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PROPERTY LITIGATION ASSOCIATION RESPONSE TO THE  
LAW COMMISSIONS CONSULTATION ON THE 14<sup>th</sup> PROGRAM

SCHEDULES

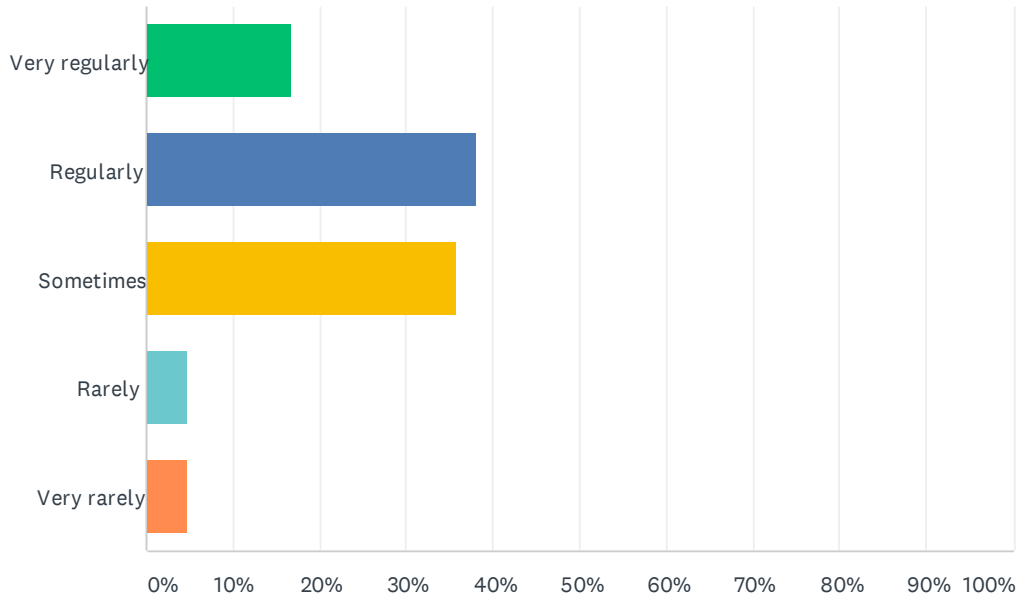
Survey results

Schedule 1	1987 Act
Schedule 2	1995 Act
Schedule 3	Termination of Tenancies

Schedule 1 - 1987 Act Survey

## Q1 How frequently are you or your firm instructed to advise on the rights of residential tenants under Part 1 of the Landlord and Tenant Act 1987 (the Act) ?

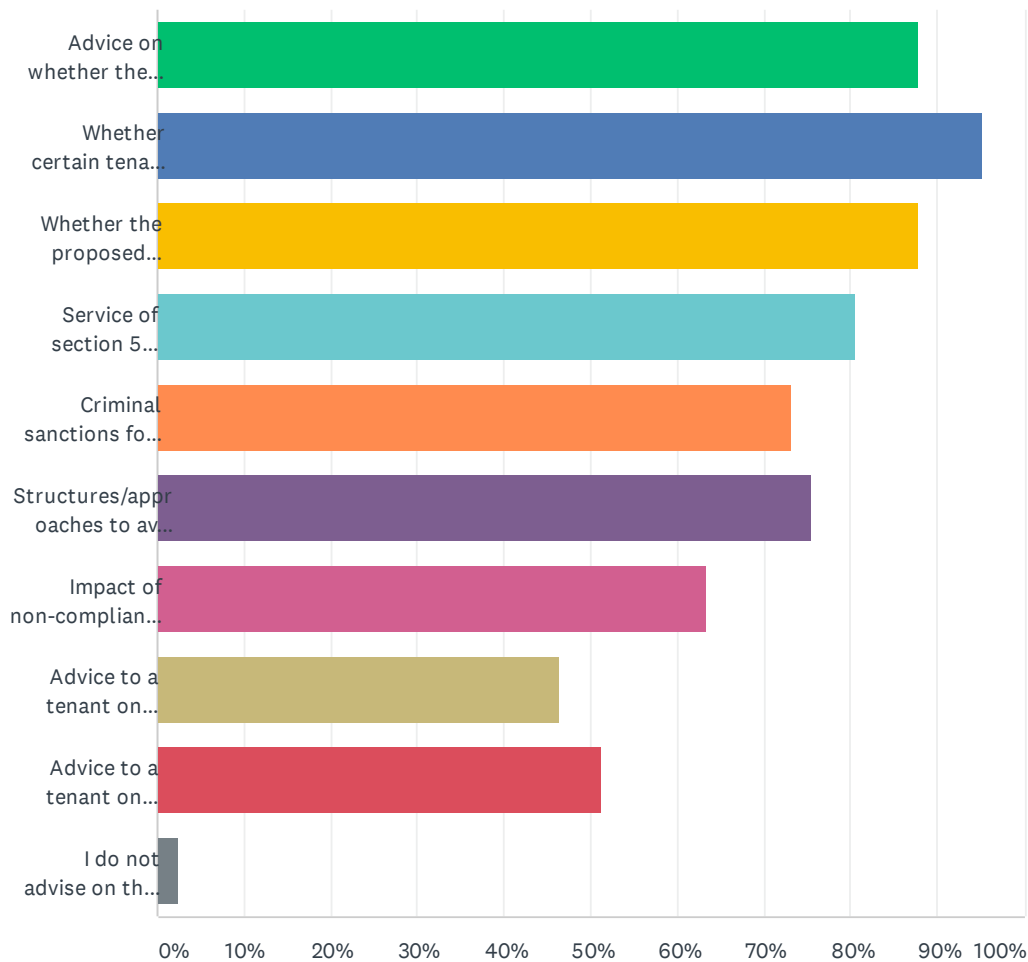
Answered: 42 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very regularly	16.67%	7
Regularly	38.10%	16
Sometimes	35.71%	15
Rarely	4.76%	2
Very rarely	4.76%	2
<b>TOTAL</b>		<b>42</b>

## Q2 Have you ever had to advise on the following issues (tick all that apply)

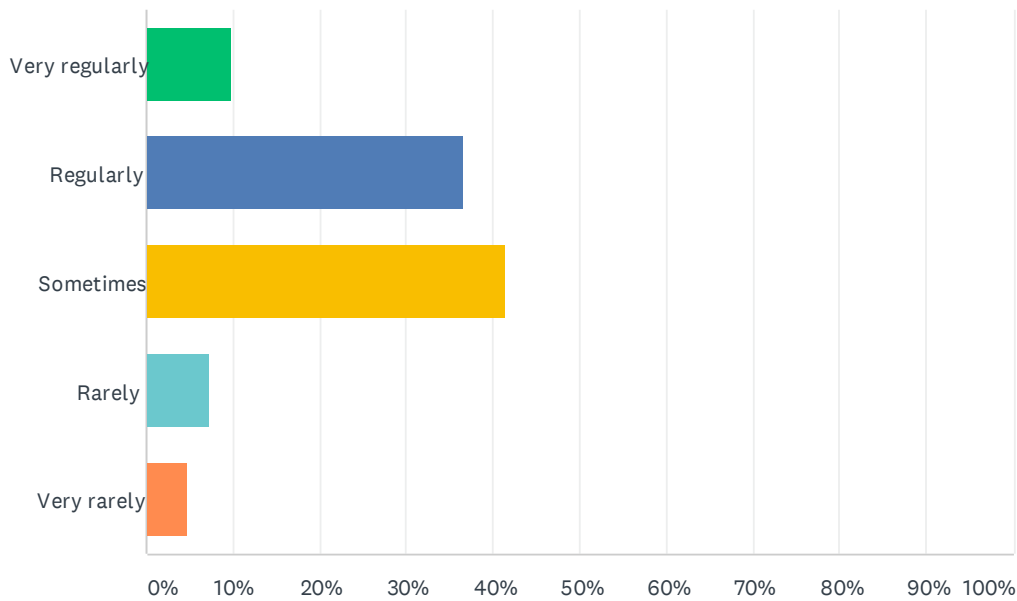
Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Advice on whether the Part 1 of Act applies to a building(s)	87.80%	36
Whether certain tenants are qualifying tenants under Part 1 of the Act	95.12%	39
Whether the proposed disposal is a relevant disposal or an exempt disposal under Part 1 of the Act	87.80%	36
Service of section 5 notices under Part 1 of the Act in the context of commercial lease	80.49%	33
Criminal sanctions for non-compliance with section 5 of Part 1 of the Act	73.17%	30
Structures/approaches to avoid section 5 of Part 1 of the Act applying	75.61%	31
Impact of non-compliance with section 5 of Part 1 of the Act on successors in title	63.41%	26
Advice to a tenant on acceptance of a section 5 notice under Part 1 of the Act	46.34%	19
Advice to a tenant on non-compliance with section 5 under Part 1 of the Act	51.22%	21
I do not advise on the Part 1 of the Act	2.44%	1
<b>Total Respondents: 41</b>		

### Q3 How frequently are you instructed by landlord clients to serve section 5 under Part 1 of the Act

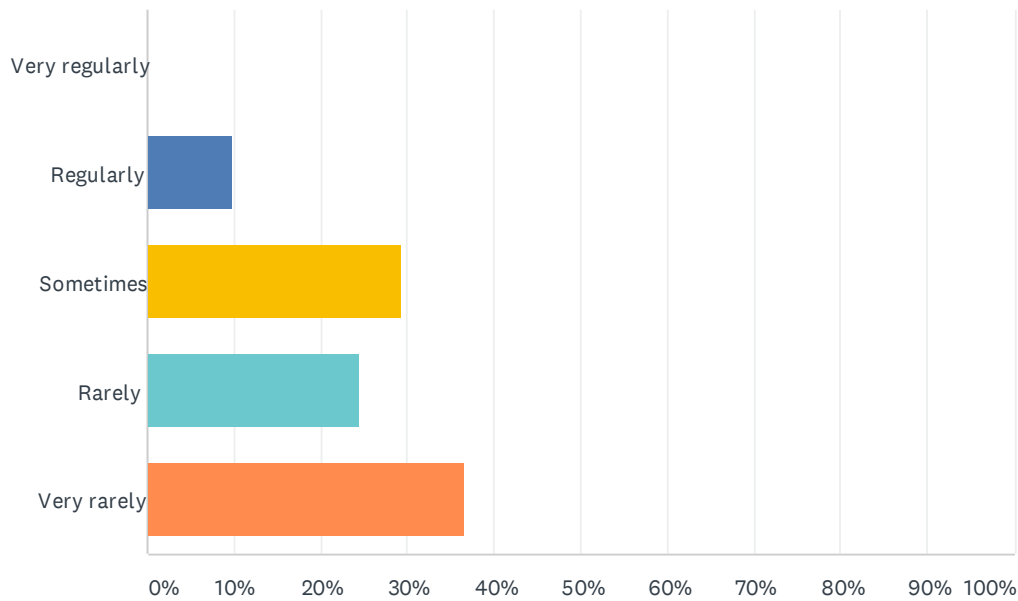
Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Very regularly	9.76%	4
Regularly	36.59%	15
Sometimes	41.46%	17
Rarely	7.32%	3
Very rarely	4.88%	2
<b>TOTAL</b>		<b>41</b>

## Q4 How frequently are you instructed to by residential tenants seeking to exercise the right of first refusal under Part 1 of the Act?

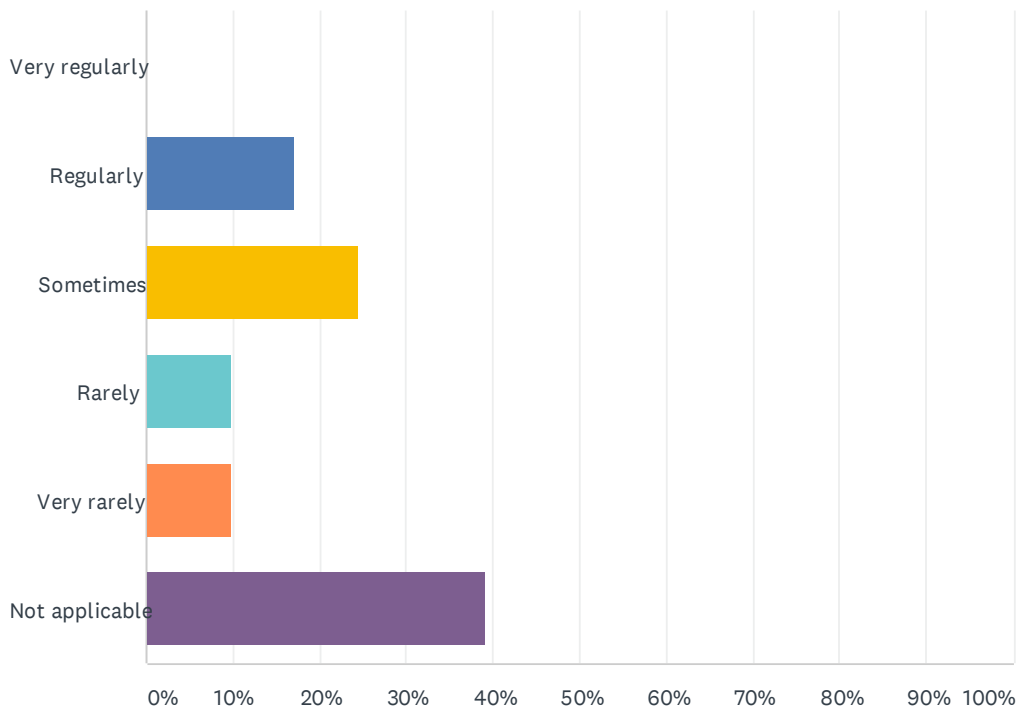
Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Very regularly	0.00%	0
Regularly	9.76%	4
Sometimes	29.27%	12
Rarely	24.39%	10
Very rarely	36.59%	15
<b>TOTAL</b>		<b>41</b>

### Q5 If you are instructed by residential tenants to advise on the exercise of their rights under Part 1 of this Act, how often does this result in the tenants going on to acquire the relevant interest?

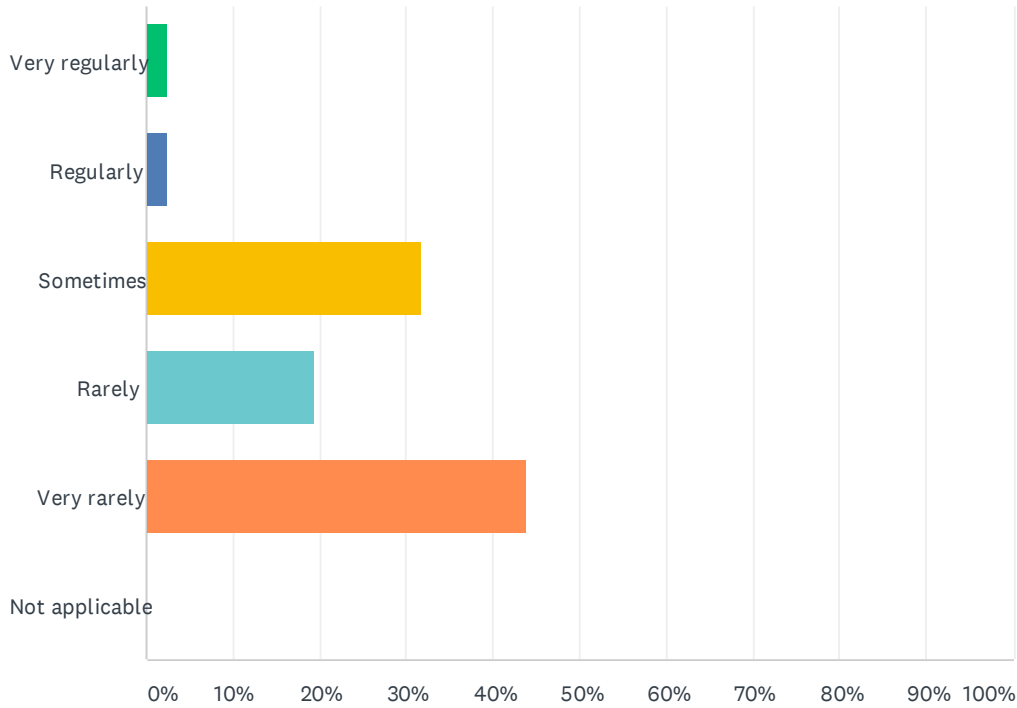
Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Very regularly	0.00%	0
Regularly	17.07%	7
Sometimes	24.39%	10
Rarely	9.76%	4
Very rarely	9.76%	4
Not applicable	39.02%	16
<b>TOTAL</b>		<b>41</b>

### Q6 If you act for landlords in connection with Part 1 of the Act how often in your experience do residential tenants seek to exercise their rights under Part 1 following service of section 5 notices?

Answered: 41 Skipped: 1

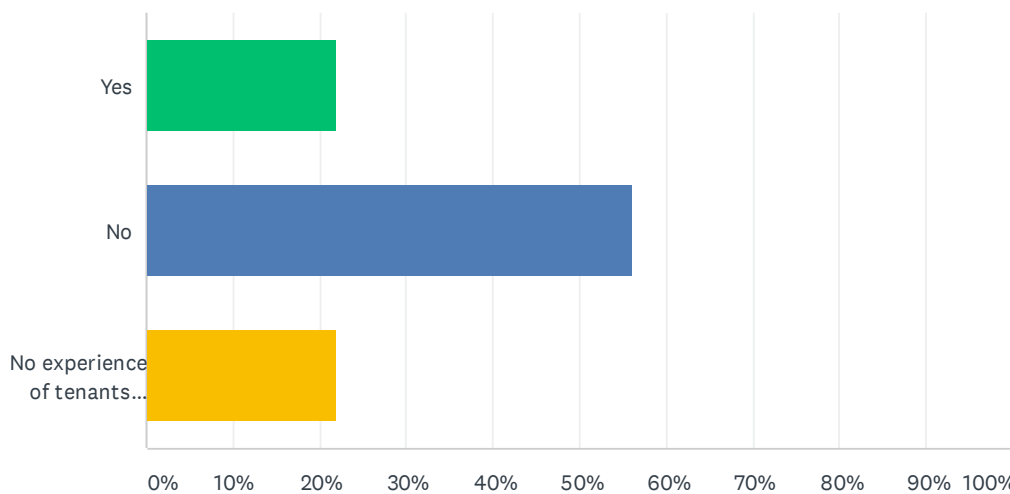


ANSWER CHOICES	RESPONSES	
Very regularly	2.44%	1
Regularly	2.44%	1
Sometimes	31.71%	13
Rarely	19.51%	8
Very rarely	43.90%	18
Not applicable	0.00%	0
<b>TOTAL</b>		<b>41</b>



## Q7 Do you have experience of residential tenants exercising their rights and then pulling out/changing their mind?

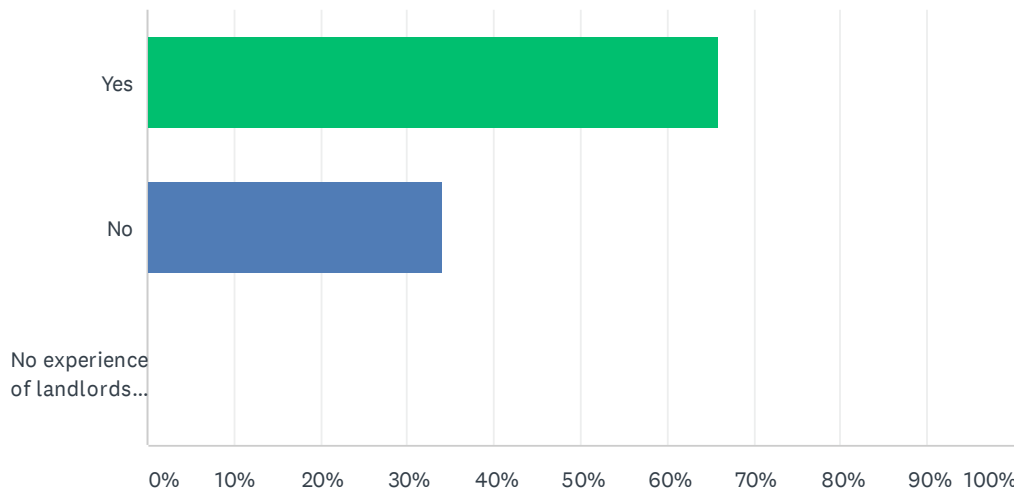
Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	21.95%	9
No	56.10%	23
No experience of tenants exercising their rights in the first place.	21.95%	9
<b>TOTAL</b>		<b>41</b>

## Q8 Do you have experience of landlords needing to re-serve Part 5 notices because of changes to the underlying transaction terms?

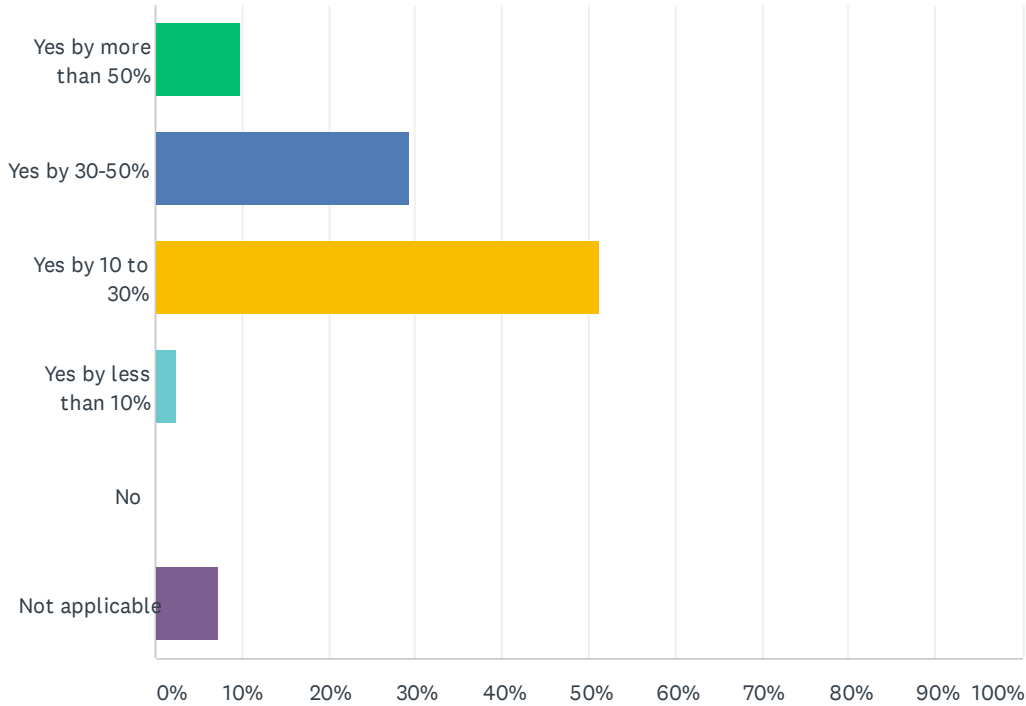
Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	65.85%	27
No	34.15%	14
No experience of landlords serving notices in the first place.	0.00%	0
<b>TOTAL</b>		<b>41</b>

**Q9 If you act for landlords, do you consider that where advice is required on Part 1 of the Act as part of a transaction (including where section 5 notices are served) the legal costs for that landlord of that transaction increase (on average)?**

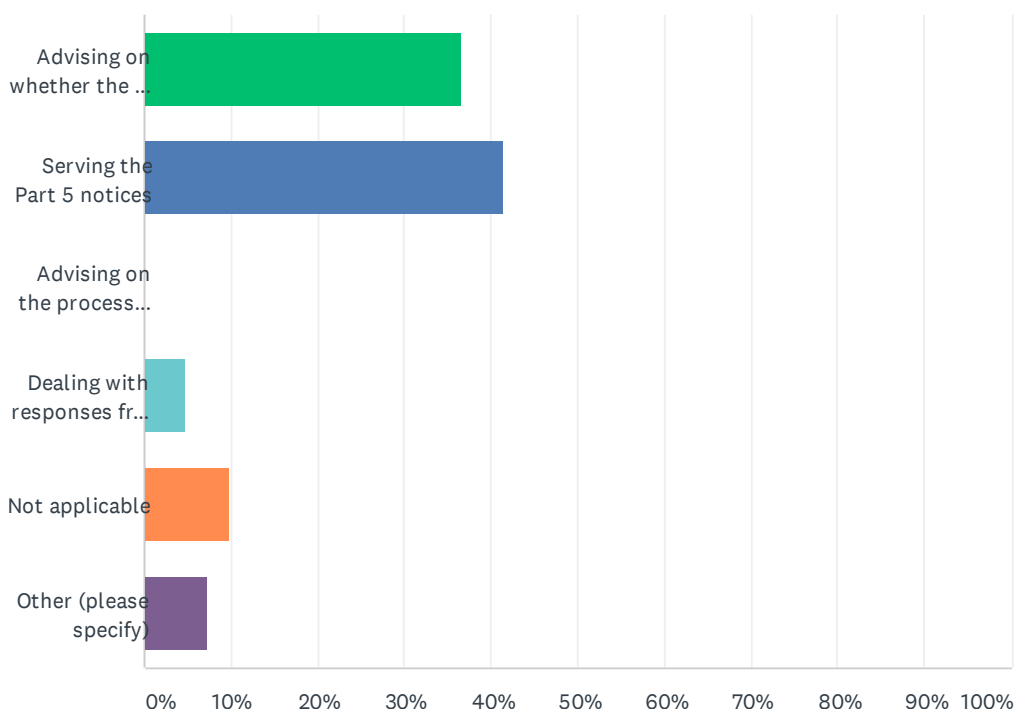
Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes by more than 50%	9.76%	4
Yes by 30-50%	29.27%	12
Yes by 10 to 30%	51.22%	21
Yes by less than 10%	2.44%	1
No	0.00%	0
Not applicable	7.32%	3
<b>TOTAL</b>		<b>41</b>

### Q10 If you answered yes to question 9, is the majority of the additional cost incurred as a result of:

Answered: 41 Skipped: 1

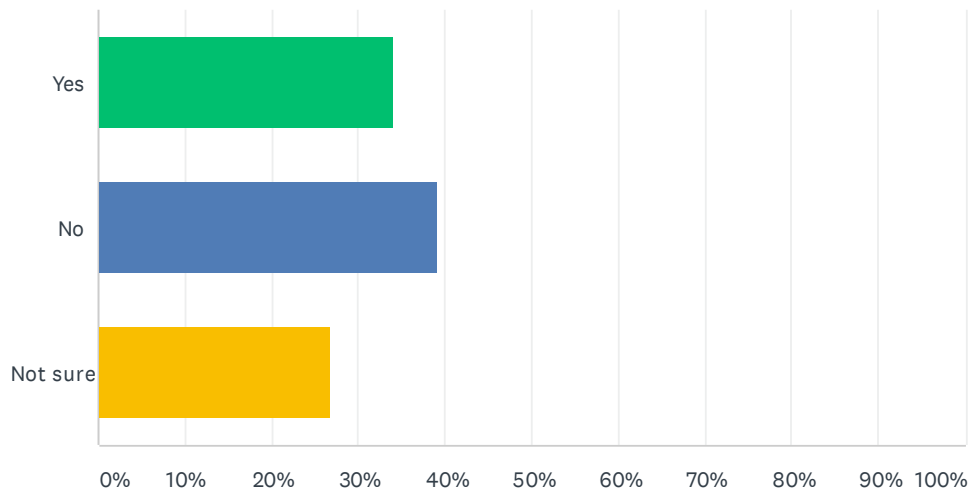


ANSWER CHOICES	RESPONSES	
Advising on whether the Act applies in the first place	36.59%	15
Serving the Part 5 notices	41.46%	17
Advising on the process following service of notices	0.00%	0
Dealing with responses from residential tenants	4.88%	2
Not applicable	9.76%	4
Other (please specify)	7.32%	3
<b>TOTAL</b>		<b>41</b>

#	OTHER (PLEASE SPECIFY)	DATE
1	It relates to all of the above	5/12/2021 5:12 PM
2	All of the above	5/12/2021 11:48 AM
3	all the above	5/12/2021 11:21 AM

