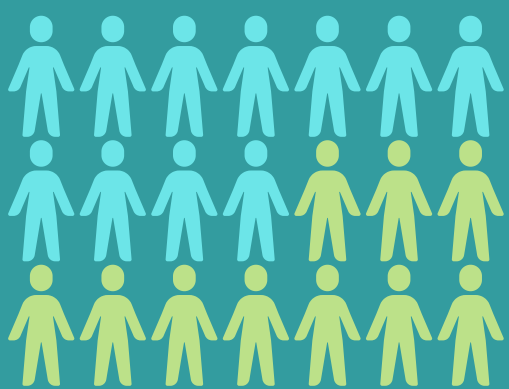


# Home Matters 2021

## Duty Adviser Survey Responses

This ESRC-funded project explores the court system's response to the COVID-19 pandemic. It questions the extent to which it has proven effective in addressing the risks and challenges posed by the pandemic and what lessons, if any, we might want to take forward into the post-pandemic era.

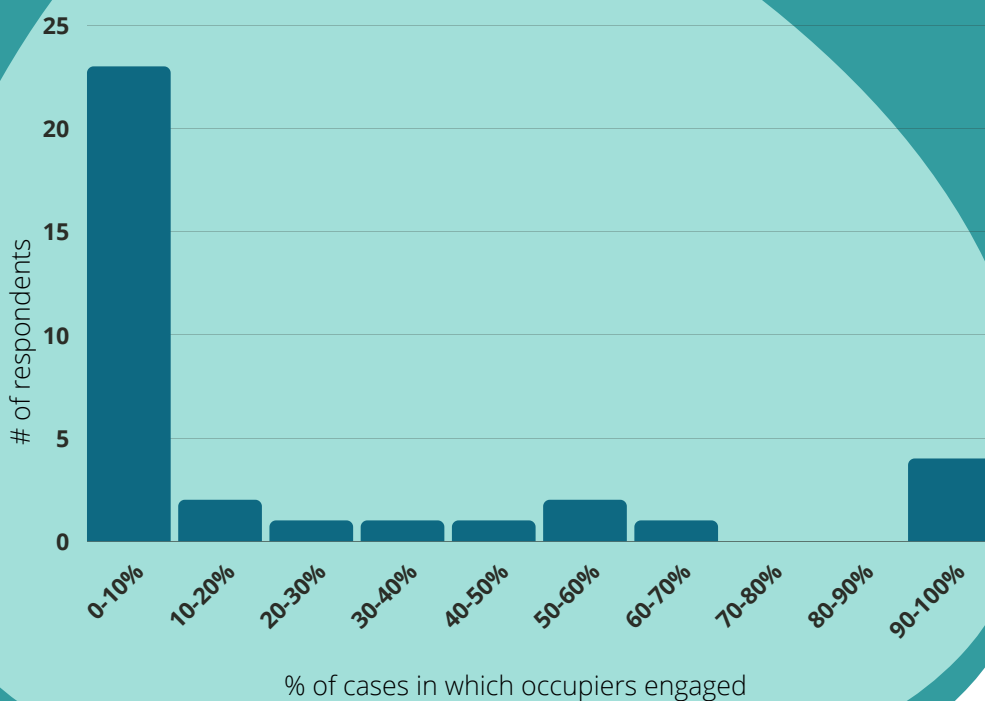
This leaflet offers a summary of the data provided by duty advisers. An analysis of the data will follow at a later date.



Between 16 June and 31 July 2021, an online survey was made available to those who advise and represent occupiers threatened with eviction. Responses were received from 35 duty advisers all of whom were based in England. While this is a small sample, the data provided offers a unique insight into this important process. We would like to thank those who took the time to complete the survey.

### Occupier Engagement

A majority of those responding (23 out of 35) said that the occupier had engaged in 0-10% of the R dates they had been involved with.

