in Scotland 2019/20 (Scottish Government, 2020) shows that the category ‘couple with children’ spent an average of 263 days in temporary accommodation across Scotland in 2019/20. The significantly greater costs of temporarily housing such a household

would be greatly in excess of any of the scenarios presented above. However, as it would be less common for a household with children to be evicted from a social tenancy we have chosen not to model an outlier case of this nature.

**Table 19:** The full cost of eviction with a longer period of homeless services consumption (LA and RSL average)

Direct Costs	2019/20 estimates	%
Average rent arrears written off per evicted household	9,155	38%
Typical void period loss	473 <sup>12</sup>	2%
Expected legal fees (3.5% defended and 96.5% undefended)	2,303	10%
<b>Subtotal</b>	<b>11,932</b>	
Indirect Costs		
Indirect Costs (Lower bound estimate, but 293 days of homeless services for a single evicted household)	11,887	50%
<b>Total</b>	<b>23,819</b>	<b>100%</b>

<sup>12</sup> This estimation is arrived by dividing total void period losses in 2019/20 by total properties recovered (883,326/1,866).

# 8 Conclusions

- 8.1 Many providers of social housing in Scotland, both local authorities and RSLs, face the challenge of managing a large number of properties in areas that are often characterised by multiple deprivations. The programme of interviews conducted as part of this research reinforced the point that the decision to evict is never taken lightly and Scotland has some of the most progressive aspirations with regard to tackling homelessness. It should also be noted that some of the stimulus to the conditions that create a case for evictions, such as rent arrears, may be rooted in systemic features of the wider benefits system, such as Universal Credit (Beatty and Fothergill, 2016; Hardie, 2020).
- 8.2 However, the findings presented in this report clearly illustrate that in each of the last five years there have been a substantial number of evictions resulting from actions initiated by local authorities and RSLs in Scotland. To take the most recent and least extreme example from the past five years, in 2019/20 there were 10,431 instances of court actions initiated by local authorities and RSLs in Scotland, from which just 1866 properties were recovered but with the consequence that 805 households subsequently presented as homeless.
- 8.3 The traditional way of thinking about the costs ensuing from the decision to evict a tenant household from a local authority- or RSL-owned property, is to conceptualise those costs internal to this process that fall specifically on the evicting agency and the tenant household.
- 8.4 In this report we have shown that this narrow view does not adequately take into account the broader costs of eviction. For each of the past five years between 710 and 890 households in Scotland have presented as homeless as a result of the decision to terminate a social tenancy. This produces a range of additional costs that are borne by a host of service providers external to the relationship between tenant and local authority/RSL.
- 8.5 These costs might usefully be conceptualised as the externality costs of servicing homelessness and have been anecdotally documented. Gladwell's (2006) New Yorker article described the case of "Million Dollar Murray" a specific instance of a homeless man in Reno, Nevada whose use of public services associated with his long term homelessness was conservatively estimated to have cost \$1m: "It cost us one million dollars not to do something about Murray" (Gladwell, 2006: 2). On our conservative estimates in this report eviction from social tenancies cost Scotland £31,699,864 in 2019/20.
- 8.6 In other economic circumstances where externality costs prevail governments will often take steps to encourage fuller accounting. For example, 'green taxes' are routinely applied to polluting industries in order to ensure that the environmental and social consequences of the externality are internalised by the polluter.

- 8.7 The eviction of a social tenant household has a parallel logic. The decision to evict may be predicated primarily on the direct costs of eviction, the marginal private cost to the registered provider, which may be as little as the loss of three months rental arrears. However, the broader externality costs of this decision are significantly greater as demonstrated by our computation of the indirect costs of eviction in Section 5 of this report. Moreover it should also be noted that there will inevitably be personal costs to evicted households with respect to the anxiety of being subject to eviction proceedings.
- 8.8 Our analysis in this report shows that the indirect costs of eviction, even on the lower bound estimates we present, represent, on average, 19% of the full economic cost of evictions from social tenancies in Scotland over the period 2014/15 - 2019/20. If decision making took into account these broader costs it may mean that fewer social tenancies come to an end as a result of eviction, reversing the trend for increased rates of eviction that could be identified prior to the Covid-19 pandemic.

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# 10 Appendix

10.1 In this study we take the conservative approach of assuming that all households evicted from social tenancies in Scotland were single-occupancy households. However, in arriving at the decision to produce the analysis in this way we first explored the possibility of inferring an average household size. The information contained in this appendix provides the logic for how this might be achieved

together with a justification for our choice to assume that affected households were uniformly single-occupancy households.

10.2 When assessing the cost of homelessness as a result of evictions from social housing, it is important to understand the size of the household assessed as homeless - larger households displaced into

**Table A1:** Households assessed as homeless or threatened with homelessness, by household size

	Household size	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
<b>All</b>	All	710	780	840	870	890	805
	1	490	535	585	640	595	580
	2	120	125	105	105	155	115
	3	45	65	85	65	75	55
	4	40	35	35	30	30	35
	5	10	10	15	20	20	15
	6+	5	10	10	15	15	5
	<b>LA tenancy</b>	All	410	475	515	525	560
1		310	330	370	415	385	370
2		60	75	65	50	95	65
3		20	35	50	30	40	30
4		15	20	20	15	15	15
5		5	10	5	15	15	10
6+		0	5	5	5	10	0
<b>RSL tenancy</b>		All	300	305	330	345	330
	1	180	200	210	225	210	210
	2	60	50	45	55	65	45
	3	30	30	35	35	30	25
	4	25	15	15	20	15	20
	5	5	0	15	5	5	10
	6+	5	5	5	10	5	5

**Source:** Housing Statistics for Scotland team (figures have been rounded to the nearest 5 for disclosure control purposes).

homelessness are likely to make greater use of support services. Of all the households assessed as homeless or threatened with homelessness which previously held either a local authority or RSL tenancy, the household size distribution is reported in **Table A1**.

10.3 From the data reported in **Table A1** it is clear that the majority of the households assessed as homeless or threatened with homelessness were single-occupancy households. With the conservative approach of treating households with 6 or more individuals as 6, the average household size in this sample is approximately 1.57.

10.4 Combining the number of households and the average household size, we can estimate the number of individuals who become homeless as a result of eviction from social housing, as illustrated in **Table A2**.

10.5 Using this process to estimate household size suggests that the 805 households that experienced eviction from a social tenancy in Scotland during 2019/20 resulted in 1264 affected individuals.

10.6 Our decision to assume that all instances of eviction were single-occupancy households in spite of the data described in **Tables A1** and **A2** was motivated by our goal of providing a conservative estimate of the costs associated with eviction. Using the implied factor of 1.57 to arrive at a larger number of affected individuals would have a significant bearing on the aggregate indirect costs of eviction. Without a stronger rationale to support the assumption of an average household size we elected to assume that all evicted households were single occupancy households.

**Table A2:** Households and individuals assessed as homeless or threatened with homelessness <sup>13</sup>

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
<b>Total households</b>	710	780	840	870	890	805
<b>Total individuals</b>	1115	1225	1319	1366	1397	1264

<sup>13</sup> Note: Figures have been rounded to the nearest 5 for disclosure control purposes.



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