## Q11 Do you consider that Part 1 of the Act confers a valuable benefit on tenants

Answered: 41 Skipped: 1

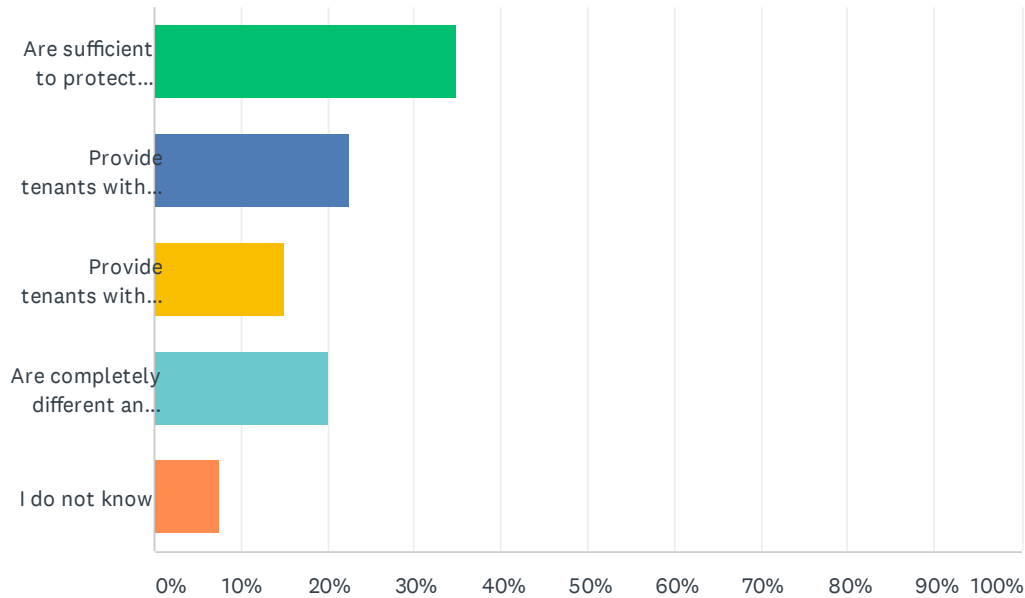


ANSWER CHOICES	RESPONSES	
Yes	34.15%	14
No	39.02%	16
Not sure	26.83%	11
<b>TOTAL</b>		<b>41</b>

#	ANY COMMENTS?	DATE
1	As I have never had any experience of a tenant exercising their rights its difficult to see how it confers a value at all	5/17/2021 11:22 AM
2	Yes, however it is cumbersome and applies even where all tenants want to buy by agreement/where a tenant owns the freehold plus a flat etc which requires compliance to avoid the sanctions, but a majority is not capable of being formed - pointless and cost wasting in that example! Also too many people consider they dont need notices where FH is selling to LHs by agreement, thus resulting in criminal offences. Needs to be more thought put into the legislation. Don't get me started on multiple buildings and severance!	5/12/2021 12:24 PM
3	they might as well just enfranchise in many situations.	5/12/2021 11:21 AM
4	Accepting an offer made in a s5 notice is complex and it is extremely rare for tenants to actually accept. Most qualifying tenants will also have a right to enfranchise under LRHUDA 1993 in any case.	5/12/2021 10:23 AM
5	Sometimes; i thin kit depends on the property. I find it is used more in smaller buildings, where leaseholders are more inclined / able to manage the properties themselves	5/12/2021 10:04 AM

## Q12 Do you consider that the current rights afforded to residential tenants under the Leasehold Reform Act 1967 and the Leasehold Reform Housing and Urban Development Act 1993 to extend their lease or purchase the freehold:

Answered: 40 Skipped: 2

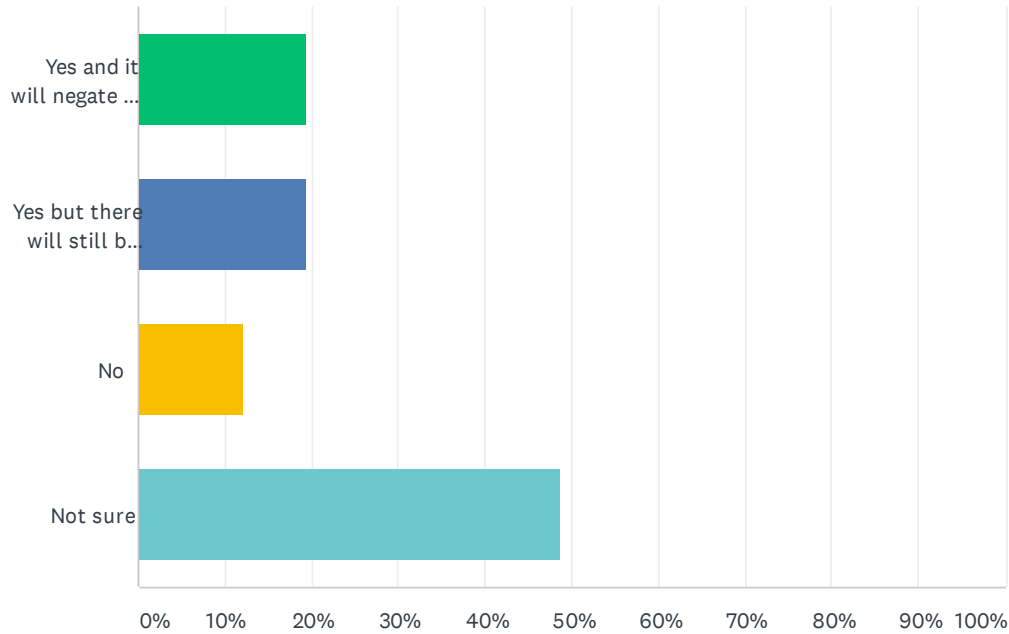


ANSWER CHOICES	RESPONSES
Are sufficient to protect tenants without the right of first refusal	35.00% 14
Provide tenants with more protection than the right of first refusal	22.50% 9
Provide tenants with less protection than the rights of first refusal	15.00% 6
Are completely different and not relevant	20.00% 8
I do not know	7.50% 3
<b>TOTAL</b>	<b>40</b>

#	ANY COMMENTS?	DATE
1	Arguably RFR notifies tenants of proposed sales of parts of a development	5/13/2021 6:06 PM
2	The current system allows the tenants to act if they wish to is very good, but the right of first refusal gives them an added layer of protection	5/13/2021 12:10 PM
3	Subject to the non-residential area exclusion which is better for T's under the 1987 Act and so some buildings will qualify that don't qualify for LRHUDA 1993 purchase	5/12/2021 5:02 PM
4	I do not advise on either of those (1967 and 1993) Acts	5/12/2021 1:42 PM
5	25%/50% commercial being the main difference. Right of first refusal should apply to 1967 houses which it doesn't.	5/12/2021 12:24 PM
6	the 1987 Act right enables them to buy at a specific price rather than as valued under the 1993 Act	5/12/2021 11:21 AM
7	See response to 11.	5/12/2021 10:23 AM

## Q13 Do you consider that the proposed reforms to lease extensions and collective enfranchisement will have an impact on the need for rights of first refusal

Answered: 41 Skipped: 1

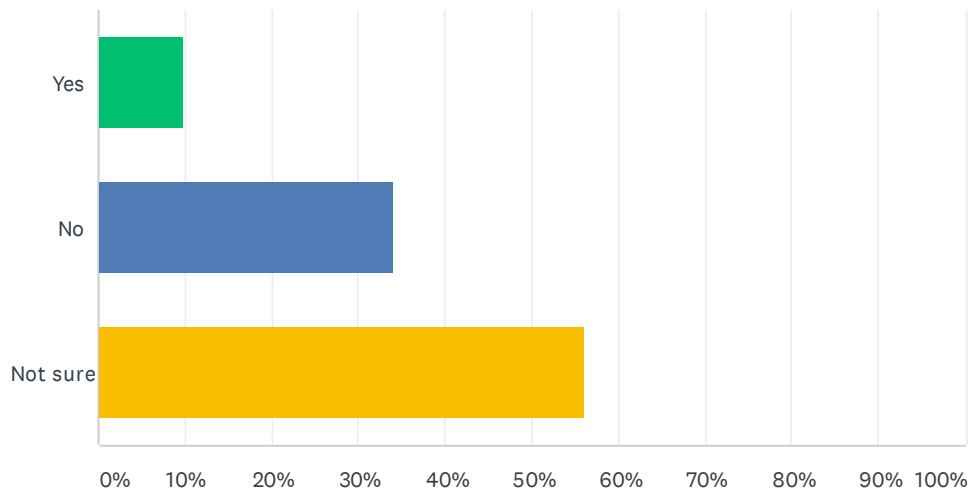


ANSWER CHOICES	RESPONSES	
Yes and it will negate the value of the right of first refusal	19.51%	8
Yes but there will still be value in the right of first refusal	19.51%	8
No	12.20%	5
Not sure	48.78%	20
<b>TOTAL</b>		<b>41</b>

#	ANY COMMENTS?	DATE
1	There needs to be a more integrated approach	5/12/2021 1:40 PM
2	they are all part of a move away from having outside landlords and the law encourages that move although the ramifications for management are another matter	5/12/2021 11:21 AM
3	In my view the right of first refusal is already unnecessary in light of tenants' existing rights.	5/12/2021 10:23 AM

## Q14 Do you consider that commonhold is (or could be) a creditable alternative to the right of first refusal?

Answered: 41 Skipped: 1



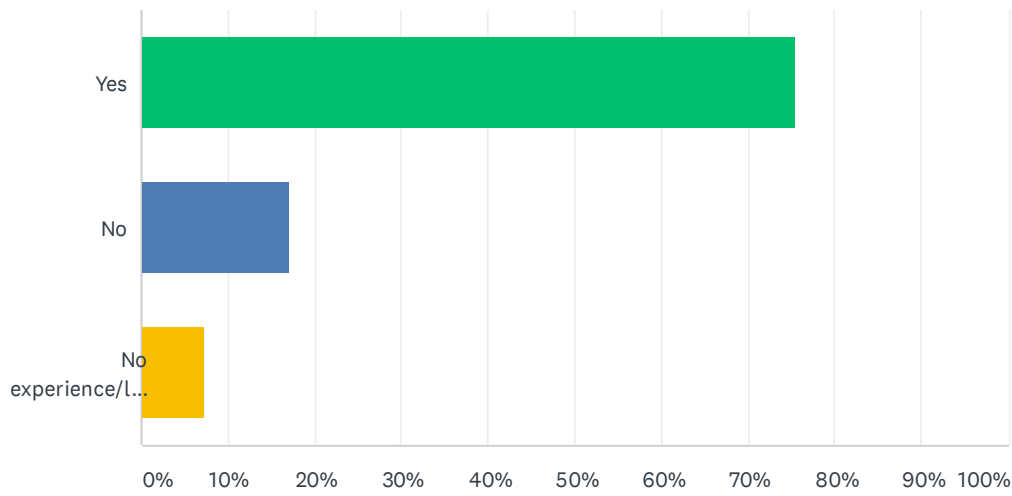
ANSWER CHOICES	RESPONSES	
Yes	9.76%	4
No	34.15%	14
Not sure	56.10%	23
<b>TOTAL</b>		<b>41</b>

#	ANY COMMENTS?	DATE
1	Until lenders are on board it will not work	5/13/2021 9:58 AM
2	Commonhold should not be mandated. Leaseholders should have a choice of tenures.	5/12/2021 1:37 PM
3	If it is commonhold there would be nothing to "refuse"?	5/12/2021 12:24 PM
4	Again commonhold answers or purports to answer a different set of problems	5/12/2021 11:21 AM
5	Commonhold comes with its own problems re management and maintenance	5/12/2021 10:04 AM



## Q15 Have you experienced or are you aware of the tenants rights under Part 1 of the Act delaying/complicating transactions?

Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	75.61%	31
No	17.07%	7
No experience/limited experience of transactions involving Part 1 of the Act	7.32%	3
<b>TOTAL</b>		<b>41</b>

## Q16 If yes, please provide examples of the sort of issues that have arisen

Answered: 27 Skipped: 15

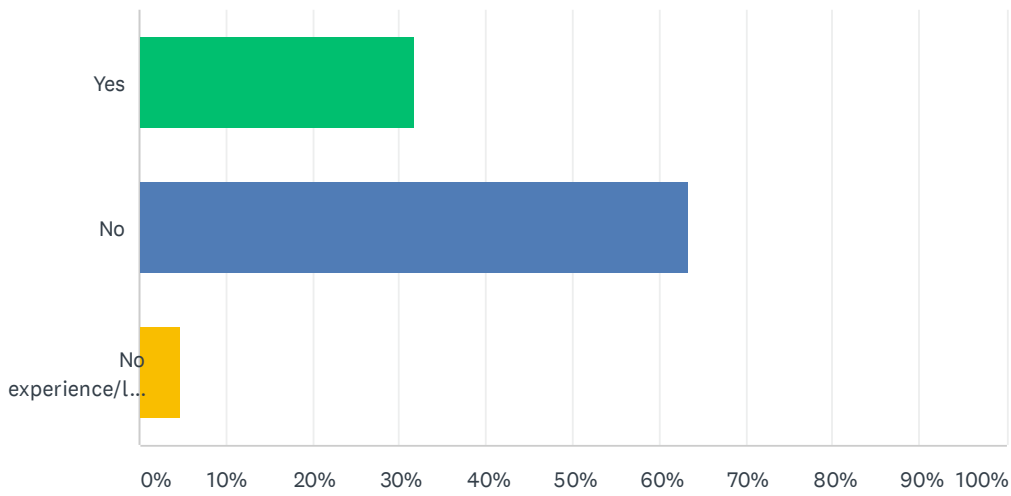
#	RESPONSES	DATE
1	Lost transaction. Tenants wanted to buy then pulled out and the original sale was lost.	7/26/2021 12:04 PM
2	Deal restructuring.	5/24/2021 9:37 AM
3	timescales not anticipated	5/20/2021 10:59 AM
4	Issues have been extra conditions by lenders, delay to the transactions whilst notice periods are waited for.	5/17/2021 11:22 AM
5	notice periods cause delay. In particular where heads of terms have been negotiated by agents without taking into account the 1987 Act	5/14/2021 8:18 AM
6	Where there is uncertainty around whether the Act applies or not, often comply as belt and braces which can cause issues. Also the challenges of getting round an (innocent), potential breach	5/13/2021 6:06 PM
7	The need to serve 400 notices on residential development where sale of commercial. No clear view whether s5 applicable and buyer insisted on notices. Delayed and caused unnecessary costs	5/13/2021 10:45 AM
8	Delay waiting for notices to expire	5/13/2021 9:58 AM
9	Delay caused by needing to serve s5 notices	5/13/2021 8:58 AM
10	Delay in having to advise on the Act, drafting and serving Section 5 Notices and waiting for the expiry period to pass before the transaction can proceed	5/12/2021 5:12 PM
11	failure to serve. defective notices. defective service. price or deal structure change.	5/12/2021 5:02 PM
12	Where a property is being sold at auction, having to repeat the process if it is not sold at first auction. The fact the process has to be repeated for each transaction even when the tenants have never positively responded to the notices is also frustrating - I've had leaseholders ask why we have to keep serving these notices on them all the time, because they have no interest.	5/12/2021 4:34 PM
13	Delay is the main issue, especially with large developments where it takes time to prepare and serve all the notices. I have also experienced tenants (and their advisers, including lawyers) misunderstanding the nature of the offer and, for example, seeking to accept as an individual tenant. Many examples of complications, especially where groups of qualifying tenants approach the landlord to try and do a side deal and get around the Act. We still have to advise clients that this doesn't work. It's a hard sell when the QTs themselves are pushing for the side deal.	5/12/2021 1:42 PM
14	The problem that it is still a criminal offence to ignore rights of first refusal when every tenant is participating. As solicitors we have to advise against that	5/12/2021 1:40 PM
15	Delays due to large number of notices needing to be served on qualifying tenants.	5/12/2021 1:37 PM
16	As above. Where there are 2 flats and 1 owns the FH, it cannot sell without offering ROFR even though a majority cannot be formed! Makes no sense.	5/12/2021 12:24 PM
17	Activist tenants seeking to frustrate the sale by contacting the commercial buyer, with a view to driving the price down. Sometimes this is driven behind the scenes by a developer/private investor looking to gain the asset/opportunity.	5/12/2021 11:48 AM
18	issues with landlords (or receivers/administrators) disposing of commercial parts having to delay to comply with the Act, as well as leaseholders exercising rights and then withdrawing	5/12/2021 11:21 AM
19	Errors from other professional advisers/lawyers in the service of notices. Significant experience of larger issues arising as a result of clients seeking to limit cost on a process which they do not initially take seriously enough.	5/12/2021 10:48 AM
20	Other side not understanding the right/Act	5/12/2021 10:48 AM

PLA Survey: Part I of the Landlord and Tenant Act 1987 (Tenant's Rights of First Refusal)

21	even if tenants indicate they do not intend to accept the offer the transaction can not proceed until expiry of "2 month period".	5/12/2021 10:26 AM
22	Requirement to serve notices and need for actual service of notices causing significant delays in transactions (3+ months). Need to serve notice in relation to transfers of common parts to management companies adding unnecessary expense.	5/12/2021 10:23 AM
23	Where the property is being sold by administrators under a power of sale and their authority runs out before the expiry of the required 2 month notice period	5/12/2021 10:06 AM
24	Delays to completion due to waiting for s5 notices to expire.	5/12/2021 10:06 AM
25	the delay as a result of the notices / issues in proving effective service overseas etc have caused problems for landlord clients	5/12/2021 10:04 AM
26	Needing to wait until the s.5 notice acceptance period has expired - a minimum of 2 months.	5/12/2021 9:51 AM
27	Tenants asking landlords for unnecessary information	5/12/2021 9:49 AM

### Q17 Do you have experience of transactions having become abortive as a result of the need to comply with Part 1 of the Act:

Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	31.71%	13
No	63.41%	26
No experience/limited experience of transactions involving Part 1 of the Act	4.88%	2
<b>TOTAL</b>		<b>41</b>

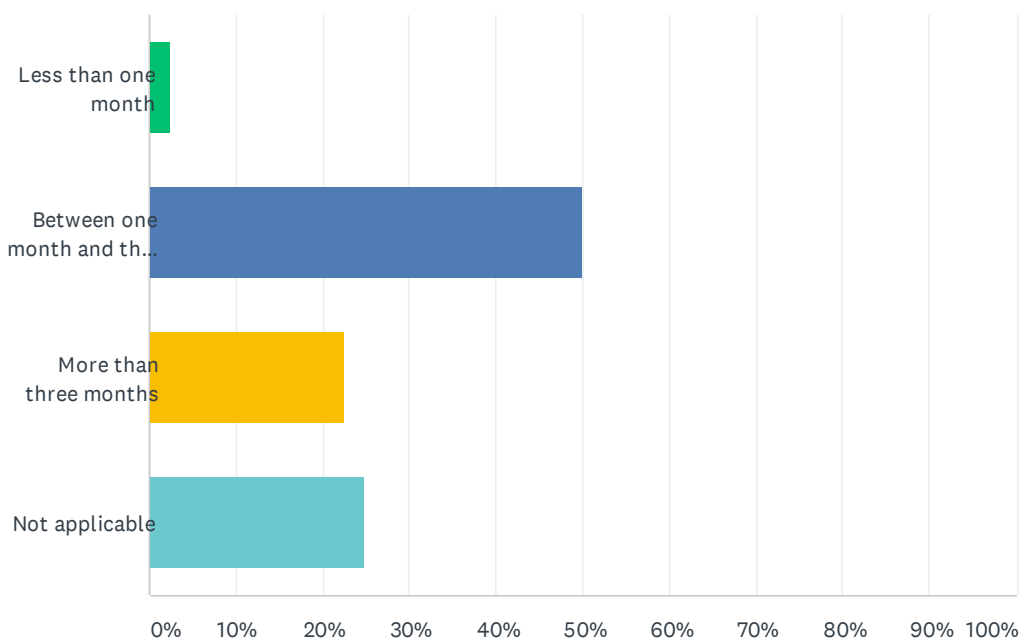
**Q18 If yes, please provide examples of the sort of issues that have arisen and any consequences (for example, lost rent, increased empty rates liability, wasted costs).**

Answered: 13 Skipped: 29

#	RESPONSES	DATE
1	lost rent, empty rates and wasted costs	7/26/2021 12:04 PM
2	Purchasers not being prepared to wait, wasted costs, restructure of transaction	5/17/2021 11:22 AM
3	wasted costs - why buyers not familiar with the Act	5/13/2021 6:06 PM
4	Proposed surrender of headlease to head lessor aborted due to acceptance of section 5 notice. Inability to change terms of offer where tenants do not proceed.	5/13/2021 1:58 PM
5	Wasted costs	5/13/2021 9:58 AM
6	Client has decided not to proceed due to the number of s5 notices required	5/13/2021 8:58 AM
7	2 month delay meant buyer didn't want to proceed. Lost the sale and couldn't get same or higher price on the market when remarketed	5/12/2021 5:02 PM
8	n/a	5/12/2021 1:37 PM
9	Disputes meaning that delays cause prospective purchaser to abort resulting in loss of the transaction and wasted costs.	5/12/2021 10:48 AM
10	Increased / wasted costs.	5/12/2021 10:23 AM
11	n/a	5/12/2021 10:06 AM
12	n/a	5/12/2021 10:04 AM
13	Purchaser has pulled out due to delays involved in serving notices. Client has been put off selling because of the costs of 1987 Act advice/serving notices.	5/12/2021 9:51 AM

### Q19 If you have experienced or are aware of tenants rights under Part 1 of the Act delaying transactions, by how much (on average)?

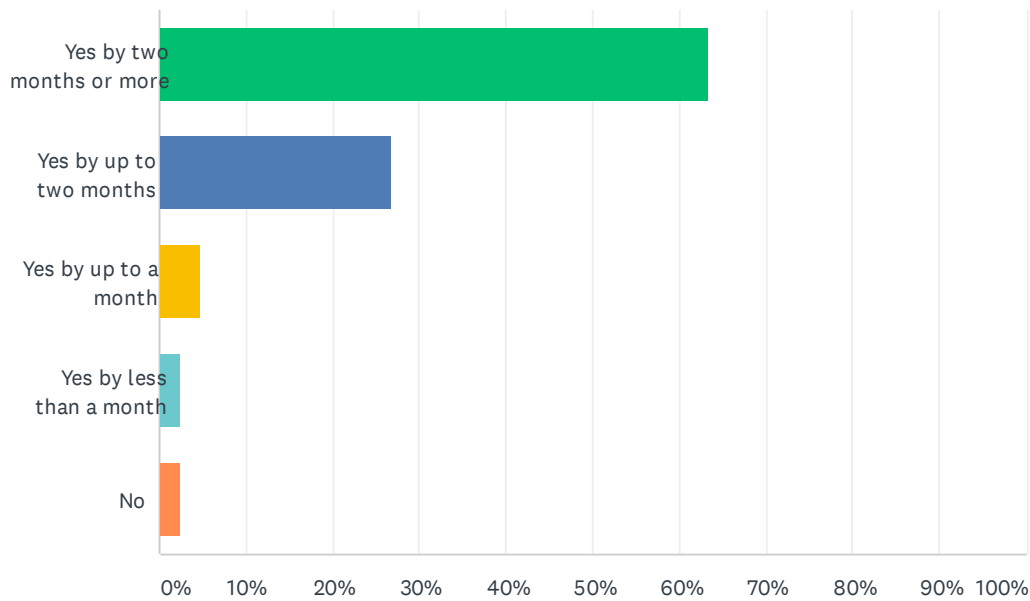
Answered: 40 Skipped: 2



ANSWER CHOICES	RESPONSES	
Less than one month	2.50%	1
Between one month and three months	50.00%	20
More than three months	22.50%	9
Not applicable	25.00%	10
<b>TOTAL</b>		<b>40</b>

## Q20 On average, do you believe that transactions would proceed more quickly if landlords were not required to serve section 5 notices?

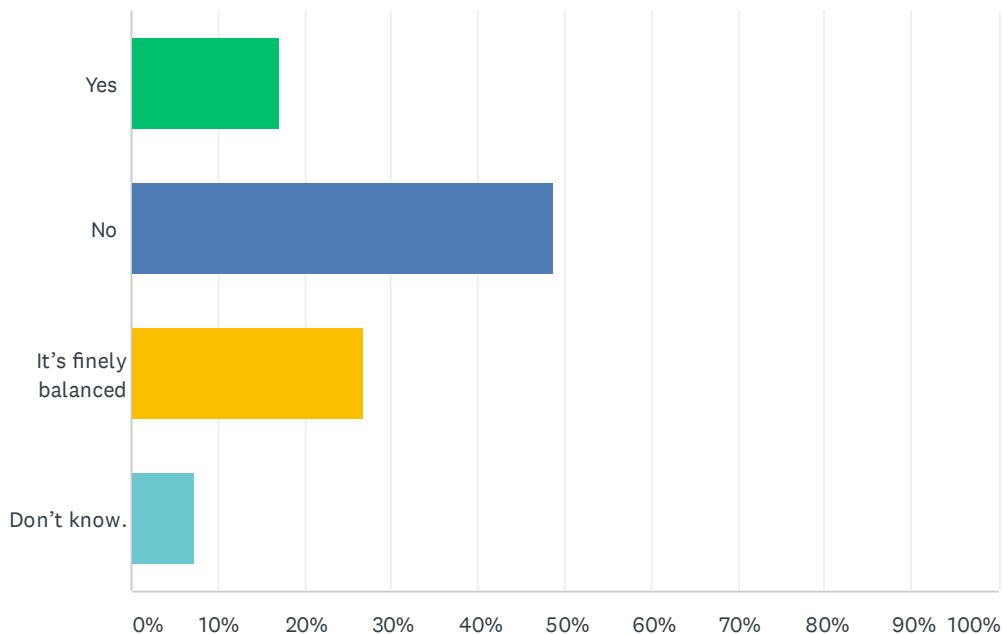
Answered: 41 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes by two months or more	63.41%	26
Yes by up to two months	26.83%	11
Yes by up to a month	4.88%	2
Yes by less than a month	2.44%	1
No	2.44%	1
<b>TOTAL</b>		<b>41</b>

## Q21 In your view do the advantages conferred on tenants by Part 1 of the 1987 Act outweigh the disadvantages to landlords in complying with the Act?