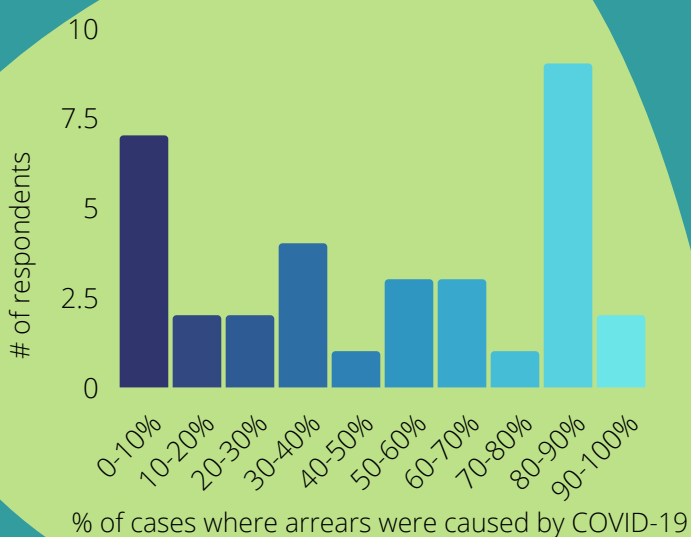


*"We have had very little contact from those facing a review of possession proceedings."*

*"Clients do not engage at the Review stage mainly because of the information provided to them by the court - the information is lengthy and opaque and clients do not understand it."*

### The Impact of COVID-19

Perhaps unsurprisingly, 11 duty advisers considered the COVID-19 pandemic to be a factor in the arrears accumulated by 80-100% of their clients. However, seven respondents indicated that 0-10% of their clients had been impacted.



*"A lot of my clients were always in receipt of passported benefits and so weren't financially affected."*

*"The majority of clients defending cases now were in substantial rent arrears before the pandemic, or rely entirely on benefits, and the pandemic has had no impact on their income."*

## Substantive Hearings

A significant number of duty advisers (28) said that the majority of cases they dealt with proceeded to a 'S Hearing'.



*"... the majority of cases are simply addressed on the papers from the Claimant with no input from the Defendant. In nearly all cases considered in this way, the Judge will progress to a substantive hearing as they have no other choice."*

## Orders Made at the Review Date Stage

Some duty advisers (nine) were aware of orders being made at the R date stage. The Overall Arrangements make it clear that this should not happen (para. 51) unless both parties consent (para. 52). Respondents confirmed that most of these orders were made with the consent of both parties. Others were made where possession was made out (e.g. s.21 notice).

*"Suspended possession orders made by consent of parties."*

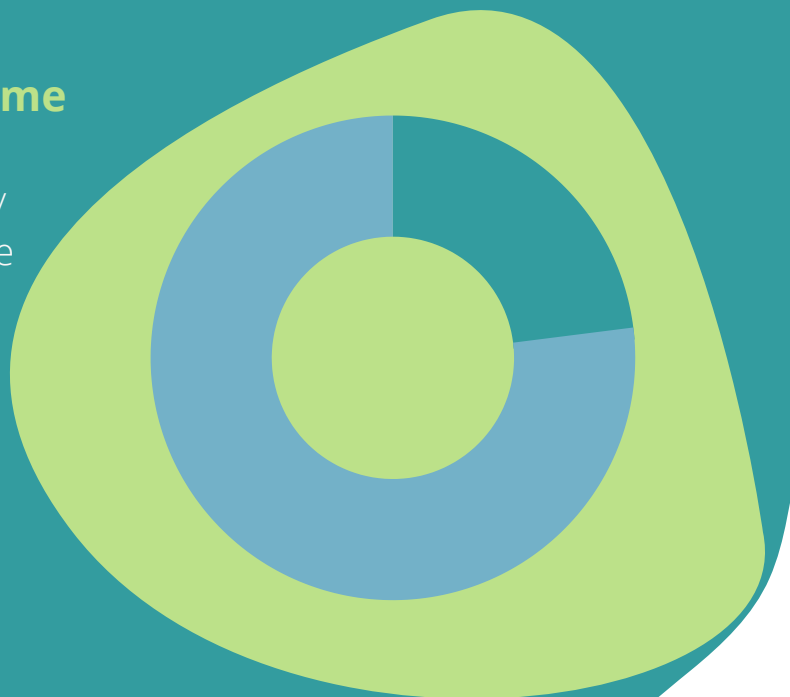
*"Where on s.21 the ground is made out unequivocally."*

## Breathing Space/Debt Respite Scheme

Since its introduction in May 2021, eight duty advisers had encountered cases involving the 'Breathing Space/Debt Respite' Scheme'.

*"No one yet understands this scheme but we have started seeing several defendants under it."*

*"A colleague spoke to the Bailiffs office at XXXXX who confirmed they had internal guidance to withdraw from any enforcement action upon notification that a 'Breathing Space' was in place - they suggested they would withdraw even if this were first raised on the doorstep."*



## Meaningful advice?

For a variety of reasons, 10 duty advisers said that they had not felt able to give meaningful advice at the R date stage.