Answered: 41 Skipped: 1



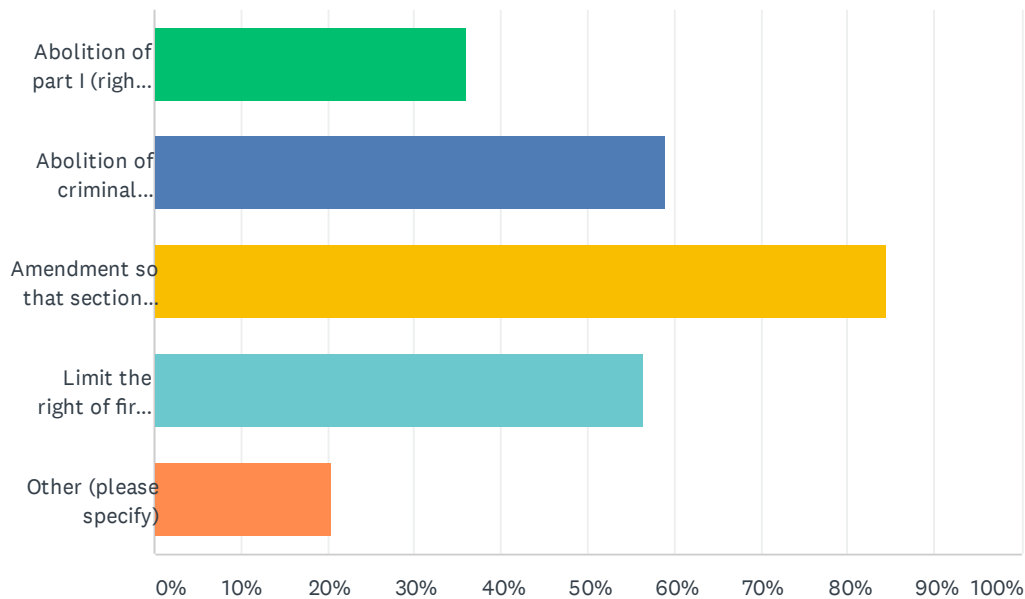
ANSWER CHOICES	RESPONSES
Yes	17.07% 7
No	48.78% 20
It's finely balanced	26.83% 11
Don't know.	7.32% 3
<b>TOTAL</b>	<b>41</b>

#	ANY COMMENTS?	DATE
1	I have in mind uncertainty created in mixed-use schemes.	5/24/2021 9:37 AM
2	Whilst Part 1 does give the tenant an added layer of protection, the do still have the right to acquire the freehold	5/13/2021 12:10 PM
3	it forces parties to consider ownership matters which can be good for them	5/12/2021 11:21 AM
4	Tenants have rights to acquire freehold in other ways. For landlords, the right of first refusal adds significant and unnecessary hurdles - need to serve notices for transactions unrelated to ownership of flats (e.g. commercial space, common parts), adds cost, and creates criminal liability for failure to comply with poorly drafted legislation.	5/12/2021 10:23 AM



## Q22 Would you support any of the following changes to Part 1 of the Act (tick all that apply):

Answered: 39 Skipped: 3



ANSWER CHOICES	RESPONSES	
Abolition of part I (right of first refusal) in its entirety	35.90%	14
Abolition of criminal sanctions for non-compliance	58.97%	23
Amendment so that section 5 no longer applies to the grant of a commercial lease	84.62%	33
Limit the right of first refusal to the acquisition of the freehold/a long lease of the whole only	56.41%	22
Other (please specify)	20.51%	8
Total Respondents: 39		

#	OTHER (PLEASE SPECIFY)	DATE
1	Fully exclude commercial premises from the notice obligations	7/26/2021 12:04 PM
2	Limit to only where LL looking to sell off part of a development where no leases granted (air space, recreational land etc) to give LHers the option to purchase first (areas not caught by enfranchisement legislation etc)	5/13/2021 6:06 PM
3	I would perhaps reduce the service threshold from 90% to 80% and clarify the law relating to the definition of a building especially where integrated developments are concerned.	5/12/2021 1:42 PM
4	don't know	5/12/2021 1:37 PM
5	Exemption where tenant owns freehold and is selling with the flat. Exemption where FH is selling to majority of LH's by agreement	5/12/2021 12:24 PM
6	amend so it does not apply to sales of contiguous space to existing flat owner unless that space is accessible for the other flats.	5/12/2021 11:21 AM
7	amend to make it clear that landlord disposing of interest in residential estate with multiple blocks in one transaction need only serve one s5 notice and not multiple notices/notice per block	5/12/2021 11:21 AM
8	Clarification on the interaction with 1954 Act renewals	5/12/2021 10:06 AM

## Q23 Any further comments?

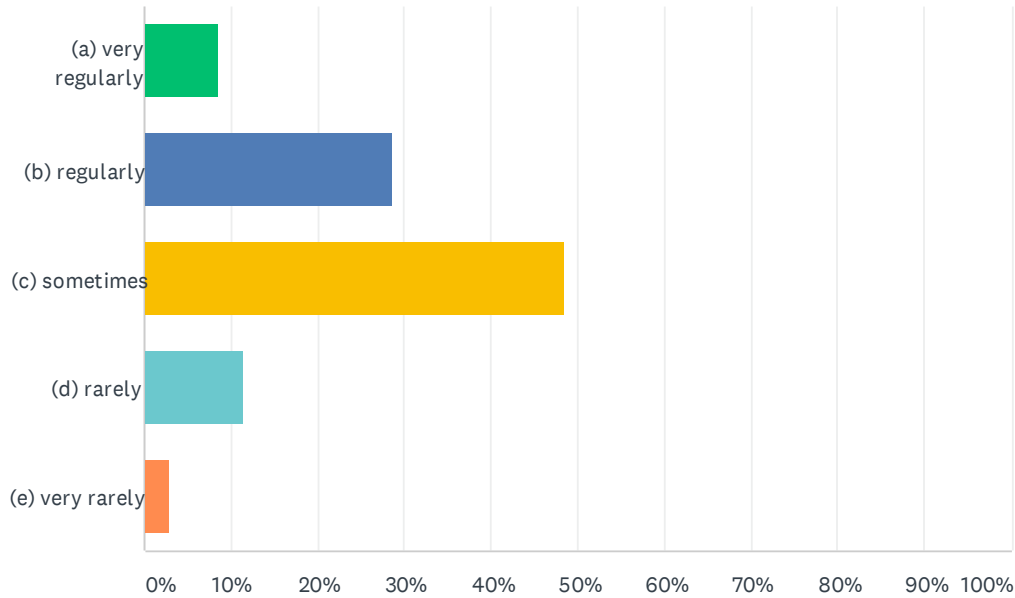
Answered: 4 Skipped: 38

#	RESPONSES	DATE
1	no	6/4/2021 5:10 PM
2	If the Act is to stay then the form of notice (or, more accurately, the requirements as to what the notice has to say) should also be changed as it's far too complicated for tenants to understand. Probably best to amend the Act to include easily understandable prescribed forms.	5/12/2021 1:42 PM
3	There should be a block on registering a dealing at HMLR unless the Act has been followed, requiring a Statement of Truth, so the criminal sanction applies there (perjury on part of the applicant who will be the buyer) and no criminal sanction on the seller; that would be the more effective means to ensure adherence.	5/12/2021 11:21 AM
4	In my view Part 1 of the 1987 Act is not fit for purpose and is irrelevant, so should be abolished completely.	5/12/2021 10:23 AM

Schedule 2 - 1995 Act Survey

# Q1 HOW FREQUENTLY ARE YOU INSTRUCTED TO ADVISE ON THE PROVISION THE LANDLORD AND TENANT ACT 1995 (THE ACT) AND ITS IMPACT ON LEASE ASSIGNMENTS?

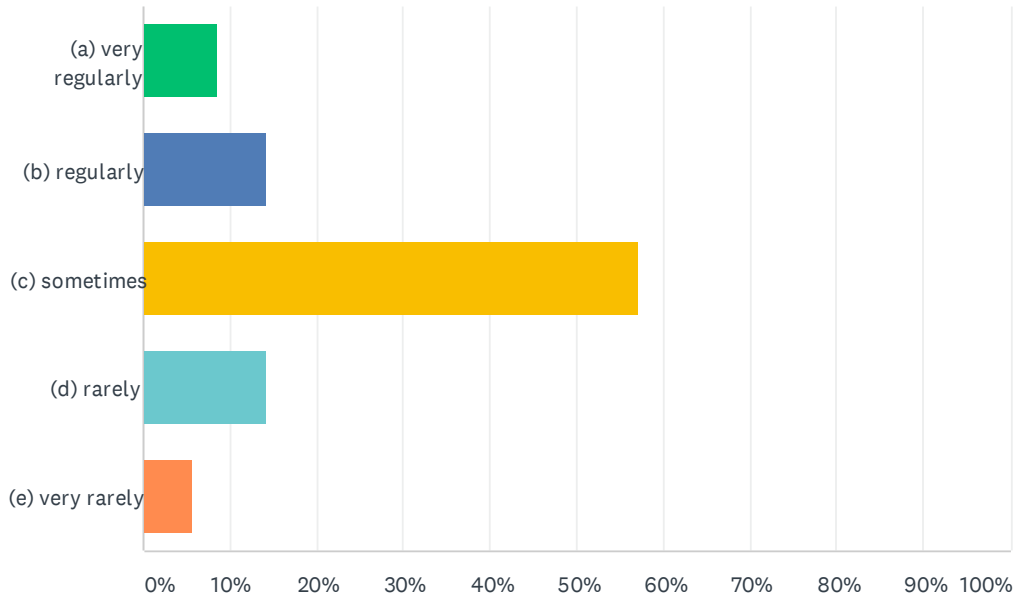
Answered: 35 Skipped: 0



ANSWER CHOICES	RESPONSES	
(a) very regularly	8.57%	3
(b) regularly	28.57%	10
(c) sometimes	48.57%	17
(d) rarely	11.43%	4
(e) very rarely	2.86%	1
<b>TOTAL</b>		<b>35</b>

## Q2 HOW FREQUENTLY ARE YOU INSTRUCTED TO ADVISE ON THE PROVISION THE LANDLORD AND TENANT ACT 1995 (THE ACT) AND ITS IMPACT ON LEASEHOLD GUARANTEES?

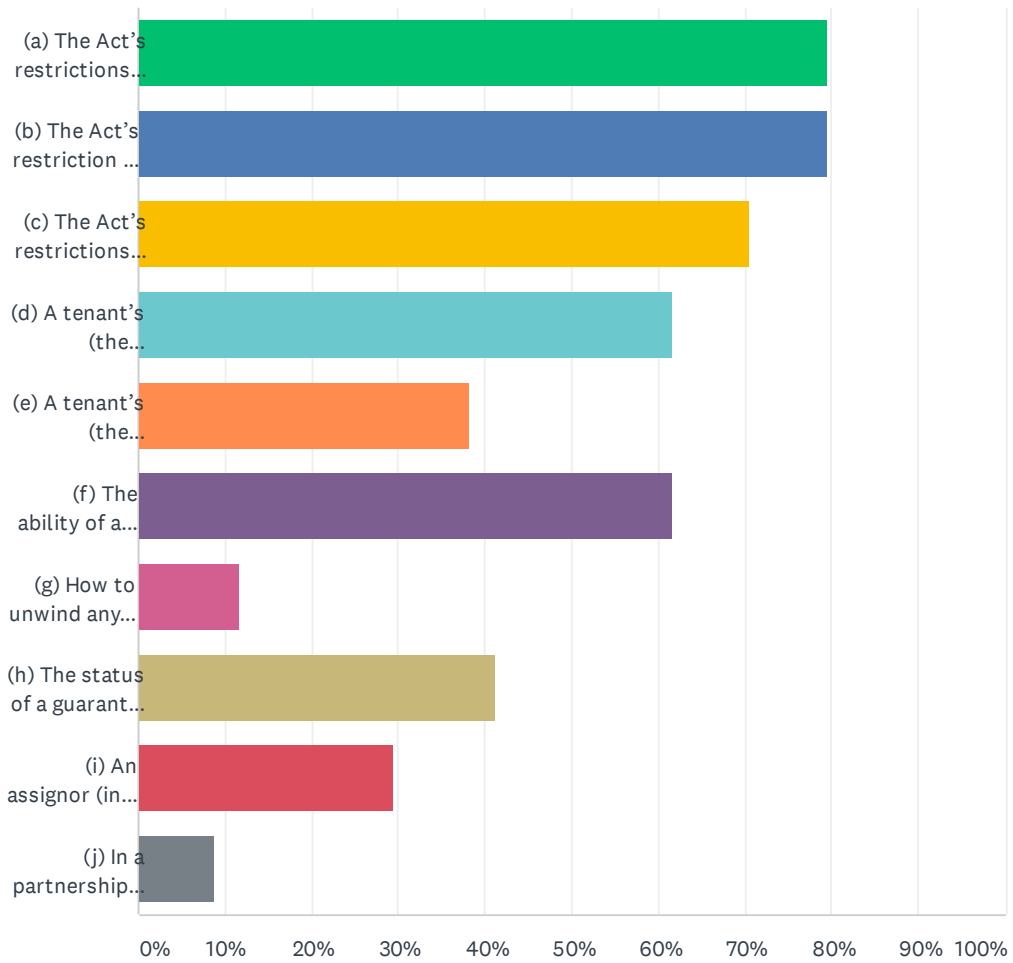
Answered: 35 Skipped: 0



ANSWER CHOICES	RESPONSES	
(a) very regularly	8.57%	3
(b) regularly	14.29%	5
(c) sometimes	57.14%	20
(d) rarely	14.29%	5
(e) very rarely	5.71%	2
<b>TOTAL</b>		<b>35</b>

### Q3 HAVE YOU EVER HAD TO ADVISE ON THE FOLLOWING ISSUES (TICK ALL THAT APPLY)

Answered: 34 Skipped: 1

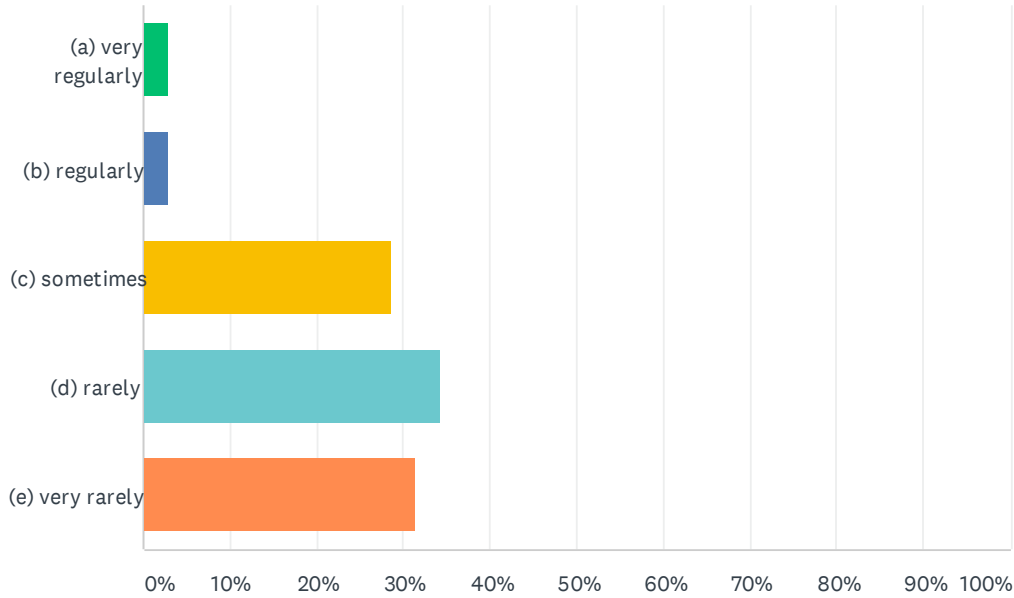


PLA Survey: 1995 Act

ANSWER CHOICES	RESPONSES	
(a) The Act's restrictions on a tenant assigning to its guarantor	79.41%	27
(b) The Act's restriction on a tenant assigning where that tenants guarantor will also act as guarantor for the assignee	79.41%	27
(c) The Act's restrictions on a tenant to assign intra-group whilst retaining the same guarantor	70.59%	24
(d) A tenant's (the assignor's) guarantor acting as guarantor under that tenant's authorised guarantee agreement	61.76%	21
(e) A tenant's (the assignor's) guarantor acting as sub-guarantor under that tenant's authorised guarantee agreement	38.24%	13
(f) The ability of a tenant's guarantor to guarantee any subsequent assignees (but not the first assignment)	61.76%	21
(g) How to unwind any assignment by a tenant to its guarantor	11.76%	4
(h) The status of a guarantee after an assignment where the same guarantor acted to guarantee the assignor and the assignee	41.18%	14
(i) An assignor (in the EMI situation) being bound by a tenant covenant following an assignment which was An inability for T to assign to its G;#	29.41%	10
(j) In a partnership situations whether A, B, C and D can assign to B, C, D and E	8.82%	3
Total Respondents: 34		

## Q4 HOW FREQUENTLY ARE YOU INSTRUCTED BY LANDLORD CLIENTS TO REFUSE AN APPLICATION FOR LICENCE TO ASSIGN BECAUSE SUCH ASSIGNMENT WOULD OFFEND THE PROVISIONS OF THE ACT

Answered: 35 Skipped: 0

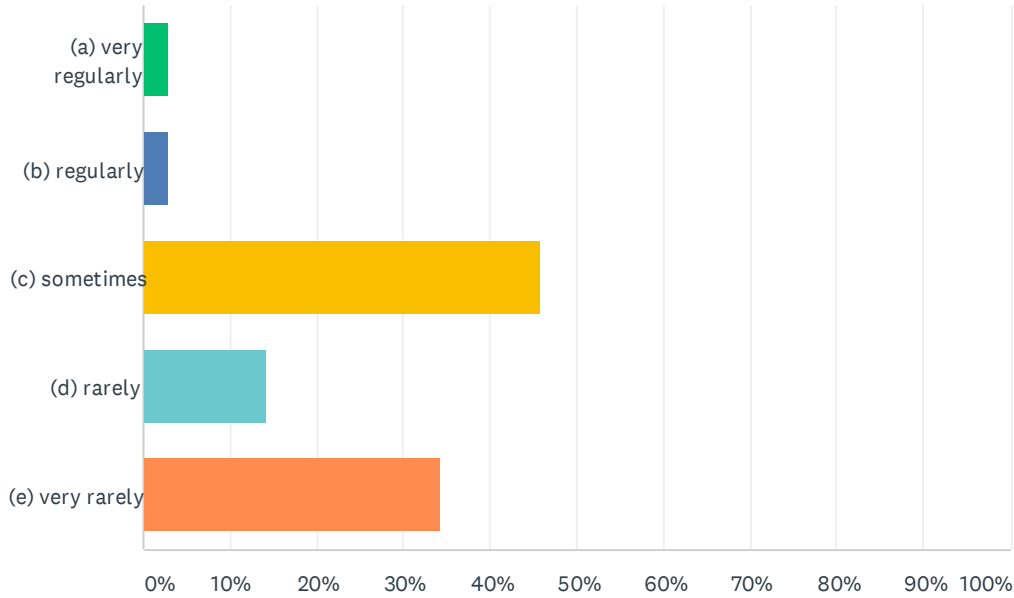


ANSWER CHOICES	RESPONSES	
(a) very regularly	2.86%	1
(b) regularly	2.86%	1
(c) sometimes	28.57%	10
(d) rarely	34.29%	12
(e) very rarely	31.43%	11
<b>TOTAL</b>		<b>35</b>



## Q5 HOW FREQUENTLY DO YOU ADVISE TENANT CLIENTS THAT THEIR LANDLORD WILL LIKELY REFUSE THEIR PROPOSED APPLICATION FOR LICENCE TO ASSIGN BECAUSE SUCH ASSIGNMENT WOULD OFFEND THE PROVISIONS OF THE ACT

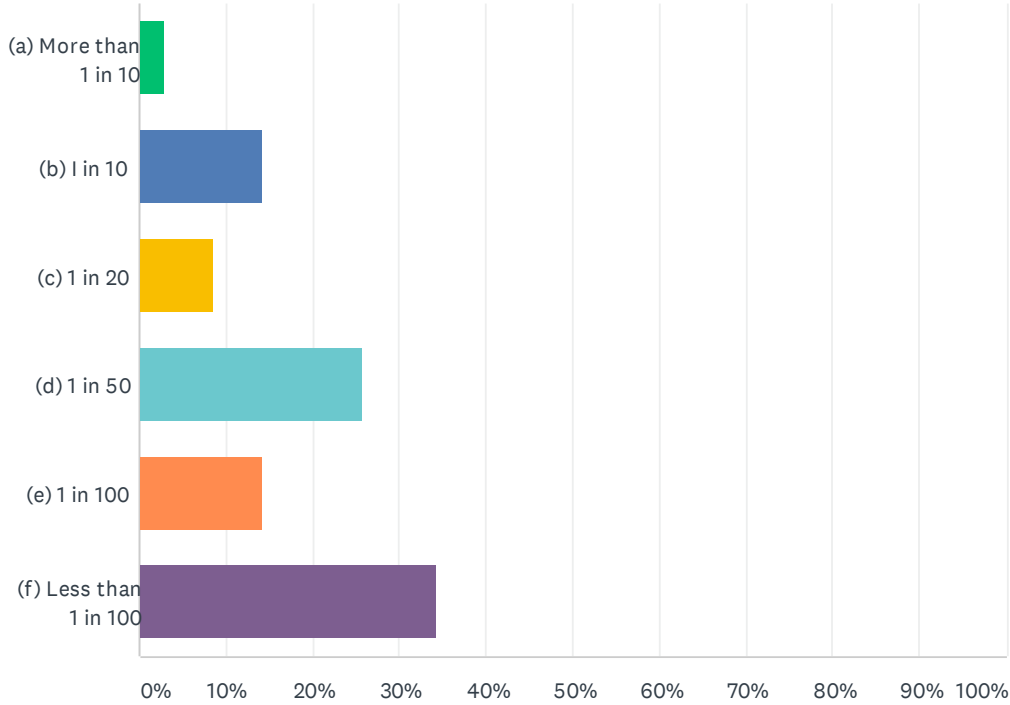
Answered: 35 Skipped: 0



ANSWER CHOICES	RESPONSES	
(a) very regularly	2.86%	1
(b) regularly	2.86%	1
(c) sometimes	45.71%	16
(d) rarely	14.29%	5
(e) very rarely	34.29%	12
<b>TOTAL</b>		<b>35</b>

## Q6 IN YOUR EXPERIENCE APPROXIMATELY HOW MANY PROPOSED ASSIGNMENTS NOT PROCEEDED BECAUSE OF THE RESTRICTIONS IMPOSED BY THE ACT

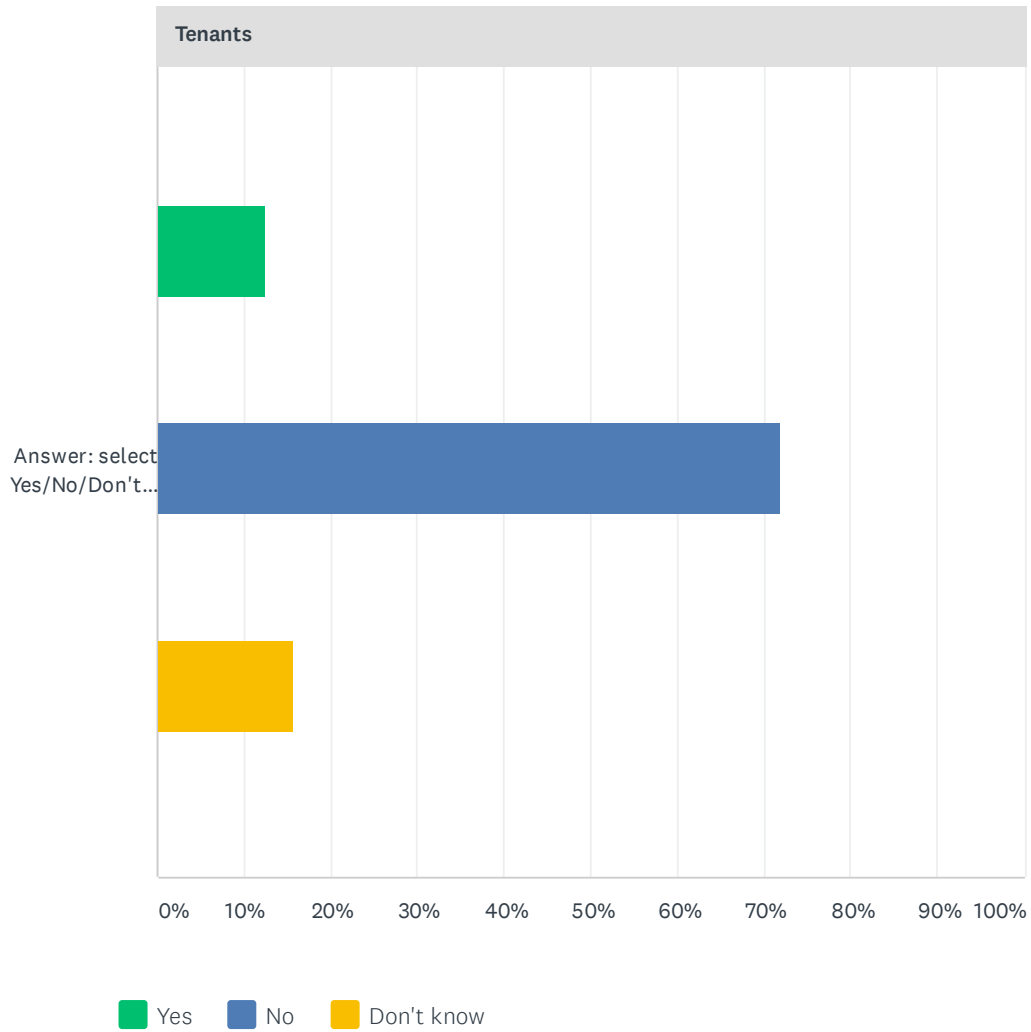
Answered: 35 Skipped: 0



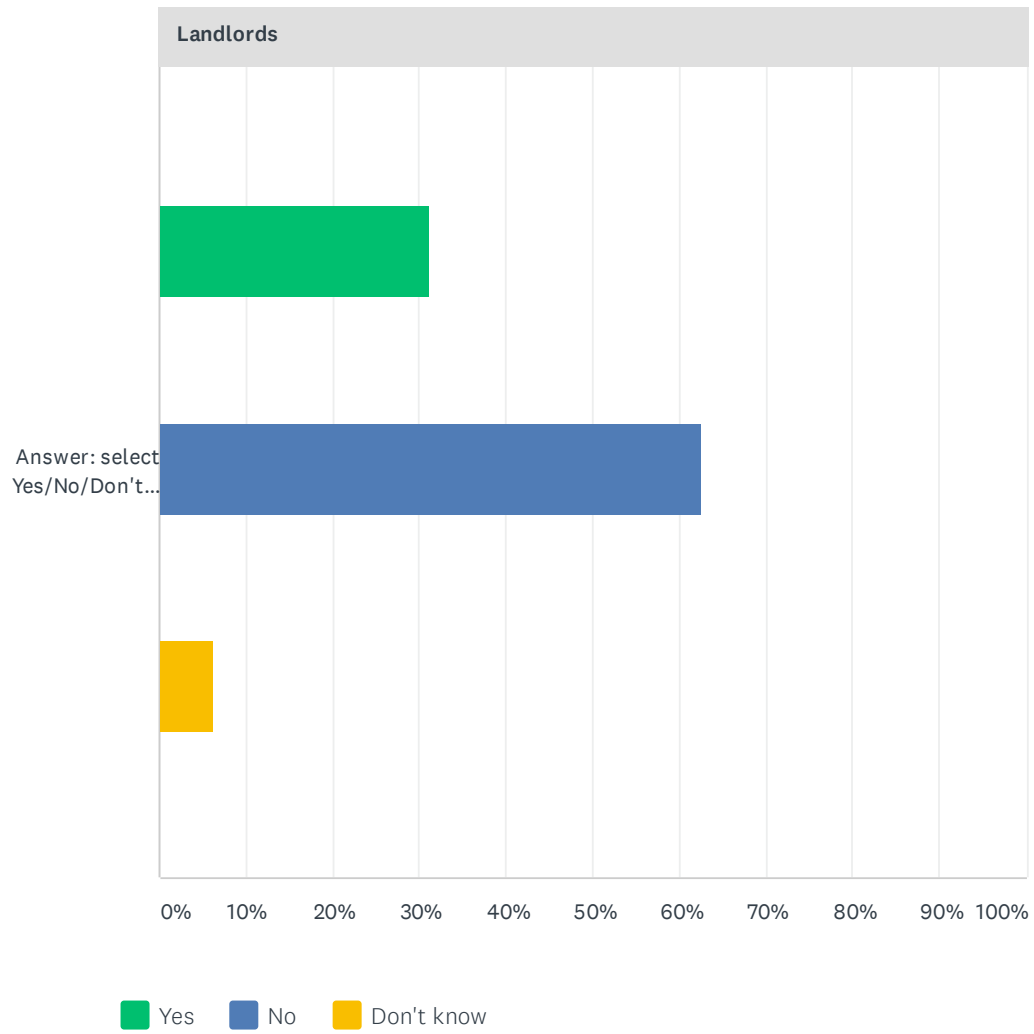
ANSWER CHOICES	RESPONSES	
(a) More than 1 in 10	2.86%	1
(b) 1 in 10	14.29%	5
(c) 1 in 20	8.57%	3
(d) 1 in 50	25.71%	9
(e) 1 in 100	14.29%	5
(f) Less than 1 in 100	34.29%	12
<b>TOTAL</b>		<b>35</b>

# Q7 DO YOU CONSIDER THAT THE RESTRICTIONS ON ASSIGNMENTS AND GUARANTORS IMPOSED BY THE ACT CONFERS A VALUABLE BENEFIT ON:

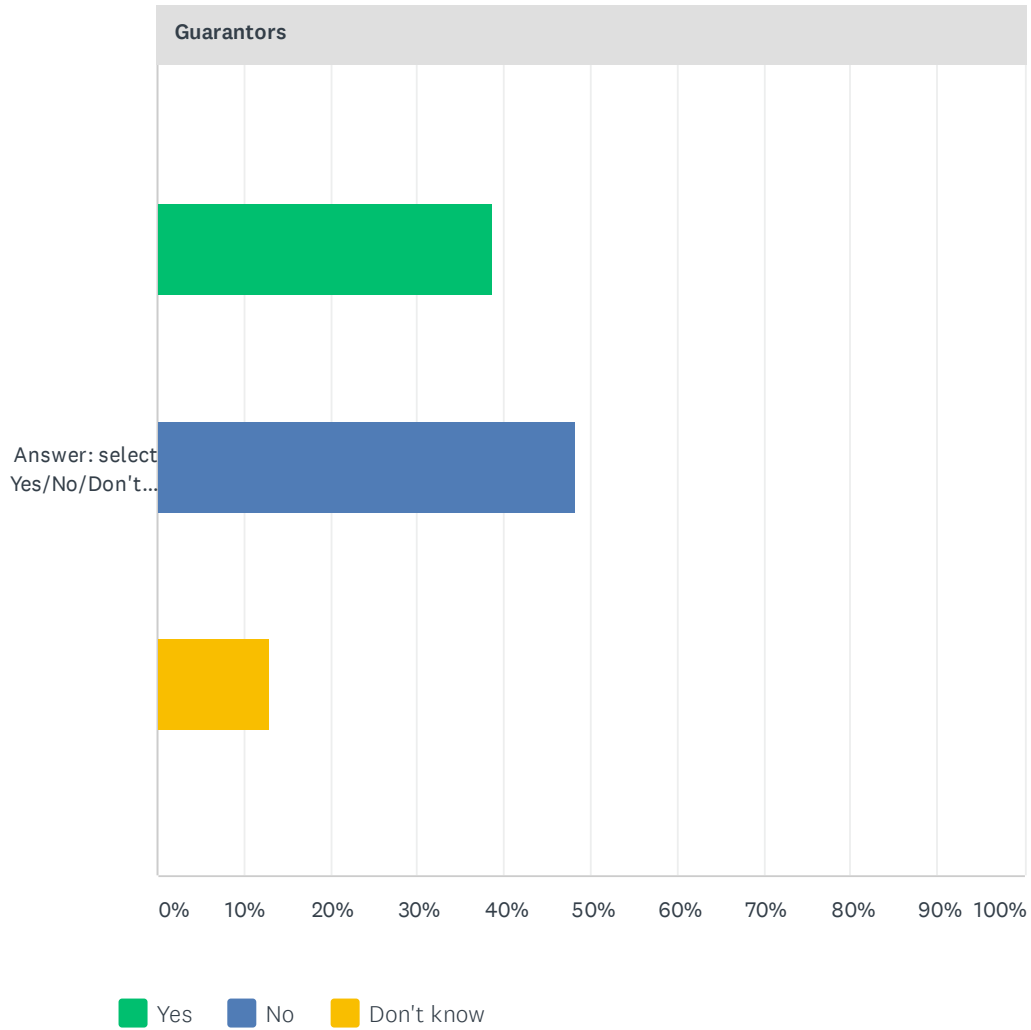
Answered: 33 Skipped: 2



# PLA Survey: 1995 Act



PLA Survey: 1995 Act



Tenants				
	YES	NO	DON'T KNOW	TOTAL
Answer: select Yes/No/Don't know	12.50% 4	71.88% 23	15.63% 5	32

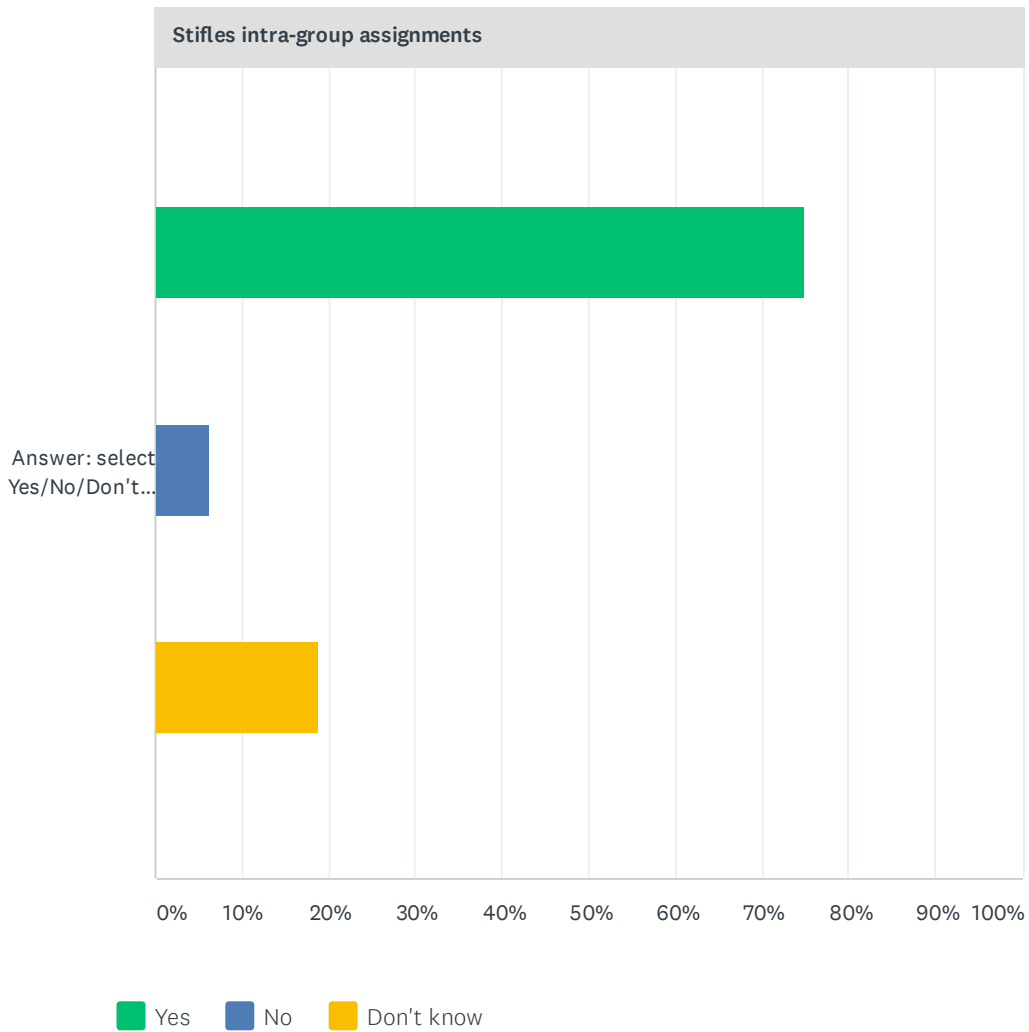
Landlords				
	YES	NO	DON'T KNOW	TOTAL
Answer: select Yes/No/Don't know	31.25% 10	62.50% 20	6.25% 2	32

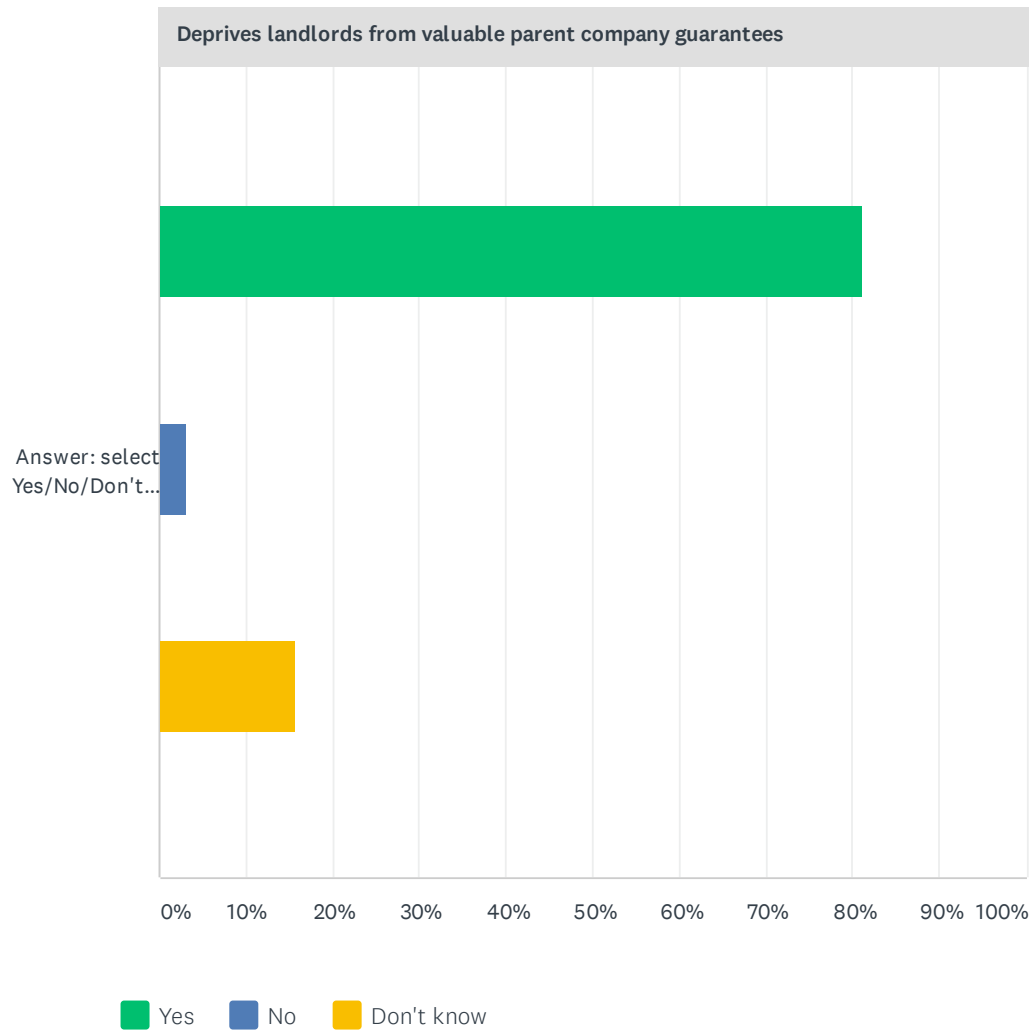
Guarantors				
	YES	NO	DON'T KNOW	TOTAL
Answer: select Yes/No/Don't know	38.71% 12	48.39% 15	12.90% 4	31

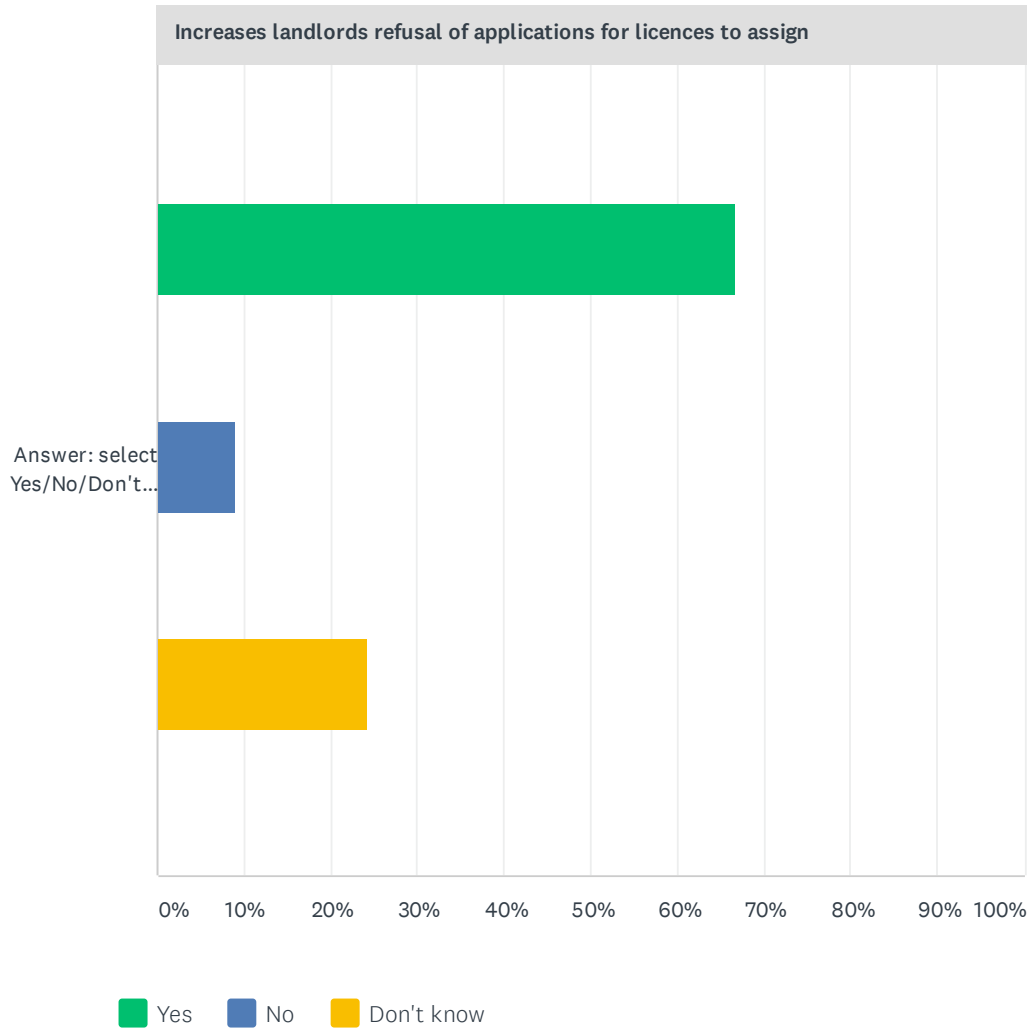
# Q8 DO YOU CONSIDER THAT THE RESTRICTIONS ON ASSIGNMENTS AND GUARANTORS IMPOSED BY THE ACT:

Answered: 33 Skipped: 2



# PLA Survey: 1995 Act



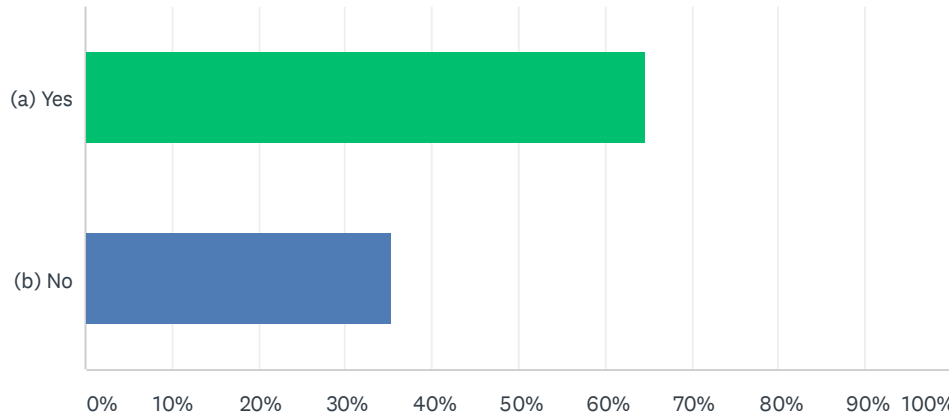


Stifles intra-group assignments				
	YES	NO	DON'T KNOW	TOTAL
Answer: select Yes/No/Don't know	75.00%	6.25%	18.75%	
	24	2	6	32
Deprives landlords from valuable parent company guarantees				
	YES	NO	DON'T KNOW	TOTAL
Answer: select Yes/No/Don't know	81.25%	3.13%	15.63%	
	26	1	5	32
Increases landlords refusal of applications for licences to assign				
	YES	NO	DON'T KNOW	TOTAL
Answer: select Yes/No/Don't know	66.67%	9.09%	24.24%	
	22	3	8	33



## Q9 HAVE YOU EXPERIENCED OR ARE YOU AWARE OF THE RESTRICTIONS IMPOSED BY THE ACT DELAYING/COMPLICATING TRANSACTIONS?

Answered: 34 Skipped: 1

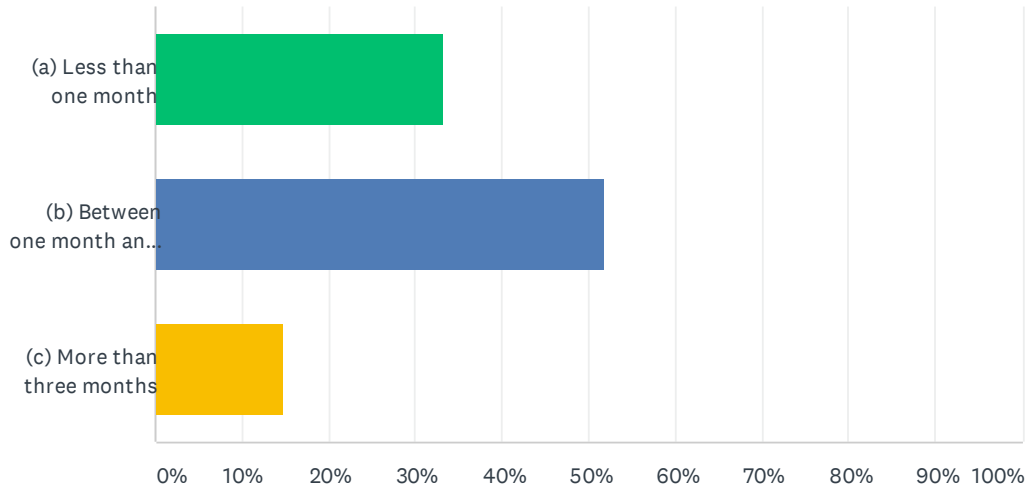


ANSWER CHOICES	RESPONSES	
(a) Yes	64.71%	22
(b) No	35.29%	12
<b>TOTAL</b>		<b>34</b>

#	IF YES, PLEASE PROVIDE EXAMPLES OF THE SORT OF ISSUES HAVE ARISEN:	DATE
1	tenants who don't have alternative entities who can provide guarantees having no options	8/3/2021 3:38 PM
2	Alternative guarantors/bank guarantees having to be obtained owing to the repeat guarantee issue	7/28/2021 3:51 PM
3	Delay caused by negotiations and more complex documentation to get around the restrictions	7/28/2021 3:04 PM
4	Delays to ensure that the provisions of the Act are complied with	7/28/2021 9:22 AM
5	Restructuring transactions to make them effective, structuring transactions to make guarantees void	7/28/2021 9:21 AM
6	Intra-company transfers being delayed	7/28/2021 8:33 AM
7	In distressed situations where the parties want to find a solution but the anti avoidance provisions get in the way. I have to say that we usually do find a work around but it can be complicated	7/28/2021 8:25 AM

## Q10 IF YOU HAVE EXPERIENCED OR ARE AWARE OF THE RESTRICTIONS IMPOSED BY THE ACT DELAYING TRANSACTIONS, BY HOW MUCH (ON AVERAGE)?

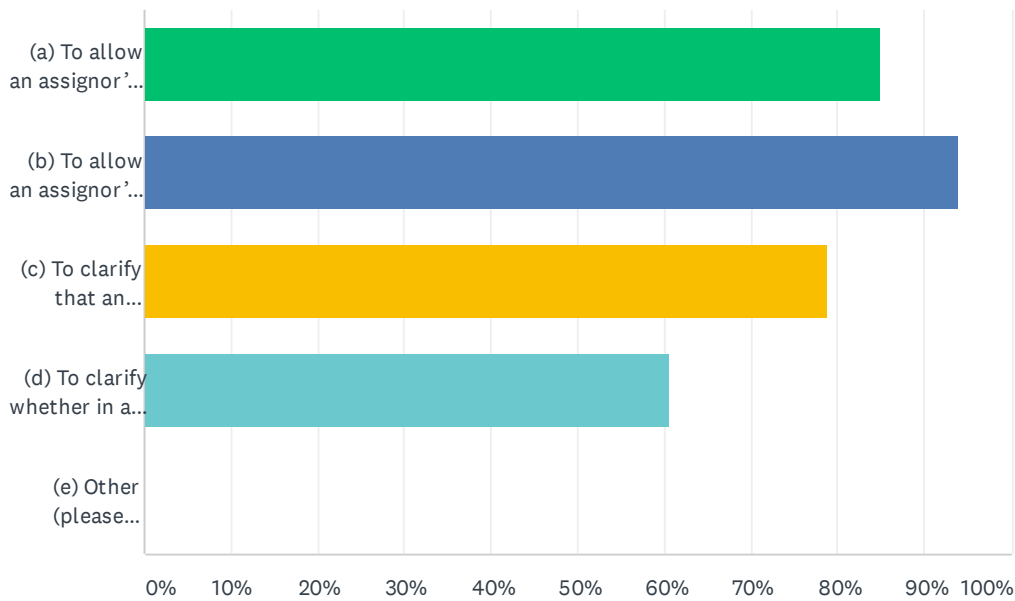
Answered: 27 Skipped: 8



ANSWER CHOICES	RESPONSES	
(a) Less than one month	33.33%	9
(b) Between one month and three months	51.85%	14
(c) More than three months	14.81%	4
TOTAL		27

## Q11 WOULD YOU SUPPORT ANY OF THE FOLLOWING CHANGES TO THE ACT (TICK ALL THAT APPLY):

Answered: 33 Skipped: 2



ANSWER CHOICES	RESPONSES	
(a) To allow an assignor's guarantor to be the assignee of the tenancy.	84.85%	28
(b) To allow an assignor's guarantor to provide a repeat guarantee to a group company assignee.	93.94%	31
(c) To clarify that an assignor's guarantor can provide a sub-guarantee of the assignor's AGA.	78.79%	26
(d) To clarify whether in a partnership situations to ensure that A, B, C and D can assign to B, C, D and E.	60.61%	20
(e) Other (please specify):	0.00%	0
Total Respondents: 33		

#	(E) OTHER (PLEASE SPECIFY):	DATE
	There are no responses.	

## Q12 ANY FURTHER COMMENTS?

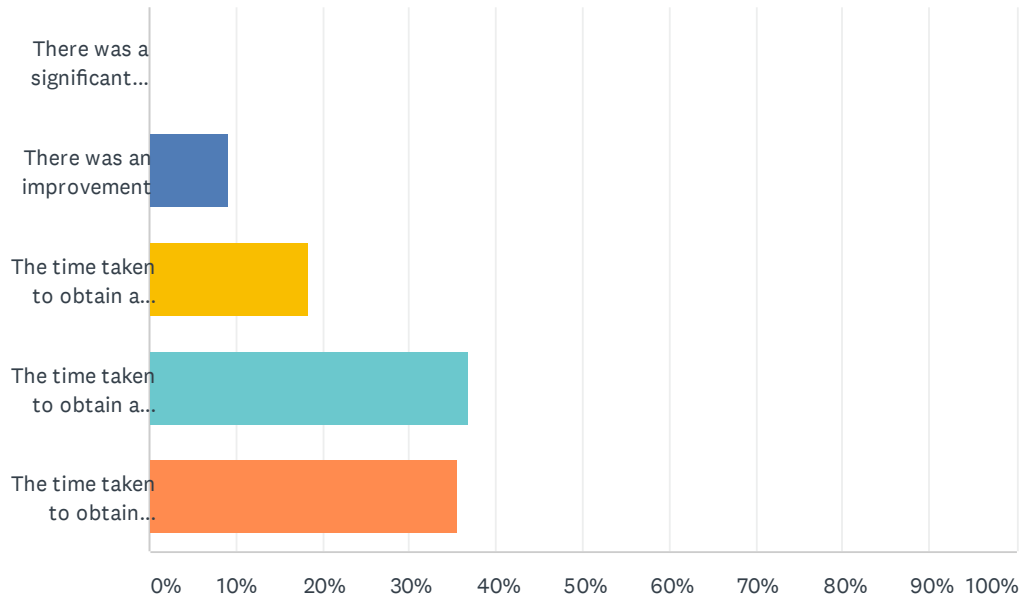
Answered: 1 Skipped: 34

#	RESPONSES	DATE
1	Hopefully the problems with this this legislation will finally get the attention they need.	7/28/2021 3:51 PM

Schedule 3 -Termination of Tenancy Survey

**Q1 To what extent do you believe the performance of the County Court has changed between 2006 and 2019 (i.e. ignoring the consequences of Covid) - measured in terms of time to obtain both an initial hearing and the timing of a further hearing for possession proceedings:**

Answered: 76 Skipped: 1



ANSWER CHOICES	RESPONSES
There was a significant improvement:	0.00% 0
There was an improvement	9.21% 7
The time taken to obtain a hearing date remained about the same	18.42% 14
The time taken to obtain a hearing increased	36.84% 28
The time taken to obtain hearings significantly increased.	35.53% 27
<b>TOTAL</b>	<b>76</b>

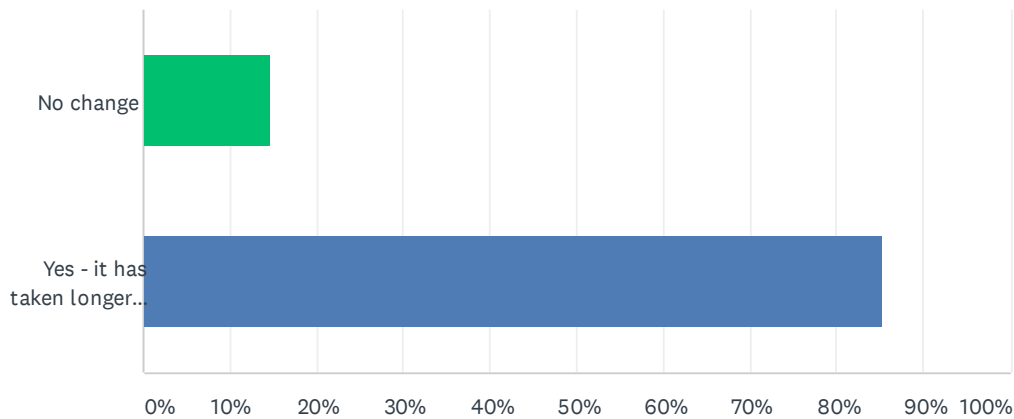
#	COMMENTS:	DATE
1	There has been a fluctuation with the end result being that the time for having a hearing listed has increased. After some improvements in the mid 2000s, the county courts are now slower than ever.	5/7/2021 12:12 PM
2	We have cases that have been waiting for a trial listing for over 12 months	5/7/2021 10:11 AM
3	Administration has deteriorated, errors in orders, hearing notices not sent out etc	5/7/2021 9:44 AM
4	Really court dependent but generally things appear to be slowing down	5/7/2021 9:05 AM
5	Over the years, the time taken for proceedings to be issued and to obtain hearing dates has become ridiculous. More and more local courts have closed so those that remain are overworked and under staffed.	5/5/2021 11:39 AM
6	This does vary by court - some have improved but more have become worse.	5/4/2021 5:01 PM
7	I am afraid the County Court system is failing and is getting worse	5/4/2021 12:11 PM
8	Service has worsened greatly, very obviously due to funding cuts.	5/4/2021 11:44 AM
9	The county court is not fit for purpose. The delay to get a possession order would be	4/23/2021 8:26 PM

## PLA Survey: Summary Termination Procedure

	unacceptable	
10	Central London in particular	4/22/2021 10:57 AM
11	It varies from court to court. Some courts are very efficient at getting possession claims on and others are not.	4/21/2021 5:33 PM
12	Limited experience but no appreciable change	4/20/2021 7:46 PM
13	The county court already had significant administrative problems and Covid has increased the inefficiency of the county court and the dealys incurred by users.	4/19/2021 9:46 AM

## Q2 Ignoring the immediate effect of Covid, do you believe the reduction in the number of courts has affected the timing of hearing dates?