*"The vast majority of Defendants do not attend the review hearing or contact us for advice."*

*"We have been unable to provide good advice because the court often fails to provide us with the relevant documents."*

*"Tenants with review dates have contacted both well in advance so that a f2f has been possible... or they contact at the last minute in which case some courts will not release the papers so that any intervention is impossible."*



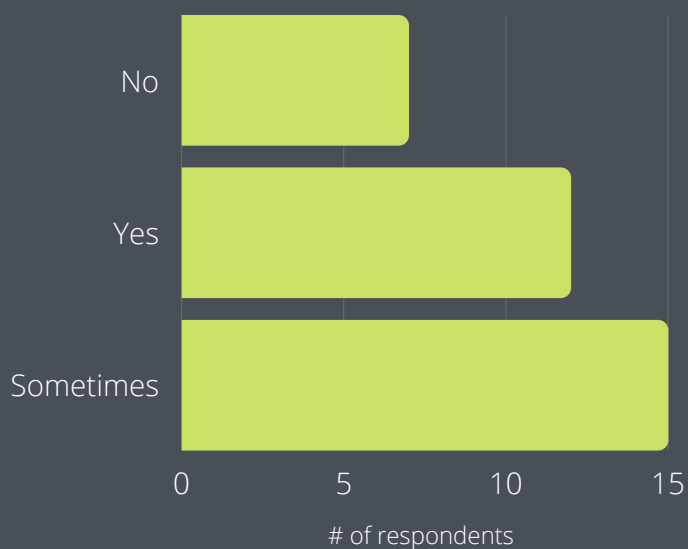
**"The provision of the court bundle is a massive improvement on the pre-COVID situation and very helpful to duty advisers."**

**"Claimants are not required to ask how COVID has affected the Defendant so usually just say they are unaware of any effects."**

### Enhanced Information?

Half of the duty advisers thought that the judge now receives more information compared to pre-COVID cases. In particular, there was praise for the electronic bundle of 'enhanced information', but concern also that claimants are not required to ask defendants about the impact of the pandemic on them.

**"Of those cases we have involvement with, there is a social landlord. They are obliged to provide enhanced information under the Pre-Action Protocol anyway so we don't get much more information as a result of these arrangements."**



### Is the Extra Time for S Hearings Being Used Effectively?

Overall, duty advisers felt that the time was being used effectively in most cases. There were, however, concerns raised regarding logistical issues and the impact on the outcome for some defendants.

**"It is less rushed which means you can put your arguments forward in a more structured and thoughtful way."**

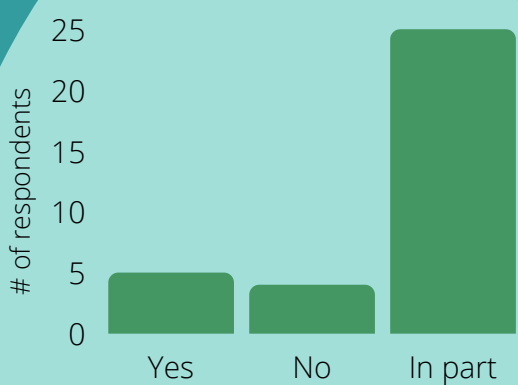
**"For a duty solicitor it is a disaster. The time involved in travelling and being at Court for little or no remuneration because of lack of attendance means the whole scheme in my view is not viable for legal aid lawyers."**

**"On occasion additional time allows issues to be explored. However, this can be to the disadvantage of the defendant as cases which previously would be adjourned are being determined at the first hearing as the judge has more time."**

### The Overall Arrangements, Overall

An overwhelming majority considered the OA to be effective *in part*.

**"The gov really needed to couple the Overall Arrangements with measures to address the systematic drivers which lead to rent arrears and eviction."**



**"The Review Date could be useful but engagement needs to be improved."**

**"The Overall Arrangements are a procedural solution to a problem (rent arrears/eviction) which is essentially driven by factors such as high rents, low security of tenure, low housing cost support, lack of legal aid, benefit caps, bedroom tax, benefits not tracking inflation etc. It's a solution which needed a wider holistic bunch of measures."**

**"It was a great idea, poorly executed."**

### Further information

If you have any questions about the survey or would like a copy of the full report when it's published please contact us at:

**homematters@hull.ac.uk**

### Acknowledgements

The research team would like to thank all the respondents who took part in this survey. Sharing your experience with us will help develop an improved understanding of the possession process. It will also help us to put forward informed proposals that could help to shape the process into the future.

We would also like to thank the ESRC for funding this project.