Answered: 75 Skipped: 2



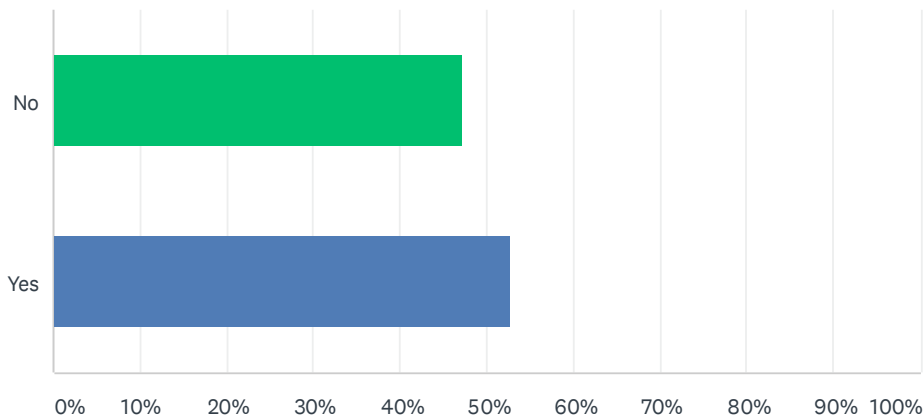
ANSWER CHOICES	RESPONSES	
No change	14.67%	11
Yes - it has taken longer to obtain a hearing date.	85.33%	64
<b>TOTAL</b>		<b>75</b>

#	COMMENTS	DATE
1	we haven't noticed any change but then there hasn't been a significant closure locally (Nottingham based)	5/7/2021 9:44 AM
2	See above	5/5/2021 11:39 AM
3	It shouldn't have been rocket science for Government to predict this would happen.	5/4/2021 5:01 PM
4	Again the reduction in courts has obviously made things worse, one could not reasonably expect any other outcome.	5/4/2021 11:44 AM
5	Central London in particular	4/22/2021 10:57 AM
6	Especially in the bigger courts such as Birmingham	4/22/2021 10:20 AM
7	No, not necessarily. Possession claims are issued in the nearest court anyway so the closure of some courts hasn't affected this substantially.	4/21/2021 5:33 PM
8	on one case a simple arrears case we have had 5 adjourned trial dates due to non availability of Judges	4/20/2021 5:18 PM
9	It is an inevitable consequence.	4/19/2021 9:46 AM



### Q3 Over the last 10 years have you noticed any increase in cancellation of hearings for whatever reason?

Answered: 76 Skipped: 1

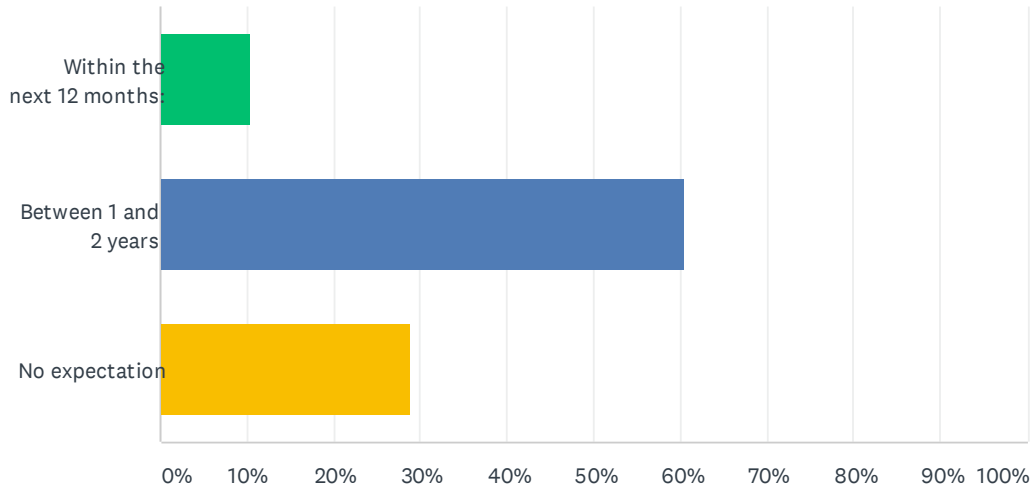


ANSWER CHOICES	RESPONSES
No	47.37% 36
Yes	52.63% 40
<b>TOTAL</b>	<b>76</b>

#	COMMENTS	DATE
1	I have noticed more errors in listing hearings but floating dates while causing difficulties for the parties have probably reduced cancellations seem to avoid	5/7/2021 12:12 PM
2	non-availability of judges	5/7/2021 11:48 AM
3	Judicial availability comes up regularly	5/7/2021 10:11 AM
4	The notice given for cancelled hearings has decreased, particularly for trials.	5/7/2021 9:44 AM
5	It has almost become the norm for a first trial date to be cancelled.	5/5/2021 11:39 AM
6	Yes, this has caused difficulties particularly where clients live abroad.	5/4/2021 10:57 PM
7	sometimes on the day due to lack of Judges	5/4/2021 12:11 PM
8	Administration has become worse, again due to reduced funding.	5/4/2021 11:44 AM
9	absence of judiciary and court staff	5/4/2021 11:37 AM
10	including the ineffecient practice of having hearings listed in case some other hearing is ineffective	4/23/2021 8:26 PM
11	Yes I have had a number of hearings randomly cancelled by the court for inexplicable reasons. This did not happen historically	4/21/2021 5:33 PM
12	frequent lack of availability of #judge - on one case we have been cancelled for a half day trial on 5 occasions	4/20/2021 5:18 PM
13	I have not had many disputes go to trial, so this hasn't been a major issue for me.	4/20/2021 4:40 PM
14	Lack of judge frequently given as reason for late cancellation	4/20/2021 2:54 PM
15	Usually listing issues	4/19/2021 9:46 AM

### Q4 Covid-related changes to the management of the court has led to a large backlog of possession cases. Do you expect delays to return to 2019 levels:

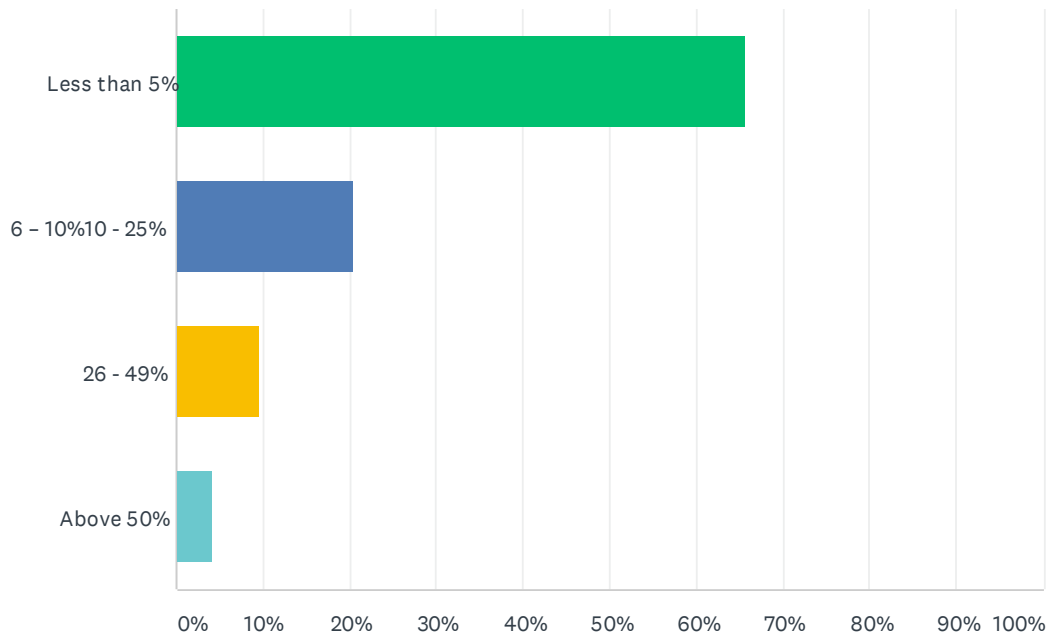
Answered: 76 Skipped: 1



ANSWER CHOICES	RESPONSES	
Within the next 12 months:	10.53%	8
Between 1 and 2 years	60.53%	46
No expectation	28.95%	22
<b>TOTAL</b>		<b>76</b>

### Q5 How often are your possession claims heard before a Circuit Judge?

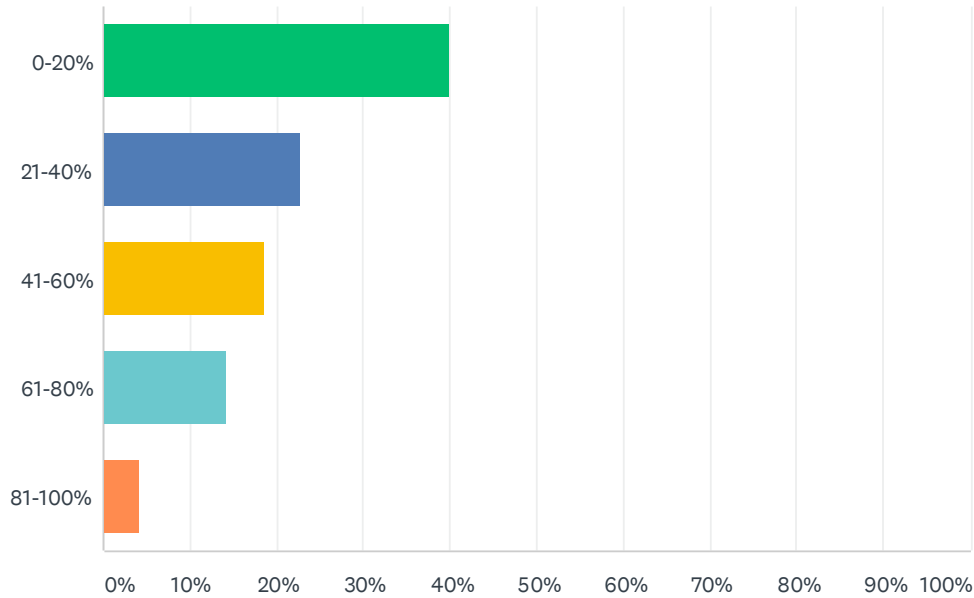
Answered: 73 Skipped: 4



ANSWER CHOICES	RESPONSES	
Less than 5%	65.75%	48
6 - 10%	20.55%	15
10 - 25%	9.59%	7
26 - 49%	4.11%	3
Above 50%		
<b>TOTAL</b>		<b>73</b>

### Q6 When issuing possession claims for rent arrears (i.e. excluding any other claim for breach) what proportion are defended at the initial hearing and a formal defence is filed?

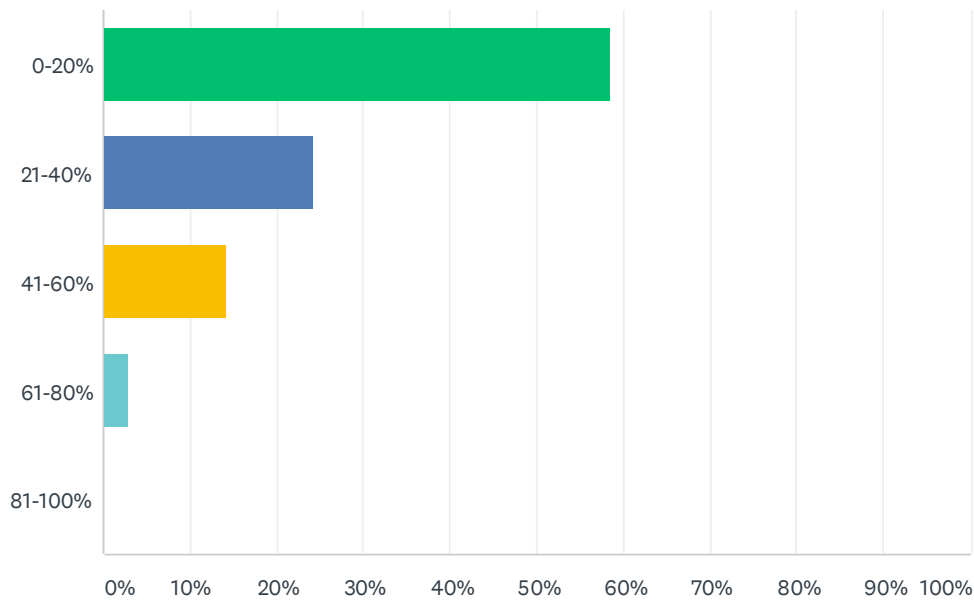
Answered: 70 Skipped: 7



ANSWER CHOICES	RESPONSES	
0-20%	40.00%	28
21-40%	22.86%	16
41-60%	18.57%	13
61-80%	14.29%	10
81-100%	4.29%	3
<b>TOTAL</b>		<b>70</b>

### Q7 When issuing possession claims for rent arrears what proportion are met with a counterclaim?

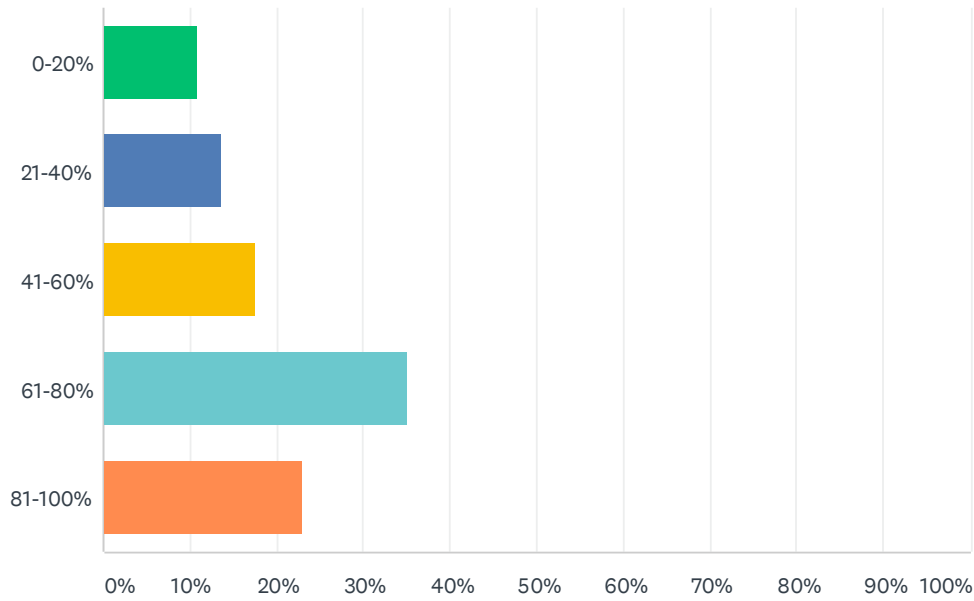
Answered: 70 Skipped: 7



ANSWER CHOICES	RESPONSES	
0-20%	58.57%	41
21-40%	24.29%	17
41-60%	14.29%	10
61-80%	2.86%	2
81-100%	0.00%	0
<b>TOTAL</b>		<b>70</b>

## Q8 What proportion of forfeiture actions proceed by way of peaceable re-entry?

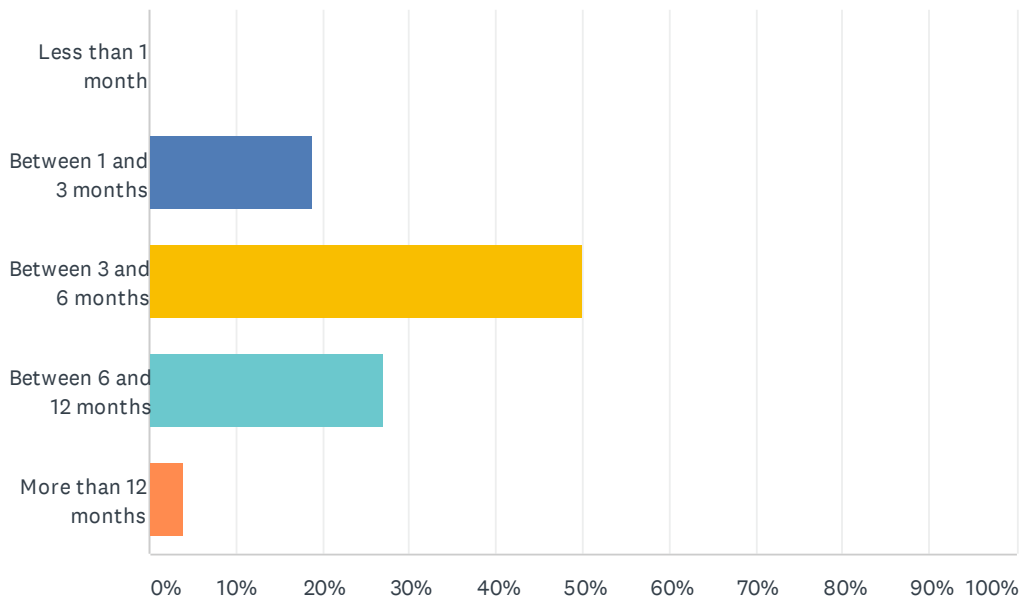
Answered: 74 Skipped: 3



ANSWER CHOICES	RESPONSES	
0-20%	10.81%	8
21-40%	13.51%	10
41-60%	17.57%	13
61-80%	35.14%	26
81-100%	22.97%	17
<b>TOTAL</b>		<b>74</b>

### Q9 On average how many months' arrears have accumulated before landlord's attempt to forfeit?

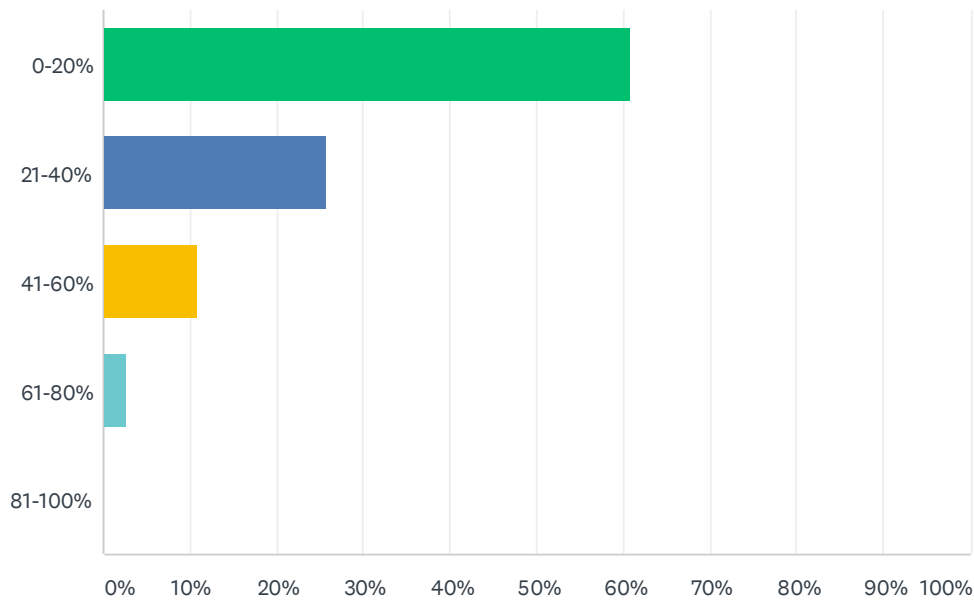
Answered: 74 Skipped: 3



ANSWER CHOICES	RESPONSES	
Less than 1 month	0.00%	0
Between 1 and 3 months	18.92%	14
Between 3 and 6 months	50.00%	37
Between 6 and 12 months	27.03%	20
More than 12 months	4.05%	3
<b>TOTAL</b>		<b>74</b>

### Q10 Where you have proceeded with peaceable re-entry, what proportion of tenants make an application for relief?

Answered: 74 Skipped: 3

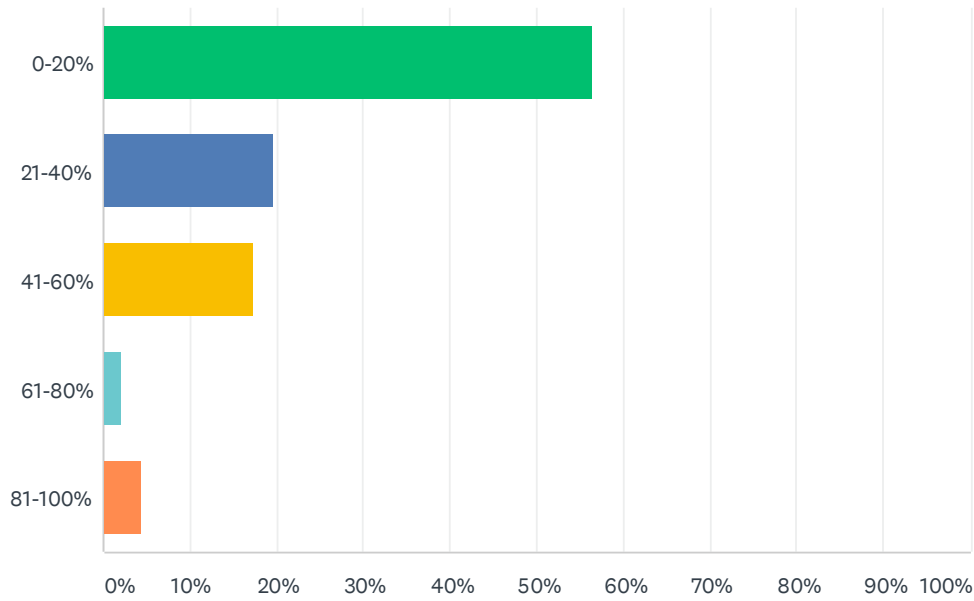


ANSWER CHOICES	RESPONSES	
0-20%	60.81%	45
21-40%	25.68%	19
41-60%	10.81%	8
61-80%	2.70%	2
81-100%	0.00%	0
<b>TOTAL</b>		<b>74</b>



### Q11 What proportion of your clients whose lease has been forfeit by peaceable re-entry make a claim for relief?

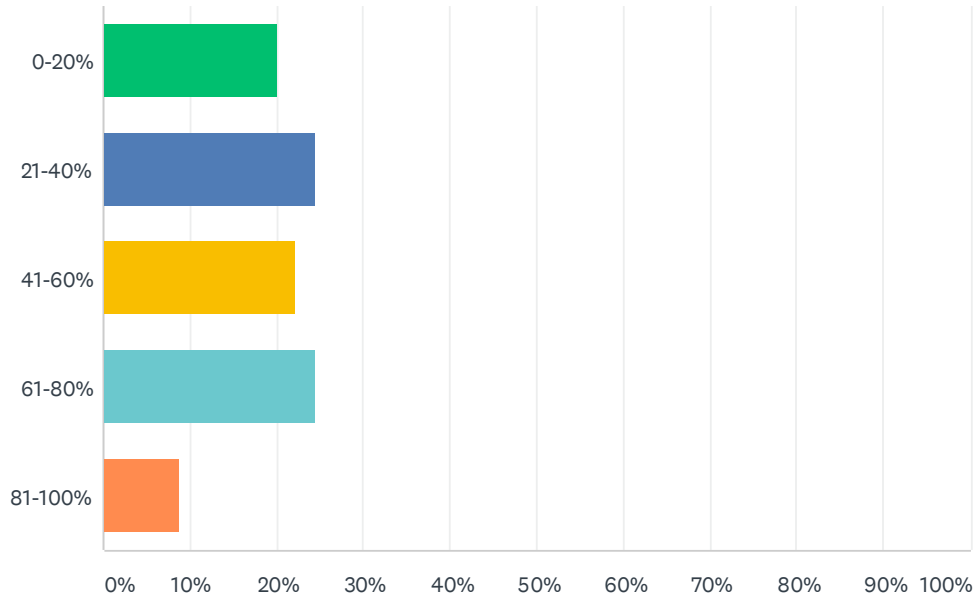
Answered: 46 Skipped: 31



ANSWER CHOICES	RESPONSES	
0-20%	56.52%	26
21-40%	19.57%	9
41-60%	17.39%	8
61-80%	2.17%	1
81-100%	4.35%	2
<b>TOTAL</b>		<b>46</b>

## Q12 Of those how many are these successful?

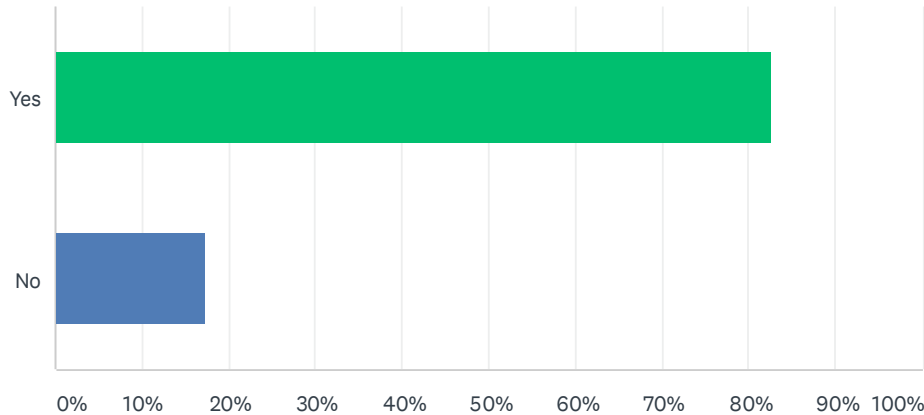
Answered: 45 Skipped: 32



ANSWER CHOICES	RESPONSES	
0-20%	20.00%	9
21-40%	24.44%	11
41-60%	22.22%	10
61-80%	24.44%	11
81-100%	8.89%	4
<b>TOTAL</b>		<b>45</b>

### Q13 Do you think that it should be made no less difficult than at present for a landlord to terminate a tenancy in the case of non-payment of principal rent?

Answered: 75 Skipped: 2



ANSWER CHOICES	RESPONSES
Yes	82.67% 62
No	17.33% 13
TOTAL	75

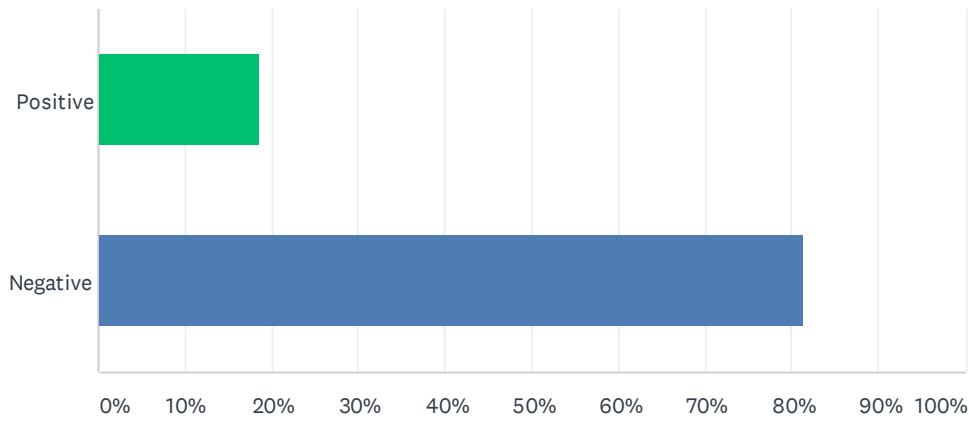
#	COMMENTS	DATE
1	If the procedure is relatively quick, landlords do not need the option of peaceable re-entry. Thsi is attractive because it is quick and doe snot automatically involve court procedure	5/7/2021 12:12 PM
2	Under the proposed new rules every tenant would apply to court increasing litigation. Some landlords cannot afford litigation and many tenants hold the balance of power. Currently the cost of relief is payable by the tenant which is a fairer system	5/7/2021 10:11 AM
3	there is rarely a dispute over none payment of rent, with other breaches there may be grey areas	5/7/2021 9:44 AM
4	A claim for principal rent should be indefensible and relief should be the only tenant option. Breaches of other covenants are, in almost all cases, more arguable by their nature as they do not relate to matters where subjective opinions will be engaged e.g. breach of repair covenant.	5/7/2021 9:05 AM
5	Whilst I appreciate tenants must be protected against rogue landlords, recent legislation seems to protect tenants to the detriment of landlords. Anything which adds to the courts' current burdens will just create even more delays.	5/5/2021 11:39 AM
6	rent is a fundamental source of income for many landlords and a basic provision for the benefit of property. Why should a landlord have to suffer financially for the tenant's benefit?	4/22/2021 10:20 AM
7	Non payment of rent is absolutely and peaceable re-entry is currently a highly effective method of dealing with this.	4/21/2021 5:33 PM
8	In most cases of forfeiture that I have dealt with the tenant has absconded and has no interest in the premises and the lease is a rack rent lease with no value to lenders etc	4/21/2021 1:21 PM
9	Landlords are generally reluctant to forfeit unless a tenant has absconded/entered insolvency and there is no prospect of recovery of arrears/no other way to regain possession.	4/20/2021 7:46 PM
10	This question isn't very clearly worded - it should be the same level of 'difficult' as it is at present	4/20/2021 3:40 PM
11	Under the current system the landlord can only act if the tenant is in default. The tenant has	4/19/2021 9:46 AM

an opportunity to remedy their default. It is a fair balance

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## Q14 Do you think that this a positive or negative change?

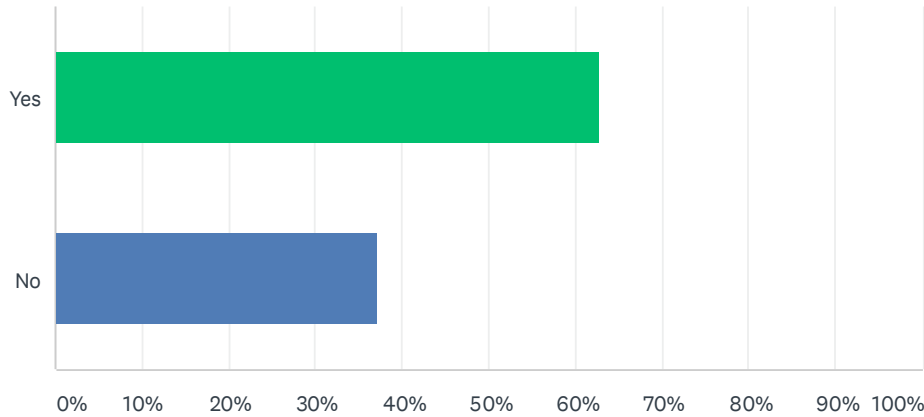
Answered: 75 Skipped: 2



ANSWER CHOICES	RESPONSES	
Positive	18.67%	14
Negative	81.33%	61
TOTAL		75

### Q15 Do you have any concerns that the inclusion of a specific date will result in more arguments over the validity of the notice than is currently the case in relation to s.146 notices?

Answered: 75 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	62.67%	47
No	37.33%	28
<b>TOTAL</b>		<b>75</b>

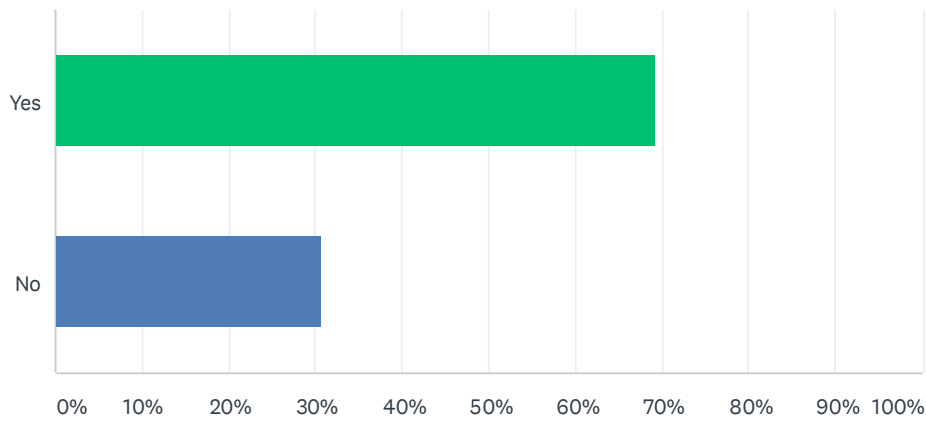
#	COMMENTS	DATE
1	The court has power to determine whether a reasonable time has been allowed pursuant to s146. It can take all factors into account in doing this. By setting fixed times for remedy, arguments will be focussed on the precise date as well as the overall reasonableness which is likely to make tenants more willing to dispute forfeiture on non-substantive grounds about the	5/7/2021 12:12 PM
2	Will caselaw on what is a reasonable period under s146 notices be followed?	5/7/2021 10:11 AM
3	Guidance would need to be issued as to what a reasonable period for different breaches otherwise it is pure guess work and every case is open to challenge	5/7/2021 9:44 AM
4	The current regime allows you to suggest what may be a reasonable time without prejudice to the validity of a s.146 notice stating that T has a "reasonable time" to remedy the breach. This can however be changed if unforeseen circumstances arise in a way which a once and for all notice cannot if the courts are to interpret this date in the notice as a set date	5/7/2021 9:05 AM
5	By giving a definite date, any argument over what is a reasonable period will be removed. It may, however be necessary to give a minimum time otherwise landlords may give unrealistic timeframes.	5/5/2021 11:39 AM
6	This could possibly create more arguments.	5/1/2021 10:02 AM
7	However, it will at least give the defaulting party clarify as to when further action will be taken	4/22/2021 10:20 AM
8	Yes experience suggests that defaulting tenants will argue black is white over what is a reasonable period of time to vacate the premises in order to be able to continue to trade and take the benefit of income without paying rent.	4/21/2021 5:33 PM
9	Whether or not you state what is a reasonable time in a section 146 notice, you must always have to take steps eventually if the breach is not remedied and so must decide on what time is reasonable. All this change does is require you to do that up front.	4/21/2021 9:28 AM
10	Essentially the position will be the same and tenants will still seek to argue that the date given does not allow them reasonable time to remedy	4/20/2021 7:46 PM

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11	currently notice not invalidated if the landlord says reasonable period but in covering letter says a date with which t does not agree. Risk that more notices will be invalidated	4/20/2021 3:44 PM
12	So long as the fixed date is not too far ahead	4/20/2021 3:04 PM
13	Some defaults can be remedied quickly whisl others can take considerably longer. A specified period could appear to be reasonable on the face of the notice but matters unknown to the parties could invalidate the notice if there are reaonable reasons why the time period is found to be short. There is no flexiblility under the propsed changes and this is inherently unfair.	4/19/2021 9:46 AM

## Q16 Do you think it will increase the risk that a notice would be deemed invalid?

Answered: 75 Skipped: 2



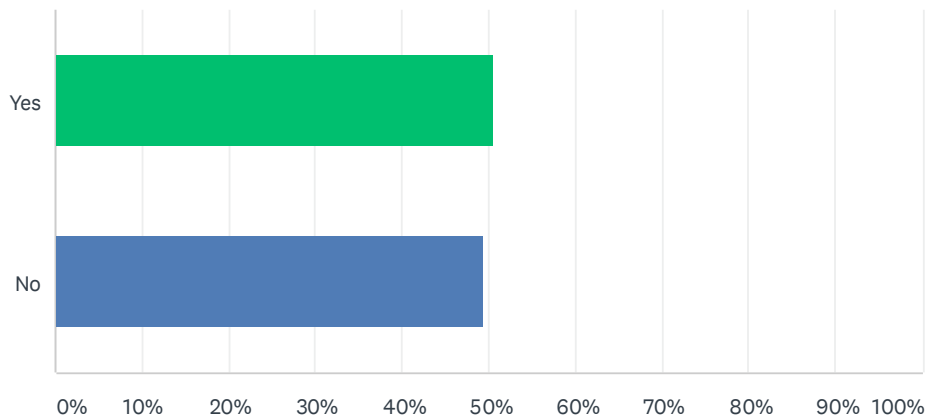
ANSWER CHOICES	RESPONSES	
Yes	69.33%	52
No	30.67%	23
TOTAL		75

#	COMMENTS	DATE
1	Providing a precise time for remedy will encourage tenants to dispute the date and courts to allow this in what, at the moment at least, is a tenant friendly regime regime..	5/7/2021 12:12 PM
2	arguably each notice will have to be considered by the court	5/7/2021 9:44 AM
3	see above	5/7/2021 9:05 AM
4	Eg if you have not given enough time, what is "enough"?	5/1/2021 10:02 AM
5	depending on the terminology for the deadlines and how they are categorised	4/22/2021 10:20 AM
6	Yes it gives considerably more scope for argument about what is reasonable	4/21/2021 5:33 PM
7	Unless there is guidance/rules around what date can be specified	4/20/2021 7:46 PM



## Q17 Is there any reason why the "reasonable time period" is not an appropriate form of wording?

Answered: 75 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	50.67%	38
No	49.33%	37
TOTAL		75

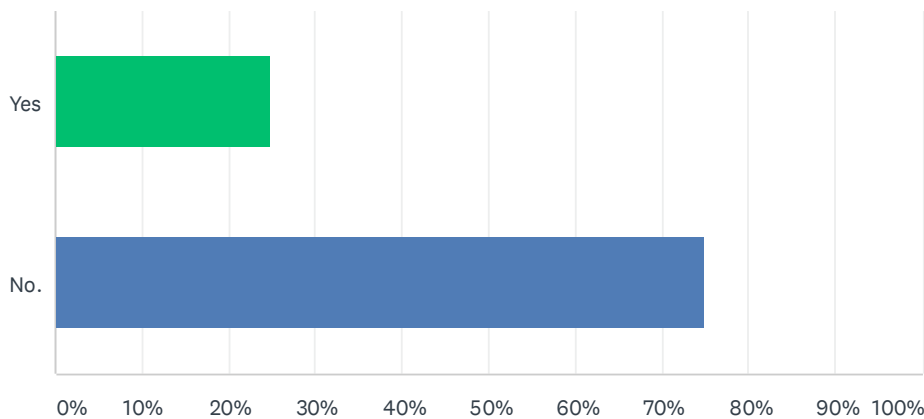
#	COMMENTS	DATE
1	Use of a "reasonable period" when serving the notice gives flexibility: the notice will be valid; the landlord can then take into account post-service considerations when deciding how long to wait before forfeiting. Eg if circumstances demonstrate there are unforeseen difficulties making it harder to remedy the breach than the landlord had anticipated, or if the tenant is trying and the landlord wishes to give longer. However it at the same time puts pressure on the tenant to remedy the breach as it will fear a reasonable period may be a short time. This strikes a reasonable balance. If landlords have to specify a date they will need to err on the side of caution to prevent the notice being invalid which will take the pressure off tenants to act swiftly in remedying the breach.	5/8/2021 7:51 PM
2	Ambiguity	5/7/2021 3:42 PM
3	Due to Covid, arrears have build up and precedents could be set endorsing lengthy periods. A sliding scale with specific time periods for age of debt would be fairer and clearer.	5/7/2021 10:11 AM
4	Although some guidance would assist so that each party knows where they stand	5/7/2021 9:44 AM
5	courts can look at LL's correspondence to determine whether a view was expressed of what was likely to be reasonable	5/7/2021 9:05 AM
6	Parties to a lease would probably prefer certainty, but in reality each case is different so a feixed period would liley casue in justice or unfairness in many cases to one or other of the parties the reavnt period should eb capable of variation by being onlt described with refercne to reasonableness, as different circumstances will apply to different cases.lirty the relavant period of grace	5/7/2021 8:57 AM
7	The law should aim to be clear and not subjective so clients can be properly advised. Most issues can be dealt with by a motivated tenant within 4 to 6 weeks	5/5/2021 11:49 AM
8	One person's definition of what is a reasonable time is not the same as another person's definition.	5/5/2021 11:39 AM
9	It prevents the straightjacket of a "one size fits all" approach	5/5/2021 9:32 AM
10	Too vague and open to interpretation	5/4/2021 10:57 PM
11	It creates uncertainty	5/4/2021 5:01 PM

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12	no certainty	5/4/2021 2:18 PM
13	Can be subjective and results in satellite litigation	5/4/2021 1:23 PM
14	clearly open to interpretation and argument between lawyers	5/4/2021 12:28 PM
15	there can be disputes over what is reasonable but most often the period given is fair	5/4/2021 12:02 PM
16	Arguments over what a reasonable time period is.	5/4/2021 11:39 AM
17	parties need certainty	5/4/2021 11:37 AM
18	uncertainty and room for argument	5/2/2021 2:29 PM
19	It can lead to arguments over what the reasonable time period is. The best regime would be to have to state a non-binding estimate as to what you consider to be a reasonable time, the requirement only being to state what you say is reasonable, not to state what is actually / later found to be reasonable.	4/26/2021 10:25 PM
20	certainty and predictability are important	4/23/2021 8:26 PM
21	no certainty	4/22/2021 5:46 PM
22	it is ambiguous and subjective	4/22/2021 10:20 AM
23	Uncertainty as to what is reasonable - it's better to have a timescale set out in the letter	4/21/2021 5:41 PM
24	little certainty	4/21/2021 1:21 PM
25	Too subjective.	4/21/2021 9:28 AM
26	It creates uncertainty, which creates dispute.	4/20/2021 8:48 PM
27	It is subjective, but landlords tend to err on the side of caution	4/20/2021 7:46 PM
28	Uncertainty	4/20/2021 4:46 PM
29	Because one still has to work it out, so as not to forfeit too early	4/20/2021 4:12 PM
30	If this Bill is meant to be 'tenant-friendly' then this doesn't help as it removes the Court's ability to consider what is reasonable in the tenant's circumstances/circumstances of the breach. This should be something for the Courts to be able to determine	4/20/2021 3:40 PM
31	It's subjective and introduces uncertainty for both parties.	4/20/2021 3:32 PM
32	It has worked for nearly 100 years. Why change it? There is no good reason to alter it.	4/19/2021 9:46 AM

## Q18 Do you think that this should apply to all types of tenancy?

Answered: 76 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	25.00%	19
No.	75.00%	57
<b>TOTAL</b>		<b>76</b>

#	COMMENTS	DATE
1	Currently most/all tenants will suffer exceptional hardship. This will generate additional litigation over what is exceptional hardship	5/7/2021 10:11 AM
2	Not for commercial tenancies	5/7/2021 9:05 AM
3	There is much less room in a commercila setting for tempering the parties rights by reference to hardship ship.	5/7/2021 8:57 AM
4	A business is considered insolvent if it cannot pay its debts. If a possession order allows a business to continue trading when it is not paying its rent it is encouraging unlawful trading.	5/5/2021 11:39 AM
5	It is necessary in residential tenancies so as to protect the rights of people to a home but this protection should not be widened	5/4/2021 5:01 PM
6	better to have 2 regimes for residential and commercial with the former being more tenant-friendly and the latter being more balanced	5/4/2021 12:28 PM
7	tenants abuse the system and there is no equivalent for landlord's exceptional hardship - not all landlords are massive wealth funds with deep pockets - this can be seen during Covid when smaller landlords have suffered without any government support	5/4/2021 12:11 PM
8	commercial property is not a person's home	5/4/2021 11:37 AM
9	Not if there has already been notice and opportunity for remedy	5/2/2021 2:29 PM
10	only in relation to a person's home	4/23/2021 8:26 PM
11	but with very stringent rules on its application in exceptional circumstances to prevent the tenant taking advantage of this	4/22/2021 10:20 AM
12	A commercial tenant who is not paying rent is either evading paying or is already suffering exceptional financial hardship and needs to acknowledge that the rent is too expensive or the business isn't viable. This is not a risk the landlord should bear	4/21/2021 5:33 PM
13	It is roundly abused in a residential context and will likely only cause a further layer of obstruction in a commercial context.	4/21/2021 9:28 AM
14	As long as it is discretionary not automatic, delay is a positive	4/20/2021 7:46 PM
15	Save that perhaps there should be a distinction where a tenancy is in the name of a company vis a vis an individual. If the latter, the tenant is individually taking on all the risk	4/20/2021 3:40 PM

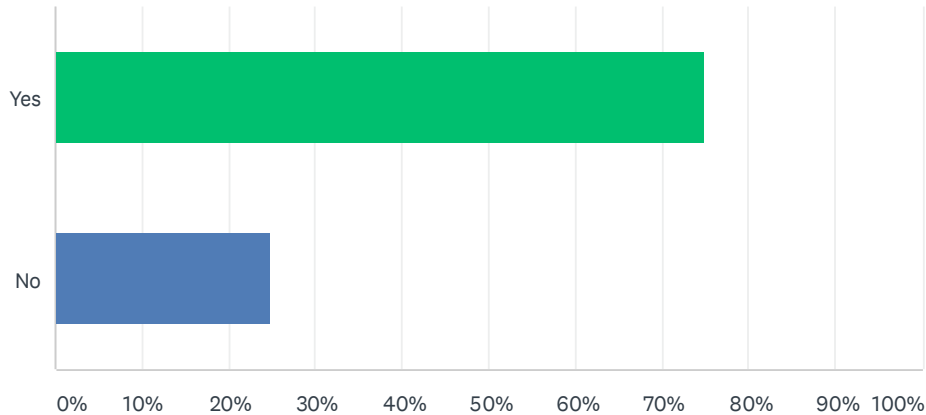
## PLA Survey: Summary Termination Procedure

of the business and therefore should arguably be afforded better protection than a lease in the name of a company

16	Residential tenancies deserve special protection. Commercial tenancies do not. Indeed, how is 'hardship' to be assessed in respect of a company - making losses? Why in the case of a commercial arrangement should the risk of hardship fall on the landlord and not, say, the tenant or another creditor? Is 'hardship' to be assessed in relative terms - what of a landlord who will suffer hardship if the defaulting tenant is allowed to remain in occupation?	4/20/2021 3:32 PM
17	Business occupation is very different to residential occupation. If such a provision is included all that will happen is that it will ensure that the property is fully stripped before the landlord is able to retake possession.	4/19/2021 9:46 AM

**Q19 Do you think the court's power to limit the terms of the new tenancy should be limited in some way? When considering this question please consider applications made by those other than a sub-tenant of whole.**

Answered: 76 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	75.00%	57
No	25.00%	19
TOTAL		76

#	COMMENTS	DATE
1	On the grant of a new tenancy of part it should be on the same terms as the original tenancy save as to rent, and for no longer a term	5/8/2021 7:51 PM
2	If the court has the power to determine a lower rent on a long tenancy it will have a significant impact on investor confidence and freehold prices.	5/7/2021 9:44 AM
3	Should not extend beyond the current tenancy; rent should not be less than the current tenancy. Terms should generally be the same as the current tenancy.	5/6/2021 7:01 PM
4	the terms should mirror the existing tenancy as much as possible to avoid the parties being ordered to deal with terms they have not freely negotiated	5/5/2021 11:49 AM
5	The court should consider who is making the application; their conduct during the period of the lease and the effect of a new tenancy on the landlord.	5/5/2021 11:39 AM
6	important to allow sub-ts to make applications/vesting orders	5/4/2021 12:28 PM
7	sometimes landlord's find themselves with sub-tenants because of tenant's breach and may not want the sub-tenant	5/4/2021 12:11 PM
8	affordability checks need to be carried out.	5/4/2021 11:37 AM
9	landlords should be able to argue for market rent and should not be compelled to grant a lease at terms less advantageous than they could get in the market	5/2/2021 2:29 PM
10	Clearly the landlord should not be saddled with a sublease of part by reason of its tenant's default.	4/26/2021 10:25 PM
11	only to those terms not agreed by the parties and possible after some form of ADR	4/22/2021 10:20 AM
12	The landlord would have a third party tenant forced on him which may not be agreeable. If a lender, they should be limited to an interest which is limited in time in order for them to be able to dispose of their assets	4/21/2021 5:33 PM
13	Perhaps similar to 1954 Act/O'May principles?	4/20/2021 7:46 PM
14	It should be no more advantageous to the qualifying interest holder than the interest of the	4/20/2021 3:32 PM

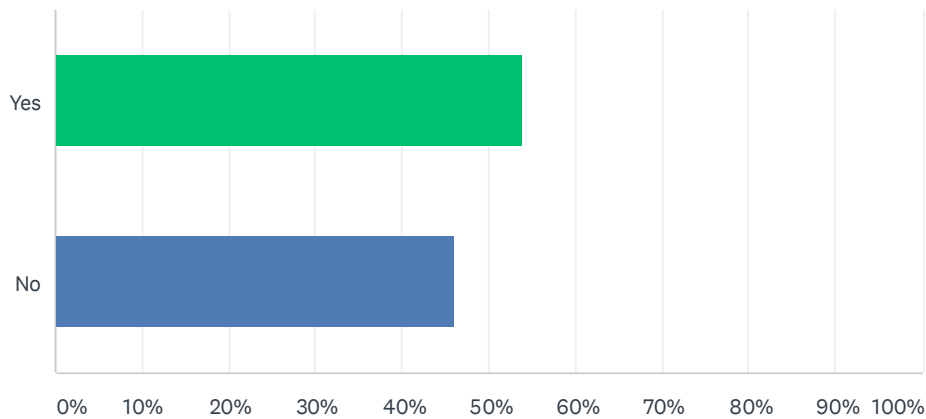
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qualifying interest holder prior to the termination. Were it otherwise, landlords may be reluctant to invoke the procedure.

15	The power should be limited to a tenancy in similar terms	4/20/2021 2:54 PM
16	The court should not have the power to foist on the landlord a tenant with whom there was no previous connection.	4/19/2021 9:46 AM

## Q20 Do you think that this limitation on the landlord's right to use the summary termination process is fair and reasonable?

Answered: 74 Skipped: 3

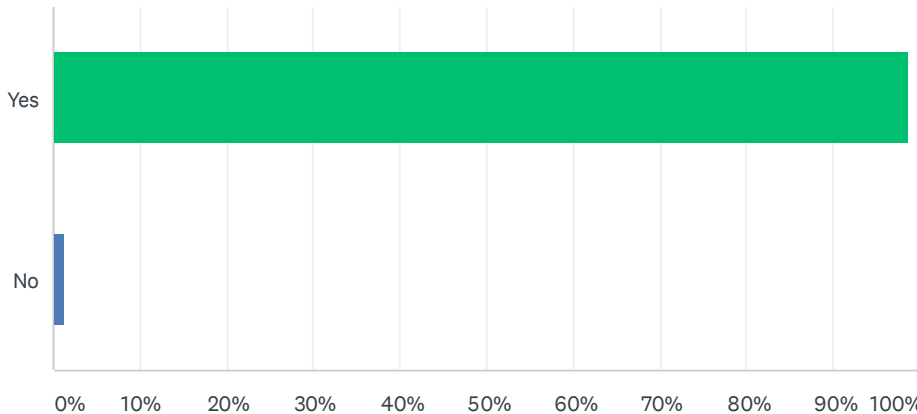


ANSWER CHOICES	RESPONSES	
Yes	54.05%	40
No	45.95%	34
TOTAL		74

#	COMMENTS	DATE
1	Very few commercial leases are over 25 years and ground rents on residential leases tend to be low compared to the value of the leasehold interest.	5/7/2021 9:44 AM
2	Ts can still apply for relief so seems unnecessary	5/7/2021 9:05 AM
3	Cant see why the length of the tenancy should make difference	5/7/2021 8:57 AM
4	Why 25 years? Better if it coincided with standard definition of a long lease.	5/6/2021 7:01 PM
5	If a notice has been served because of rent arrears, why should a landlord be penalised if this is a long lease?	5/5/2021 11:39 AM
6	There may be good reason to accelerate the procedure, such as breach of health and safety provisions	5/4/2021 5:01 PM
7	taking away a long term is a serious matter and potentially could case a substantial loss to the tenant	4/23/2021 8:26 PM
8	it again places a further onus and cost on the landlord at the default of the tenant	4/22/2021 10:20 AM
9	Forfeiture of a long lease is of serious value to the landlord so should be fettered	4/20/2021 7:46 PM
10	It seems a little arbitrary. Why not tie it to whether the tenancy is for a rack rent?	4/20/2021 3:32 PM
11	There appears to be no justification why such restriction is inserted save other than "it is a long time".	4/19/2021 9:46 AM

**Q21 Do you think that when a tenant makes an application for a discharge order, it should be required to serve notice of its application on the landlord to avoid a situation where the landlord wrongly re-enters the premises because it did not receive notice of the tenant's application before the summary termination notice expired?**

Answered: 75 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	98.67%	74
No	1.33%	1
<b>TOTAL</b>		<b>75</b>

#	COMMENTS	DATE
1	If notice is not served, significant uncertainty will be created which may be exacerbated by court administration - county court orders are presently often sent out weeks or even months after they are made.	5/7/2021 12:12 PM
2	Unduly prejudicial not to serve landlord and will lead to accidental wrongful re-entry	5/7/2021 10:11 AM
3	There can be considerable delays getting documents from the Court and it is incredibly difficult to contact the court by telephone so the landlord would have to either take the risk or wait a month or two to find out.	5/7/2021 9:44 AM
4	We cannot rely on the courts to process in a timely fashion	5/7/2021 9:05 AM
5	Very important given the delays in courts issuing and serving.	5/6/2021 7:01 PM
6	this is obviously important to avoid wastign costs for lal parties and over complicating matters due to simple failure to communicate	5/5/2021 11:49 AM
7	This would avoid any misunderstandings	5/4/2021 5:01 PM
8	and particularly due to delays in the Court system	5/4/2021 12:11 PM
9	court delay may result in prejudice to the landlord	5/4/2021 11:37 AM
10	absolutely!	4/22/2021 10:20 AM
11	This is likely to avoid to time delays and confusion as courts do not serve things in a timely manner and is a further reason for tenants to be able to delay matters	4/21/2021 5:33 PM
12	Also to avoid 'wrongly' re-letting premises	4/20/2021 7:46 PM
13	This just seems illogical and impractical and certainly does not improve the situation nor reduce litigation	4/20/2021 3:40 PM



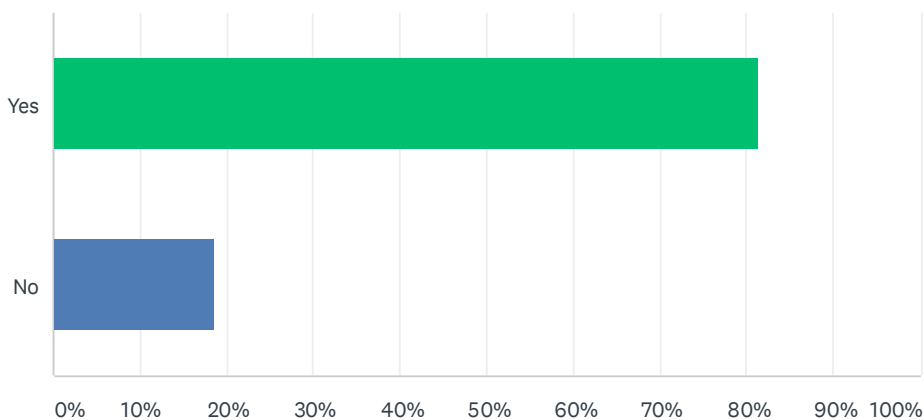
14 Absolutely. The court's cannot be relied upon to serve the application within a reasonable period. It often takes months for the courts to process an application and then serve it on the other side. The tenant must be required to serve a copy of the application notice on the landlord at the same time as issuing the application.

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4/19/2021 9:46 AM

## Q22 Do you think failure by the tenant to serve and to certify service of such notice should invalidate the discharge application

Answered: 75 Skipped: 2

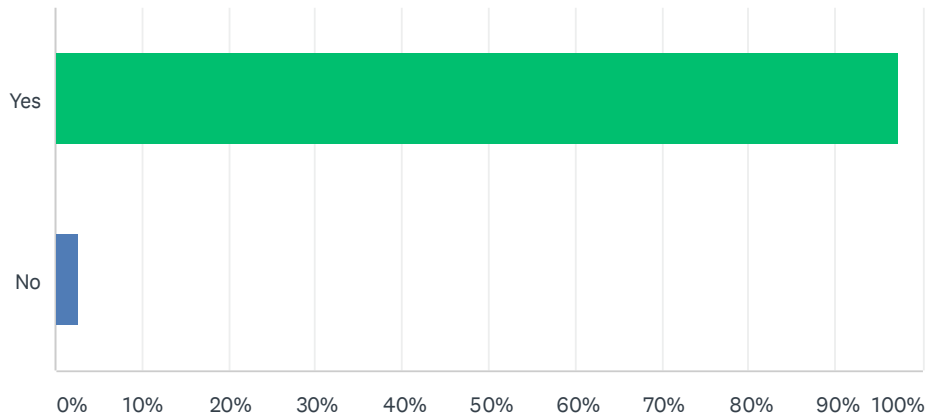


ANSWER CHOICES	RESPONSES	
Yes	81.33%	61
No	18.67%	14
<b>TOTAL</b>		<b>75</b>

#	COMMENTS	DATE
1	it could easily be added to the form so that the tenants cannot miss the obligation.	5/7/2021 9:44 AM
2	Give the court some discretion.	5/6/2021 7:01 PM
3	certifying service by lay tenants may be overly burdensome	5/5/2021 11:49 AM
4	Court to have discretion/apply some lenience where warranted	5/4/2021 12:28 PM
5	But it should be a factor in the court's discretion as to what order to make.	4/26/2021 10:25 PM
6	As long as this requirement is clearly set out to them in the original notice	4/22/2021 10:20 AM
7	But subject to discretion	4/20/2021 7:46 PM
8	But it should be prevented then from asserting unlawful eviction if that has happened in the meantime	4/20/2021 4:12 PM
9	Only in relation to certification, not service - it should be brought to the landlord's attention	4/20/2021 3:40 PM
10	Being able to evidence service in the case of a dispute should be sufficient.	4/20/2021 3:32 PM
11	but it should absolve the landlord from any comeback as result of a re-entry carried out without notice of the discharge application	4/20/2021 2:54 PM
12	It is entirely within the tenants control and an obligation to do so can be made very clear in any notice served by the landlord.	4/19/2021 9:46 AM

## Q23 Have you ever received correspondence, including formal notices or orders, from the court over 2 weeks after it was made?

Answered: 74 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	97.30%	72
No	2.70%	2
TOTAL		74

#	COMMENTS	DATE
1	Frequently including in some cases months late and after the deadline for complying with the court's direction had expired	5/8/2021 7:51 PM
2	Regularly for case management orders and notices of hearings	5/7/2021 12:12 PM
3	A lot longer than 2 weeks. Sometime not at all.	5/7/2021 10:11 AM
4	frequently. Sometimes after the date for compliance has passed.	5/7/2021 9:44 AM
5	Frequently	5/7/2021 9:44 AM
6	And far, far, longer, especially consent orders.	5/6/2021 7:01 PM
7	very frequently	5/5/2021 11:49 AM
8	The current delays mean that if a notice is sent less than 2 weeks after the order was made that is exceptional. You now expect to receive notices more than 2 weeks later.	5/5/2021 11:39 AM
9	Often after the date for compliance has passed	5/5/2021 9:32 AM
10	sometimes a year after it was made - the county courts are appalling - sorry!	5/4/2021 2:18 PM
11	Even after dates in directions have passed!	5/4/2021 1:23 PM
12	more often longer	5/4/2021 12:11 PM
13	Regularly	5/2/2021 2:29 PM
14	or longer. The law has to be drafted on the assumption that the county court is hugely ineffective and often makes mistake (i.e. based on reality)	4/23/2021 8:26 PM
15	sometimes a copy hasn't been recieved at all and we have only had knowledge of this from liaising with the other side	4/22/2021 10:20 AM
16	Frequently	4/21/2021 9:28 AM
17	Frequently	4/20/2021 8:48 PM
18	Not from the date of the order, although turnaround from application/request to receipt of the order is usually well over two weeks	4/20/2021 7:46 PM

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19	many month's later	4/20/2021 5:18 PM
20	Almost always	4/20/2021 3:40 PM
21	This is commonplace in the County Court.	4/20/2021 3:32 PM
22	frequently	4/20/2021 2:54 PM
23	Frequently. Last Autum I received one made 13 months earlier.	4/19/2021 9:46 AM

**Q24 While the court proceedings continue do you think that the tenant's ability to seek a discharge order should be subject to conditions, and if so what do you think those conditions should be (for example, the payment of rent and/or fixed charges to the landlord or the payment of rent into court; or the giving of an undertaking to the court to pay rent. If undertakings are to be given should it be by a director or person of substance?).Comments**

Answered: 62 Skipped: 15

#	RESPONSES	DATE
1	The tenant should have to pay rent and other sums due (save where there is a bona fide dispute as to amount). This should be an actual payment not merely an undertaking. The tenant should not be able to continue to occupy unless it is paying the sums due.	5/8/2021 7:51 PM
2	A discharge order should be subject to conditions. An undertaking to the court to pay arrears with a schedule of proposed payments. If an undertaking is given it would need to be by a director or owner.	5/7/2021 12:12 PM
3	yes	5/7/2021 12:06 PM
4	payment into court	5/7/2021 11:48 AM
5	Tenant should be obliged to pay rent in the interim or landlord can apply to dismiss the tenant's application	5/7/2021 10:11 AM
6	There should be an obligation to ensure that the money is available whether that be a payment into court or an undertaking. Otherwise there is a risk from professional non payers.	5/7/2021 9:44 AM
7	Rent and other fixed charges paid in full when it falls due under the Lease and an undertaking to pay the Landlord's costs if the Tenancy is terminated by court	5/7/2021 9:40 AM
8	Payment of ongoing rent	5/7/2021 9:26 AM
9	lease sums should continue to be payable as a condition of the proceedings continuing	5/7/2021 9:05 AM
10	Undertakings will likely be valueless. Conditions must be the actual payment of actual sums	5/7/2021 8:57 AM
11	remedy of breaches	5/7/2021 8:33 AM
12	The payment of rent and/or fixed charges to the landlord or the payment of rent into court. Undertakings from tenants are worthless.	5/6/2021 7:01 PM
13	both undertakings and payments depending on nature of the breach	5/6/2021 3:02 PM
14	undertaking to the court by a director with penalties for deliberate non-compliance	5/5/2021 11:49 AM
15	some form of conditions otherwise the arrears will rack up	5/5/2021 11:44 AM
16	I believe discharge orders should only be considered if the tenant has maintained all of its obligations under the terms of the lease, including payment of rent. Undertakings, even if from a person of substance are too open to abuse and will put the landlord to even more costs if they are breached.	5/5/2021 11:39 AM
17	The tenant should continue to be bound by lease covenants and compliance should be a pre-condition of a discharge order	5/5/2021 9:32 AM
18	undertaking to pay rent by a director	5/4/2021 10:57 PM
19	The tenant should continue to pay rent and outgoings and require an undertaking from a director or similar	5/4/2021 5:01 PM
20	On condition of paying ongoing rent.	5/4/2021 4:46 PM
21	Payment into court of rent	5/4/2021 3:48 PM

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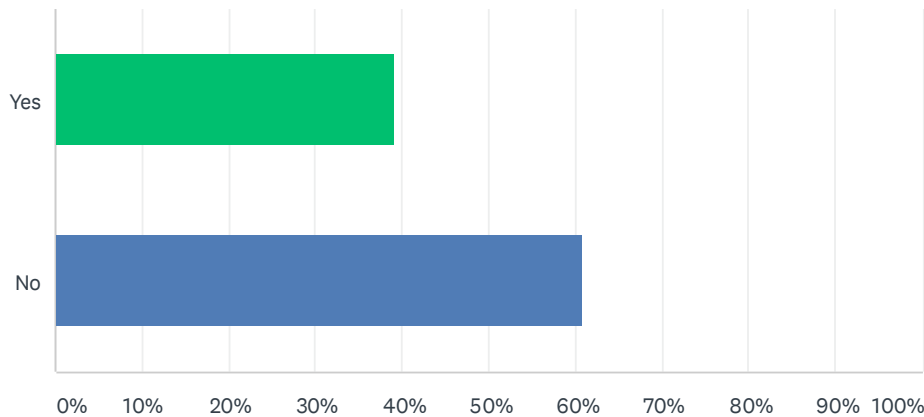
22	personal guarantees/conditions that compliance with the lease covenants until discharge order made - courts have been notorious at cancelling hearings - even when on the hearings	5/4/2021 2:18 PM
23	Paying rent in to court	5/4/2021 1:23 PM
24	yes: payment of rent and other charges or u/t or security (or similar)	5/4/2021 12:28 PM
25	payment of rent to the landlord, payment of fixed charges into court	5/4/2021 12:14 PM
26	yes tenant should provide evidence that it can discharge all arrears and costs and pay this into court	5/4/2021 12:11 PM
27	There should be conditions such as payment into court or to the landlord because otherwise the process might be used to prolong occupation at the landlord's expense and it isnt a fair balance of the risk	5/4/2021 12:02 PM
28	Yes, should be undertakings or payment into court	5/4/2021 11:54 AM
29	N/A	5/4/2021 11:47 AM
30	Payment of rent and other charges.	5/4/2021 11:39 AM
31	payment made to landlord and controlling person of company should give the undertaking	5/4/2021 11:37 AM
32	payment of rent definitely	5/2/2021 2:29 PM
33	Payment of rent and all other sums due.	5/1/2021 10:02 AM
34	Yes	4/28/2021 11:59 AM
35	Yes. A solvent tenant should be required to pay the rent if its lease is to be kept on foot.	4/26/2021 10:25 PM
36	conditional on payment of rent or other sums due under lease	4/26/2021 11:31 AM
37	payment of rent and continuing to abide by terms of the lease	4/23/2021 5:29 PM
38	payment of rent and compliance with lease covenants	4/22/2021 5:46 PM
39	the application should be conditional on the payment of rent	4/22/2021 10:57 AM
40	yes	4/22/2021 10:20 AM
41	It should be subject to a condition that they pay mesne profits for the period the application for a discharge order continues, and that if they default on that, the discharge application can be dismissed.	4/21/2021 5:33 PM
42	Yes payment of rent and other outgoings, and allowing landlord to temporarily re-secure premises if vacant.	4/21/2021 1:21 PM
43	Likely ultimately to lead to a scenario where the court will be allowed to use its discretion when the case comes before it where tenant does not comply, giving rise to the usual impossibility of advising a landlord how likely it is a judge will apply its discretion and rendering proceedings riskier.	4/21/2021 9:28 AM
44	paying rent	4/21/2021 8:19 AM
45	Payment of all sums due under the terms of the lease. The tenant continues to have full benefit of the property and the landlord is prevented from taking action to mitigate any loss. As such, it is only equitable that the tenant pay for ongoing use and occupation of the landlord's asset.	4/20/2021 8:48 PM
46	Not sure how realistic this is given forfeiture tends to be in situations where the tenant isn't paying rent, but yes I agree that payment of rent/undertaking should be required	4/20/2021 7:46 PM
47	As you say, payment or undertaking to pay rent	4/20/2021 6:07 PM
48	no	4/20/2021 5:47 PM
49	Provision should be made for the payment of rent and an undertaking should be provided by a director or person of substance	4/20/2021 5:43 PM
50	The ability to seek a discharge order should be conditional on the payment of rent and fixed charges, and compliance with other covenants. Undertakings should be given by persons of substance	4/20/2021 5:31 PM
51	yes all sums due should continue to be paid unless disputed and should be secured if there is credible doubt as to payment	4/20/2021 5:18 PM

## PLA Survey: Summary Termination Procedure

52	Yes, payment of rent	4/20/2021 4:46 PM
53	At the very least, the tenant must pay rent.	4/20/2021 4:40 PM
54	Yes.	4/20/2021 4:20 PM
55	I think forfeiture is on service of the proceedings, not their issue. There should be conditions pending the determination of a discharge order.	4/20/2021 4:12 PM
56	T should pay rent arrears unless alleges breach of covenant by L	4/20/2021 3:44 PM
57	Yes - the tenancy should continue on the same terms and any ongoing breaches should be taken into consideration	4/20/2021 3:40 PM
58	Whilst this would be ideal, I'm not sure how this really fits into this regime. If a tenant can't pay its rent, it won't be able to give an undertaking / pay money into court.	4/20/2021 3:32 PM
59	No	4/20/2021 3:08 PM
60	Yes. A director or officer	4/20/2021 3:04 PM
61	Payment of rent to the landlord. Undertakings are impossible to enforce to the extent of worthless	4/20/2021 2:54 PM
62	payment of rent and/or fixed charges to the landlord or the payment of rent into court	4/20/2021 2:52 PM

## Q25 Do you think that this is the appropriate legal test?

Answered: 74 Skipped: 3



ANSWER CHOICES	RESPONSES
Yes	39.19% 29
No	60.81% 45
<b>TOTAL</b>	<b>74</b>

#	COMMENTS	DATE
1	The tenant should be required to show it has a realistic chance of persuading the court not to make the discharge order. Putting the burden on the landlord is likely to delay matters except if there is a requirement for the tenant to provide substantial initial disclosure so its financial and other status is evident to the landlord	5/7/2021 12:12 PM
2	tenant's application - tenant's burden of proof to show that has a realistic prospect of persuading the court not to make a termination order	5/7/2021 11:48 AM
3	if the tenant is advancing a position they should have the burden of proof	5/7/2021 9:44 AM
4	It should be on the tenant to show - it is after all the tenant who is looking for grace.	5/7/2021 9:44 AM
5	The burden should be on T to show that they have a real prospect of persuading the court not to make a termination order	5/7/2021 9:05 AM
6	Too complicated. The test need to be simpler and stand alone, and not by refercne to any other procedure.	5/7/2021 8:57 AM
7	The tenant should have to prove that he has a reasonable chance of success.	5/6/2021 7:01 PM
8	If a tenant makes a claim then it should be for the tenant to prove that it cold defeat a claim for a termination order.	5/5/2021 11:39 AM
9	The burden should be reversed	5/4/2021 5:01 PM
10	Burden should be on the tenant as the only reason the landlord is in the position is because of the tenant's actions.	5/4/2021 1:23 PM
11	needs to be balance of probabilities	4/23/2021 8:26 PM
12	although depends on nature of breach	4/23/2021 5:29 PM
13	the burden should be on the tenant	4/22/2021 10:57 AM
14	again the onus and cost is being placed on the landlord when it is the tenant who has defaulted	4/22/2021 10:20 AM
15	The landlord has already been put to the trouble of having to apply tocourt for repossession, why should they have to prove the tenant will fail.	4/21/2021 5:33 PM
16	This burden seems much too high	4/21/2021 1:21 PM

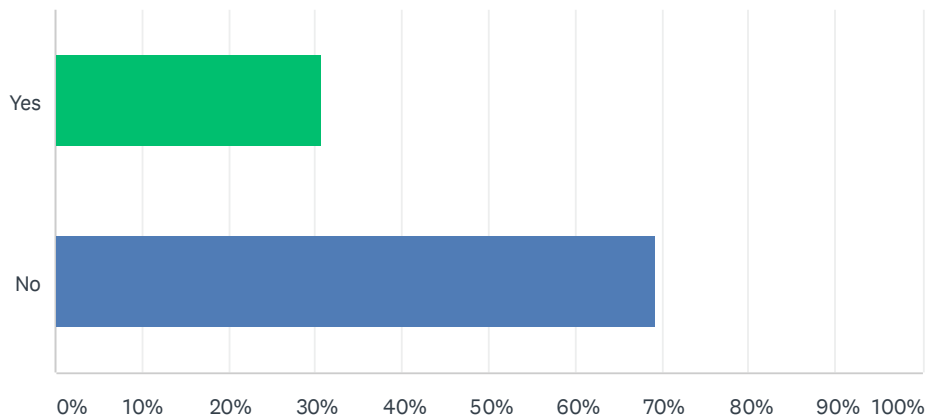


## PLA Survey: Summary Termination Procedure

17	Onus should be on the tenant making the application to make this out by reference to its own evidence	4/21/2021 9:28 AM
18	This is the tenant's application so the burden should be on them to prove they have prospects of success.	4/20/2021 8:48 PM
19	Given tenant is in more precarious position, seems reasonable for it to have the benefit of the test	4/20/2021 7:46 PM
20	burden should be on the Tenant	4/20/2021 5:18 PM
21	Very difficult to prove a negative.	4/20/2021 4:20 PM
22	Requiring the landlord to show that the tenant has no prospect is a higher test than balance of probabilities. It should just be a balance of probabilities.	4/20/2021 3:32 PM
23	Burden should be on tenant	4/20/2021 3:04 PM
24	The tenant is in default. The burden on proof should be on the tenant to provide the court with the evidence that prevents the court making an order. The tenant has the knowledge of its affairs whereas the landlord does not. It imposes an unfair obligation on the landlord.	4/19/2021 9:46 AM

## Q26 Do you think the burden of proof should be on the landlord rather than the tenant?

Answered: 75 Skipped: 2

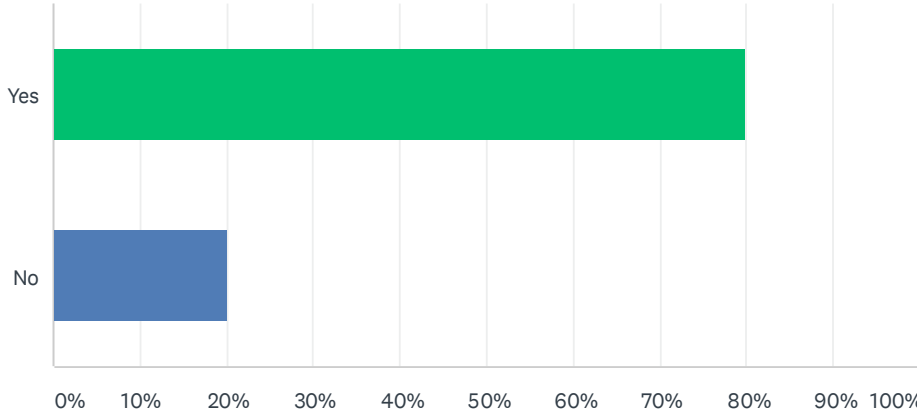


ANSWER CHOICES	RESPONSES	
Yes	30.67%	23
No	69.33%	52
<b>TOTAL</b>		<b>75</b>

#	COMMENTS	DATE
1	It is similar to a summary judgment test so should be easily understood. The landlord should as a matter of logic have the burden of proving its entitlement to terminate the tenancy	5/8/2021 7:51 PM
2	On the tenant	5/7/2021 10:11 AM
3	see above	5/7/2021 9:05 AM
4	See above.	5/6/2021 7:01 PM
5	tenant is in breach so tenant to persuade court	5/2/2021 2:29 PM
6	It is effectively the tenant's claim!	4/26/2021 10:25 PM
7	as above	4/21/2021 5:33 PM
8	See above	4/21/2021 9:28 AM
9	Landlord is more likely to have resources and interest in getting the property back. May also avoid landlords forfeiting if there is a risk they cannot evidence the tenant's default	4/20/2021 7:46 PM
10	on the basis that the landlord is trying to accelerate the process and in the balance of fairness	4/20/2021 5:31 PM
11	burden should be on the tenant who is in default !!!	4/20/2021 5:18 PM
12	Both? Ideally, the landlord should have to prove that there is a breach (for the prima facie case), and the tenant then show that it's been remedied (to avoid the order).	4/20/2021 3:32 PM

### Q27 Do you think that the landlord should be required to elect or that the landlord should be able to run a termination application in the alternative to the summary procedure?

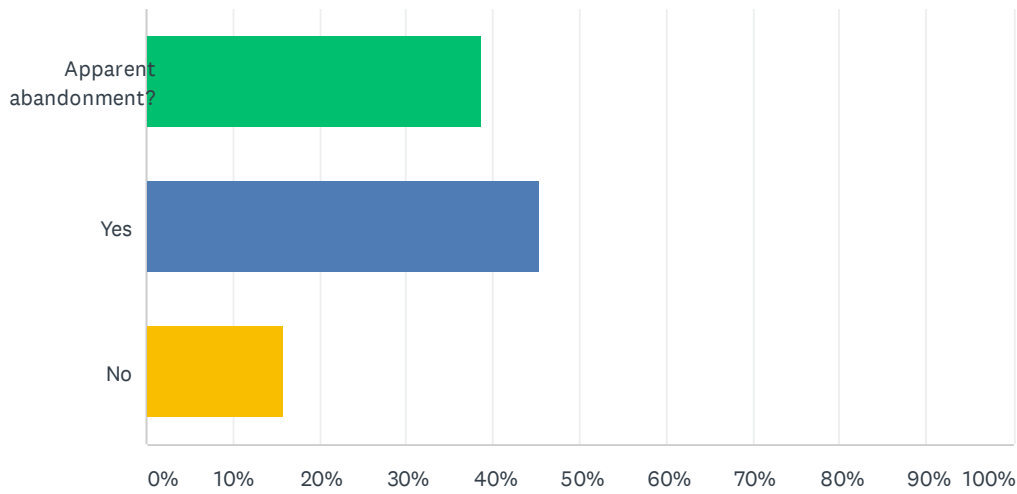
Answered: 75 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	80.00%	60
No	20.00%	15
TOTAL		75

## Q28 Do you envisage using the Summary Termination Procedure for:

Answered: 75 Skipped: 2

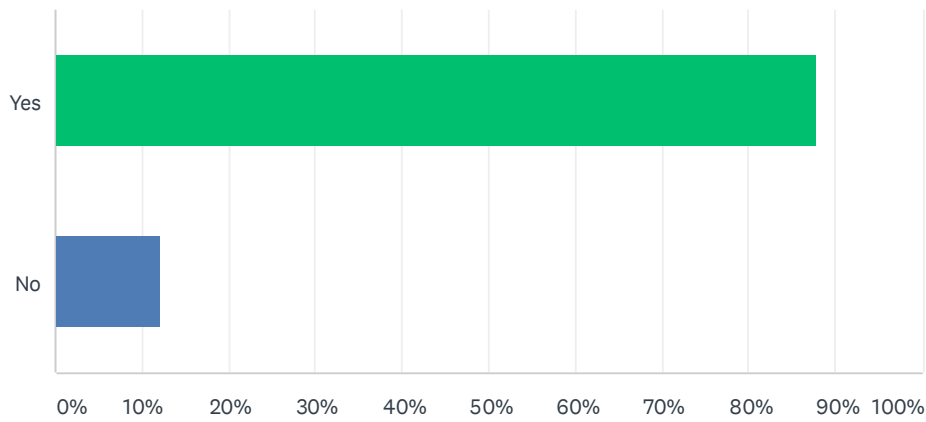


ANSWER CHOICES	RESPONSES
Apparent abandonment?	38.67% 29
Yes	45.33% 34
No	16.00% 12
<b>TOTAL</b>	<b>75</b>

#	COMMENTS	DATE
1	for 27 - L should not have to elect and run in the alternative	5/7/2021 11:48 AM
2	In my experience such cases are rare	5/7/2021 9:44 AM
3	I think this question has an error - but yes, for apparent abandonment	5/7/2021 9:44 AM
4	There should be a simpler procedure not involving the court	5/7/2021 8:57 AM
5	This is not quite clear. Nor is the process referred to above question 27!	5/6/2021 7:01 PM
6	although good luck - the courts can't even deal with the workload they have at the moment	5/4/2021 2:18 PM
7	Most people would simply take possession in these circumstances	4/21/2021 5:33 PM
8	both abandonment and otherwise	4/20/2021 5:18 PM
9	I would probably argue on the basis of implied surrender in these circumstances.	4/20/2021 3:32 PM
10	This is the only likely circumstance because to defeat this procedure all the tenant has to do is say they will contest the notice and the landlord has to start again. There is no point in the landlord using this procedure unless there is almost absolute certainty that it will not be contested.	4/19/2021 9:46 AM

## Q29 Would you advise it be used in rent arrears cases where the tenant has not previously indicated a counter claim?

Answered: 74 Skipped: 3

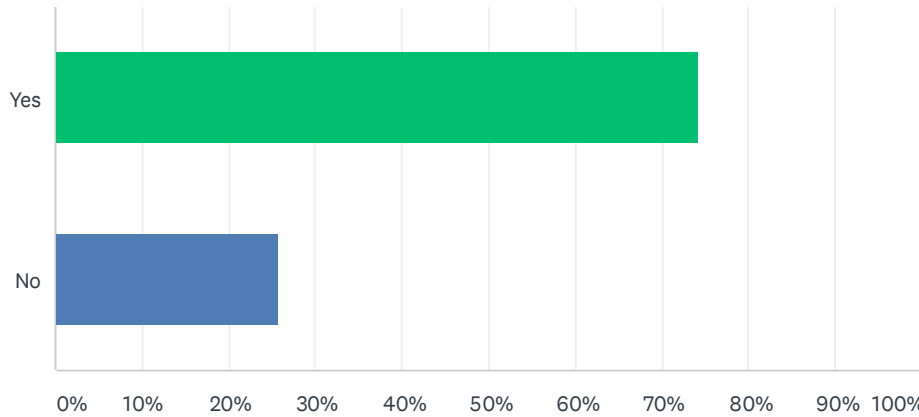


ANSWER CHOICES	RESPONSES
Yes	87.84% 65
No	12.16% 9
TOTAL	74

#	COMMENTS	DATE
1	would need more info re tenant's means	5/7/2021 11:48 AM
2	where a counterclaim has been indicated, summary termination would not be cost effective for the landlord.	5/5/2021 11:39 AM
3	Perhaps	5/5/2021 9:32 AM
4	Yes, but only in the absence of any alternative to bring the tenancy to an end. I wouldn't want a client to incur the costs of this process as security for unpaid rent. The advantage of stat demands and forfeiture are that they are quick and cheap and great at getting a client to engage. This cumbersome process will encourage tenants to take their chances.	4/20/2021 3:32 PM

**Q30 Rent cases only – will the consequence of the fear of failing to prove that the tenant has no realistic prospect of the court not making a termination order with the result that you have to start again using the Standard Procedure result in you advising your landlord client to use the standard procedure in the majority of cases?**

Answered: 74 Skipped: 3

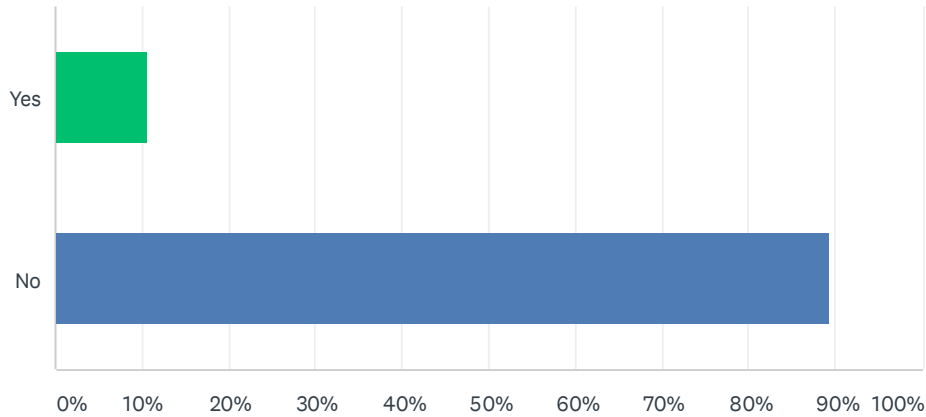


ANSWER CHOICES	RESPONSES
Yes	74.32% 55
No	25.68% 19
<b>TOTAL</b>	<b>74</b>

#	COMMENTS	DATE
1	In a straightforward rent case it should be clear that the landlord has the right to terminate	5/8/2021 7:51 PM
2	I expect it will deter clients from using the summary procedure but time has a value and some will want to use it	5/7/2021 12:12 PM
3	If a tenant really has no real prospects it should be fairly obvious	5/7/2021 9:44 AM
4	possibly	5/5/2021 11:44 AM
5	This is a qualified yes. The landlord has to be given both options with the cost implications of both and the landlord should make an informed decision.	5/5/2021 11:39 AM
6	The legislations should include some indication of circumstances in which the summary procedure should be successful	5/4/2021 11:54 AM
7	Quite possibly, if there is a higher expense and evidential burden a landlord who is already out of pocket is likely to take a cheaper and less expensive option	4/21/2021 5:33 PM
8	You tend to know which cases would be appropriate for summary termination	4/20/2021 7:46 PM
9	It should be fairly straightforward to demonstrate this in cases of severe rent arrears	4/20/2021 5:31 PM
10	will depend on how the case law goes	4/20/2021 5:18 PM
11	Difficult to know how the court's will approach	4/20/2021 3:40 PM
12	Absolutely.	4/20/2021 3:32 PM
13	This is in essence a similar decision to the one we take now when advising whether to use peaceable reentry	4/20/2021 2:54 PM
14	It is effectively a non-option because it will delay the regaining of possession	4/19/2021 9:46 AM

### Q31 Do you think a landlord can reasonably estimate the costs it will incur if the landlord does not know if the tenant will defend the notice or, if it is to be defended, on what basis?

Answered: 75 Skipped: 2



ANSWER CHOICES	RESPONSES
Yes	10.67% 8
No	89.33% 67
TOTAL	75

#	COMMENTS	DATE
1	This is an onerous requirement which landlords will have to spend a vastly disproportionate amount of time to comply. Landlords would need to produce several different budgets based on whether there is a defence and if so what this is. It is a further example of the treatment of the substance of a dispute being secondary to the cost. A tenant's legal adviser can estimate costs. Perhaps landlords could be required to produce estimates if a tenant is unrepresented.	5/7/2021 12:12 PM
2	It will be complete guesswork, if recovery is restricted to the estimate each estimate will have to be a worst case scenario which is likely to at odds with the actual costs in most cases.	5/7/2021 9:44 AM
3	How on earth can it know in advance what defences a desperate tenant might raise?	5/7/2021 9:44 AM
4	Such a clause ignores practicalities	5/7/2021 8:57 AM
5	But perhaps the estimate should be for costs recoverable only if the case is not defended.	5/6/2021 7:01 PM
6	impossible to estimate without knowledge of the tenant's approach	5/5/2021 11:49 AM
7	The landlord will have to allow for a defence (maximum costs)	5/4/2021 10:57 PM
8	They are reactive - it is ridiculous to be able to estimate them at the outset!	5/4/2021 1:23 PM
9	costs can only be as at the date of the default notice or summary termination notice - landlords cannot accurately predict future costs in circumstances where it is not known whether the tenant will defend or indeed has the prospects of defending -	5/4/2021 12:11 PM
10	The obsession with justifying costs is yet another "finger in the air" onerous requirement solicitors are required to comply with, detracting from advising clients as to their available remedies.	4/21/2021 9:28 AM
11	impossible to give costs estimate when likely defences not known	4/20/2021 5:18 PM
12	Solicitors should be able to estimate costs	4/20/2021 3:40 PM
13	This is very much a 'how long is a length of string' situation. It also encourages tenants to	4/20/2021 3:32 PM

## PLA Survey: Summary Termination Procedure

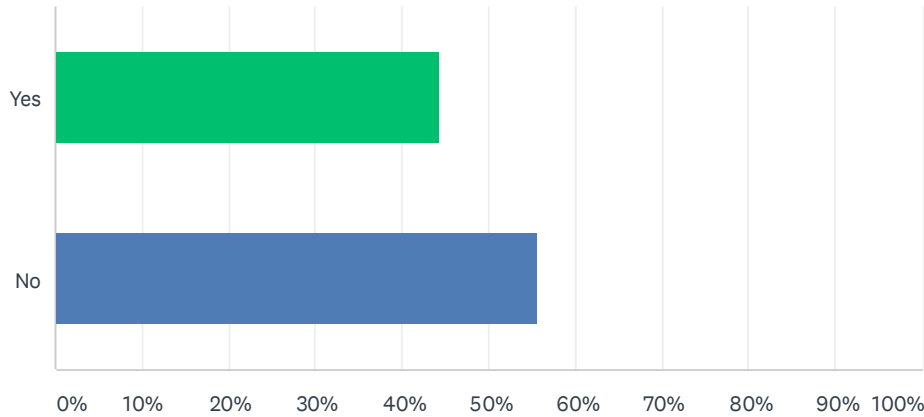
take their chances, if they can see that the landlord will incur disproportionate costs and so might not bother to see the process through.

14	As long as there is the option to give an estimate for contested or an uncontested scenario	4/20/2021 2:54 PM
15	It is far too early in the process to give an estimation. The probably outcome is costly satellite litigation. Why introduce something that the courts already deal with in contested matters at a CCMCM?	4/19/2021 9:46 AM



### Q32 The Law Commission has recommended abolishing the implied covenant that the landlord may forfeit if the tenant denies the landlord's title. Should this implied covenant abolished?

Answered: 70 Skipped: 7

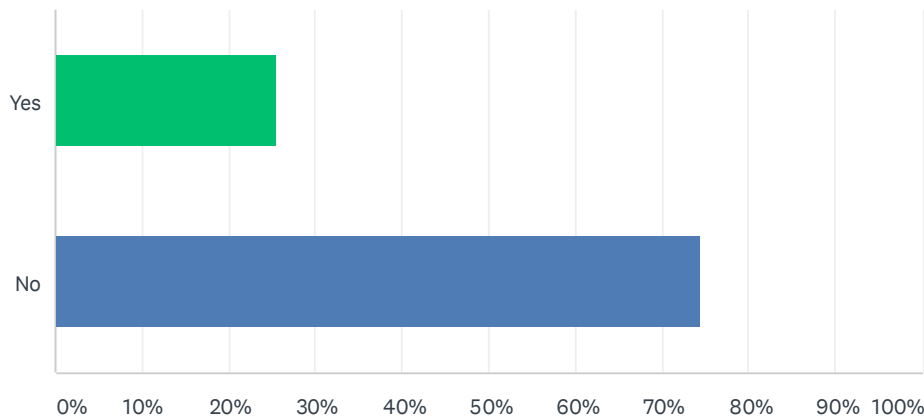


ANSWER CHOICES	RESPONSES	
Yes	44.29%	31
No	55.71%	39
<b>TOTAL</b>		<b>70</b>

#	COMMENTS	DATE
1	is it really used that often? I have never come across such a case but if the tenant really is denying the landlord's title that is a significant issue in the landlord and tenant relationship and there should be the opportunity to end that relationship.	5/7/2021 9:44 AM
2	I have never seen it used in practice, but the principle is sound - that the tenant should not be treating itself as landlord - and should be replaced by a statutory formulation.	5/7/2021 9:44 AM
3	Difficult to understand and apply in practice, and also of rare occurrence	5/7/2021 8:57 AM
4	Undecided.	5/6/2021 7:01 PM
5	Never used in practice anyway	5/4/2021 12:28 PM
6	I don't think I have once had to bring a claim on this	4/21/2021 5:33 PM
7	don't know	4/20/2021 5:31 PM
8	no reason to abolish - although very rarely used	4/20/2021 5:18 PM
9	It works. If it is abolished all that happens it that as a matter of standard procedure the tenant challenges title and this puts the landlord to unnecessary expense. There are still significant areas of land that are unregistered that are involved in property matters. This provision serves a valid purpose and prevents costs being incurred unnecessarily.	4/19/2021 9:46 AM

### Q33 Do you think the county court has the necessary skills to deal with AHA matters?

Answered: 55 Skipped: 22

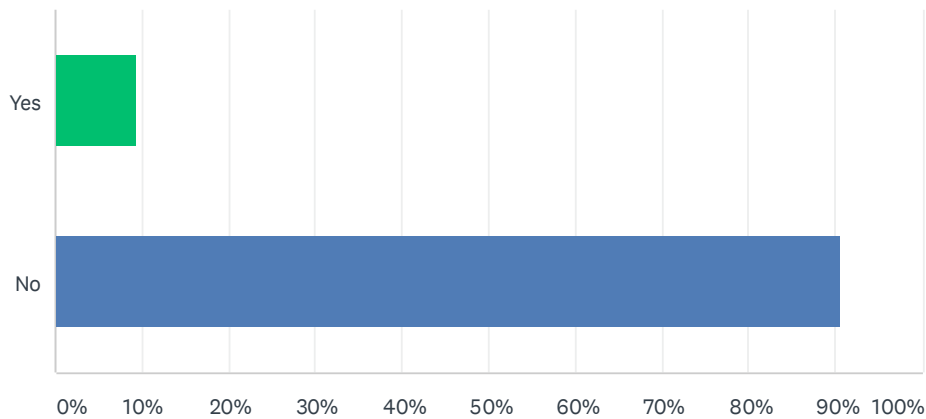


ANSWER CHOICES	RESPONSES	
Yes	25.45%	14
No	74.55%	41
<b>TOTAL</b>		<b>55</b>

#	COMMENTS	DATE
1	Tends to be judges specialising in family, PI or basic L&T	5/7/2021 10:11 AM
2	County Court Judges deal with a range of complex matters, they could have a designated specialist judge to deal with those cases if there was a concern.	5/7/2021 9:44 AM
3	Specialist judges in rural circuits would be good	5/7/2021 9:44 AM
4	No, it requires a specialist judiciary.	5/6/2021 7:01 PM
5	but good luck getting a hearing	5/4/2021 2:18 PM
6	N/A	5/4/2021 11:54 AM
7	There is a specialist tribunal that more than adequately deals with this specialist topic. To expect district judges (many of whom do not deal with property matters in practice) to get to grips with the complexities of agricultural holdings legislation is not fair on them and certainly not fair on the parties.	4/19/2021 9:46 AM

### Q34 Do you think the county court can deal with AHA matters in a timely manner?

Answered: 53 Skipped: 24



ANSWER CHOICES	RESPONSES
Yes	9.43% 5
No	90.57% 48
TOTAL	53

#	COMMENTS	DATE
1	Court process are currently too slow	5/7/2021 10:11 AM
2	We have lost faith in the court dealing with any matter in a timely fashion. Some are turned around quickly, others take months, it is impossible to know when issuing what will happen.	5/7/2021 9:44 AM
3	It generally cannot deal with anything in a timely manner so what would change?	5/6/2021 7:01 PM
4	N/A	5/4/2021 11:54 AM
5	The courts struggle with its existing work load. To expect them to deal with AHA matters in a timely manner is unrealistic	4/19/2021 9:46 AM

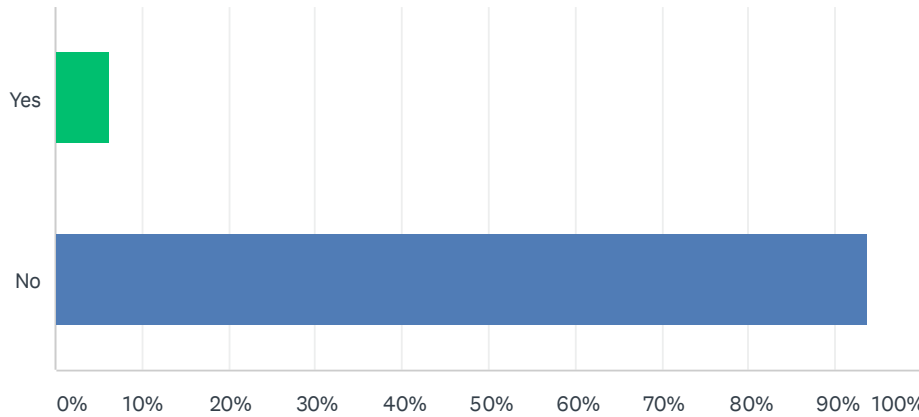
## Q35 Do you have any other observations about the interaction between the AHA and the draft Bill?

Answered: 15 Skipped: 62

#	RESPONSES	DATE
1	Needs to be made less complex	5/7/2021 10:11 AM
2	No	5/7/2021 9:44 AM
3	It should remain a separate regime	5/7/2021 9:40 AM
4	No	5/7/2021 8:33 AM
5	No	5/6/2021 7:01 PM
6	no	5/4/2021 11:47 AM
7	No	5/4/2021 11:44 AM
8	no	5/4/2021 11:39 AM
9	no	4/26/2021 11:31 AM
10	no	4/22/2021 10:57 AM
11	no	4/21/2021 8:19 AM
12	No	4/20/2021 5:47 PM
13	No	4/20/2021 4:40 PM
14	no	4/20/2021 2:52 PM
15	Agricultural tenancies should be expressly excluded from the Bill.	4/19/2021 9:46 AM

**Q36 The draft Bill proposes to amend the deadline date in which the tenant has to remedy any default to 6 months and the landlord cannot start the termination procedure for another 2 months. Effectively a landlord cannot enforce payment of rent for 8 months. Do you think this is an acceptable amendment?**

Answered: 64 Skipped: 13

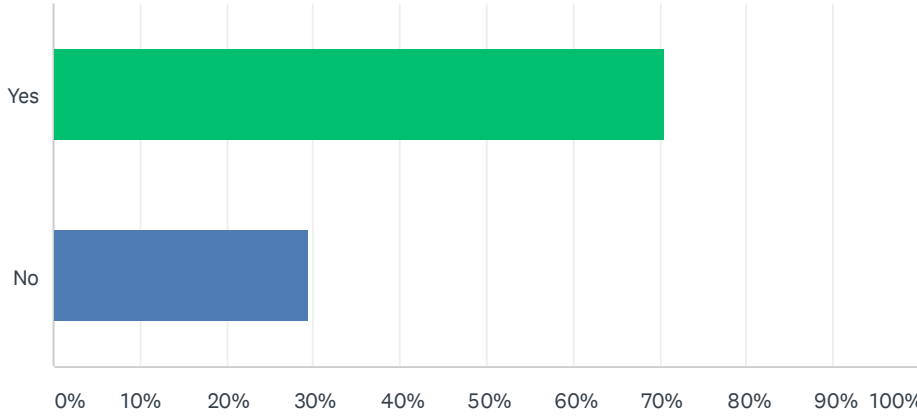


ANSWER CHOICES	RESPONSES	
Yes	6.25%	4
No	93.75%	60
<b>TOTAL</b>		<b>64</b>

#	COMMENTS	DATE
1	Landlords will be forced to consider petitioning for winding up rather than forfeiting and/or seeking judgments in debt claims. This length of delay will make forfeiture an ineffective option for a landlord and therefore effectively diminish a proprietary right	5/7/2021 12:12 PM
2	Far too long	5/7/2021 10:11 AM
3	There should be an obligation for a payment plan to be proposed and acted on in a much shorter time frame. Most tenants can generally afford to pay something but frequently we find that if the tenant cannot afford 100% of the rent they just pay nothing and spiral.	5/7/2021 9:44 AM
4	some defaults can be remedied immediately.	5/7/2021 9:44 AM
5	Some landlords would find this crippling financially. The maximum for rent should be 21 days to match normal forfeiture provisions.	5/6/2021 7:01 PM
6	far too long for a landlord to be left without remedy	5/5/2021 11:49 AM
7	This places an undue burden on landlords	5/4/2021 5:01 PM
8	8 months. Too long.	5/4/2021 1:23 PM
9	absolutely not	4/22/2021 10:20 AM
10	This is an excessive length of time in which to remedy any breach other than extensive repair works	4/21/2021 5:33 PM

### Q37 Do you believe that the Agricultural Tenancies Act 1995 should be exempted from the draft Bill, whether for the same reasons or otherwise?

Answered: 51 Skipped: 26

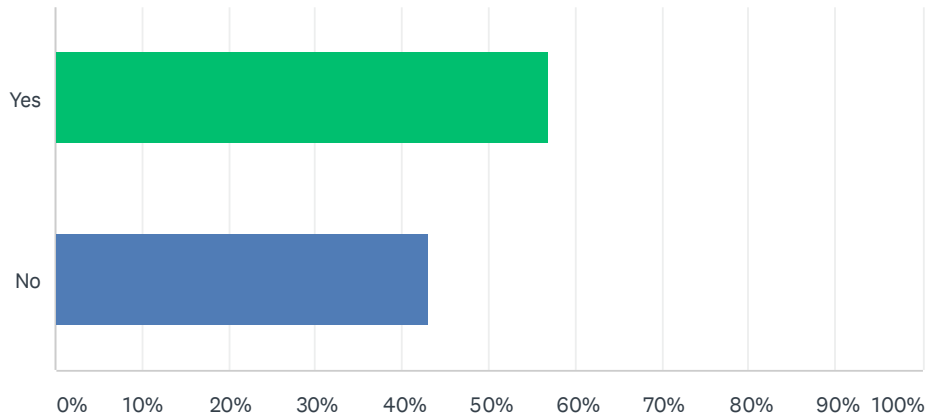


ANSWER CHOICES	RESPONSES	
Yes	70.59%	36
No	29.41%	15
<b>TOTAL</b>		<b>51</b>

#	COMMENTS	DATE
1	No idea.	5/6/2021 7:01 PM
2	n/a	5/4/2021 12:11 PM
3	For the reasons set out above	4/19/2021 9:46 AM

### Q38 The Termination of Tenancies Bill proposes the codification of Relief from Forfeiture. Do you believe that the court's unfettered discretion, following a long line of precedent, to the terms of forfeiture should be codified?

Answered: 72 Skipped: 5



ANSWER CHOICES	RESPONSES	
Yes	56.94%	41
No	43.06%	31
TOTAL		72

#	COMMENTS	DATE
1	This may introduce some predictability into applications for relief but careful thought would be needed in the codification. Forfeiture for an irremediable breach such as insolvency would need to be carefully considered. It would be good if legislation of the courts prevented landlords from using the insolvency ground for forfeiture which is not a breach of a lease	5/7/2021 12:12 PM
2	It would be far easier in cases where there is a potential for default if landlord and tenant knew where they stood, it would probably negate a number of possession actions.	5/7/2021 9:44 AM
3	Discretion is never unfettered. It can be limited at least by reference to a set of principles.	5/7/2021 9:44 AM
4	Discretion under the common law and equity is not a matter for statutory codification in English Law	5/7/2021 8:57 AM
5	Codification is going to be impossible in a situation which is infinitely variable.	5/6/2021 7:01 PM
6	Relief from forfeiture is a complex equitable remedy that requires bespoke attention. To attempt to codify that is an overly simplistic approach and cannot satisfy the bespoke consideration required.	5/4/2021 5:01 PM
7	No, but if it is, it should be to restrict the ability of a tenant to gain relief, which case law has allowed to become almost guaranteed	5/4/2021 11:54 AM
8	Certainty is always preferable	5/2/2021 2:29 PM
9	I can see why this would be helpful	4/22/2021 10:20 AM
10	Relief is very subjective and a difficult area of law on which to advise. Criteria is not black and white and this contributes to uncertainty over when/if relief will be granted.	4/21/2021 5:33 PM
11	Unnecessary legislating where case law is reasonably settled	4/21/2021 9:28 AM
12	no need but if widely drawn will still give the Court a wide discretion	4/20/2021 5:18 PM
13	Unless the same, wide, discretion is preserved	4/20/2021 4:12 PM

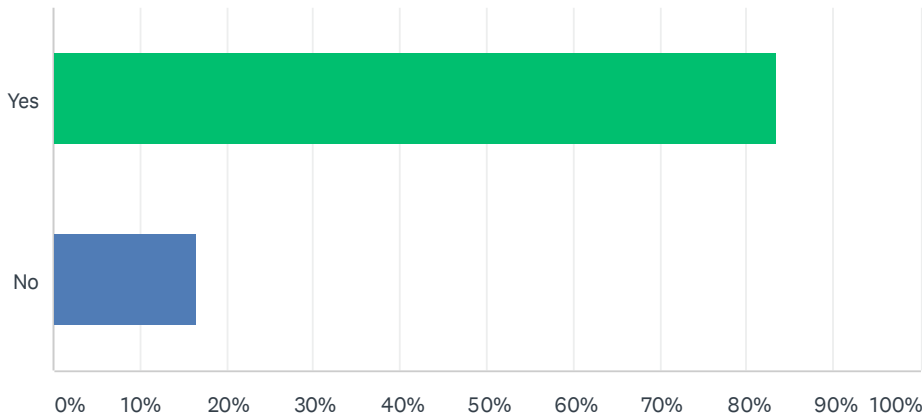
## PLA Survey: Summary Termination Procedure

14	It would certainly be clearer for everyone if there was a single, codified approach which didn't differ depending on the court and the method of forfeiture. It would help tenants avoid hopeless applications and let landlords more readily assess the risks of re-letting after forfeiture.	4/20/2021 3:32 PM
15	The current position is uncertain and makes advising landlord clients on likely outcomes difficult	4/20/2021 2:54 PM
16	L&T legislation is complex and there is a plethora of case law that over the decades has provided certainty. Rewriting the rules will result in much more costly litigation and it will take time for the nuances of the Bill to be interpreted.	4/19/2021 9:46 AM



### Q39 In respect of rent arrears do you think this will encourage parties to discuss breaches with a view to resolution?

Answered: 73 Skipped: 4

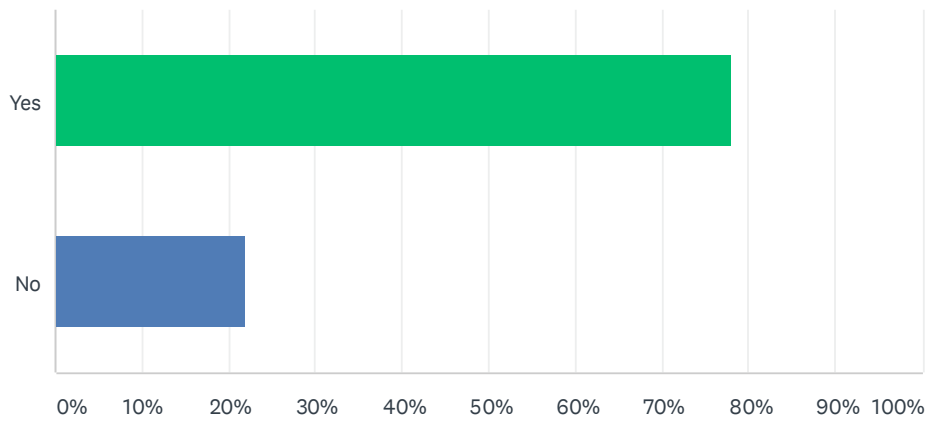


ANSWER CHOICES	RESPONSES
Yes	83.56% 61
No	16.44% 12
TOTAL	73

#	COMMENTS	DATE
1	The 6 months' period is too long and is likely to deter landlords from forfeiting except in extreme circumstances. The concept of waiver could be removed without enforcing the 6 month period and this by itself would enable negotiation.	5/7/2021 12:12 PM
2	waiver is so complex that landlords often feel the best course of action is to break off all communication which of course is a bar to resolution.	5/7/2021 9:44 AM
3	Certainty is key.	5/4/2021 1:23 PM
4	potentially	4/22/2021 10:20 AM
5	yes this could be quite helpful in brokering a resolution	4/21/2021 5:33 PM
6	It would certainly assist landlords in broaching settlement with tenants, unlike the present position but is unlikely to have any bearing upon a tenant's willingness or ability to pay	4/21/2021 9:28 AM
7	Risk of waiver always limits engagement by landlords	4/20/2021 3:04 PM
8	This is a good proposal as it will allow the parties to discuss matters	4/19/2021 9:46 AM

### Q40 In respect of other breaches of covenant do you think this will encourage parties to discuss breaches with a view to resolution?

Answered: 73 Skipped: 4

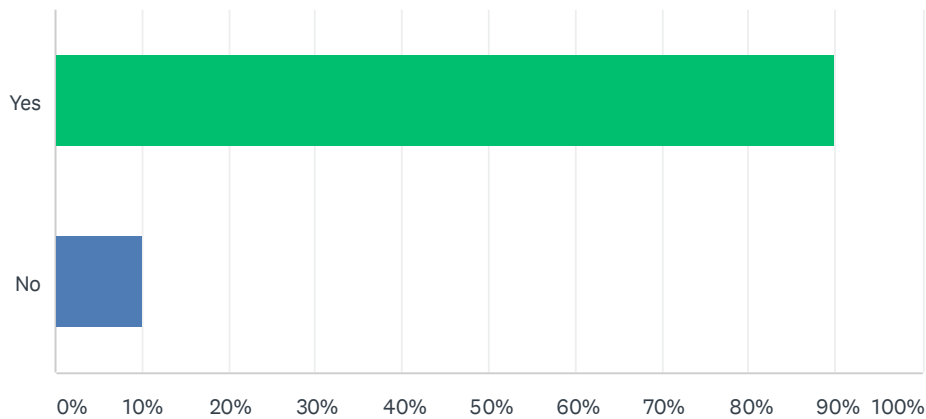


ANSWER CHOICES	RESPONSES
Yes	78.08% 57
No	21.92% 16
TOTAL	73

#	COMMENTS	DATE
1	As per the comment above	5/7/2021 9:44 AM
2	again potentially, or it could just give the tenant more time in the premises	4/22/2021 10:20 AM
3	Yes - Landlord's can't have sensible discussions with their tenants due to concerns over waiver	4/21/2021 5:33 PM

## Q41 If you act predominantly for landlords – do you believe the Doctrine of Waiver should be abolished?

Answered: 69 Skipped: 8



ANSWER CHOICES	RESPONSES	
Yes	89.86%	62
No	10.14%	7
<b>TOTAL</b>		<b>69</b>

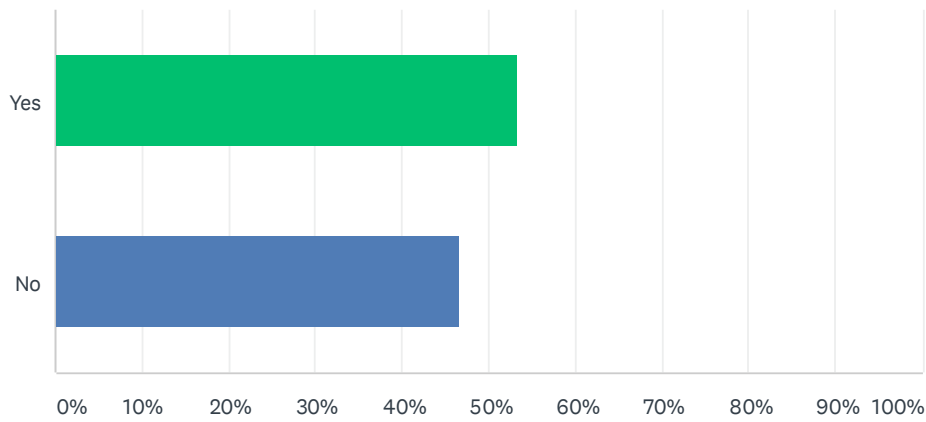
#	GIVE REASONS	DATE
1	Limits opportunity to resolve the dispute	5/7/2021 3:42 PM
2	It provides an addiotnal point for disputes which is often difficult to prove and can lead to considerable argument.	5/7/2021 12:12 PM
3	An unfair trap for landlords and leads to rent being returned that is then not later paid	5/7/2021 10:11 AM
4	It will encourage landlords to have a sensible conversation with tenants and if the tenant can make some payment without risk of waiver it will reduce the level of debts being pursued.	5/7/2021 9:44 AM
5	It has always been difficult to apply in practice - a more certain rule would be a lot better.	5/7/2021 9:44 AM
6	It's uncertain and arbitrary in its effect	5/7/2021 8:57 AM
7	It's an incomprehensible nightmare for landlords and there is no reason to retain it.	5/6/2021 7:01 PM
8	It can happen inadvertently and thereafter affects the landlord's ability to forfeit	5/4/2021 10:57 PM
9	For a landlord to be deprived of remedy having fallen unwarily into a trap is unfair and could deprive a party genuinely in need of that remedy.	5/4/2021 5:01 PM
10	It discourages negotiations and potential settlement/payment plans	5/4/2021 12:28 PM
11	removes uncertainty	5/4/2021 11:37 AM
12	It is a fertile area for argument and therefore cost to the parties.	4/26/2021 10:25 PM
13	it would help with certainty	4/22/2021 10:57 AM
14	the tenant has defaulted so unless the lanlord has given written confirmation this breach is waived, it should not be implied. The landlord is being punished for the inactions of the tenant	4/22/2021 10:20 AM
15	It's archaic and doesn't reflect the commercial reality of today's market	4/21/2021 5:33 PM
16	It is an archaic fetter to sensible commercial discussion, which prevents landlords from dealing with matters pragmatically and at lower cost	4/21/2021 9:28 AM

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17	Unhelpful - would be better to be able to discuss the claim and its merits with the tenant as per usual proceedings	4/20/2021 7:46 PM
18	It prevents sensible discussion around settling disputes - a landlord has n option but to issue a claim in order to protect its position. By the time discussions can take place, the costs may already be prohibitive.	4/20/2021 5:31 PM
19	..better certainty	4/20/2021 5:18 PM
20	Often landlords and managing agents don't properly understand waiver and simply put a rent stop on and try to negotiate anyway. It is not in keeping with the overriding objective - there could however be a limit on what can be discussed and only remedy of the breaches etc?	4/20/2021 3:40 PM
21	It shouldn't be abolished - it's important for tenants to know where they stand. But it should definitely be rationalised.	4/20/2021 3:32 PM
22	It is unreasonably penal - why should a landlord not be able to accept rent whilst asserting tenant breach?	4/20/2021 2:52 PM

### Q42 If you act predominantly for tenants – do you believe the Doctrine of Waiver should be abolished?

Answered: 15 Skipped: 62

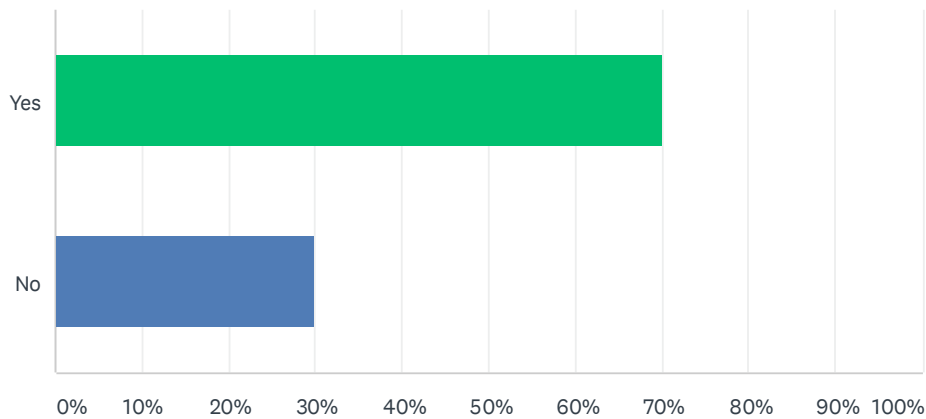


ANSWER CHOICES	RESPONSES
Yes	53.33% 8
No	46.67% 7
TOTAL	15

#	GIVE REASONS	DATE
1	Uncertain argument to run, but have to plead in come cases. Just increases costs.	5/7/2021 10:11 AM
2	Anachronistic feudal nonsense that gets in the way of resolution and settlement.	5/4/2021 11:44 AM
3	provides a defence in light of default	5/4/2021 11:37 AM
4	Clarity	4/21/2021 5:41 PM

### Q43 If you think that there should be a limitation period, in place of the doctrine of waiver is 6 months a reasonable limitation period?

Answered: 70 Skipped: 7

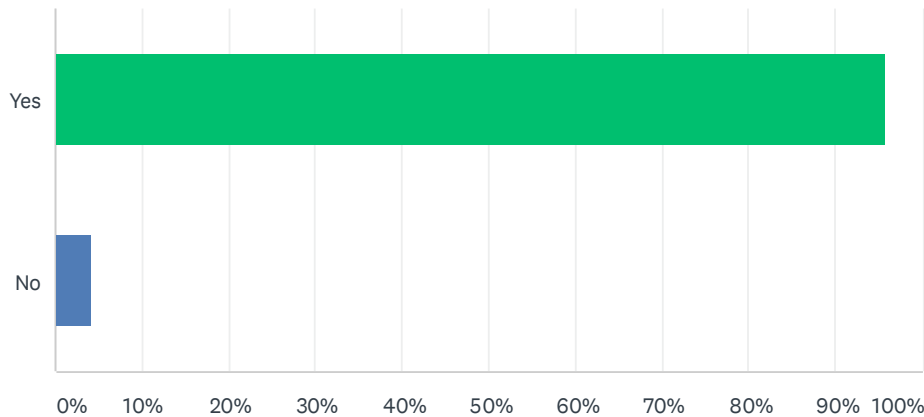


ANSWER CHOICES	RESPONSES	
Yes	70.00%	49
No	30.00%	21
<b>TOTAL</b>		<b>70</b>

#	GIVE REASONS	DATE
1	6 months seems a reasonable limitation	5/7/2021 12:12 PM
2	possibly of extending by agreement?	5/7/2021 11:48 AM
3	Six months might actually be a bit too long but it will give the parties time to talk	5/7/2021 9:44 AM
4	3 months should be enough - stays in court proceedings are typically 2 months and a shorter period of time will focus minds rather than allowing purposeful delay	5/7/2021 9:05 AM
5	Too generous to a defaulting tenant	5/7/2021 8:57 AM
6	The period should be shorter to prompt engagement	5/7/2021 8:20 AM
7	Some breaches will take longer than six months to remedy, especially repairing breaches. This is not a one size fits all situation.	5/6/2021 7:01 PM
8	3 months would be better	5/5/2021 11:49 AM
9	too long - the LL may want to be able to relet and may not through fear of an appln	5/5/2021 11:44 AM
10	possibly 3 quarters is reasonable	5/4/2021 12:11 PM
11	too long. should be 1 month with ability for parties to agree to extend if negotiations going well	4/22/2021 10:20 AM
12	This would give a sensible amount of time for negotiations to take place and establish if a resolution can be reached	4/21/2021 5:33 PM
13	12 months might be fairer particularly in relation to non financial breaches	4/20/2021 5:18 PM
14	Unless it is knowledge triggered	4/20/2021 4:12 PM
15	It is too long - the point of waiver is to protect a tenant from being 'punished' for a breach some time ago. It should be no more than 5 months for rent arrears (to keep within 2 quarters) but 6 months is probably fine for non-rent breaches	4/20/2021 3:40 PM
16	12 months would be more reasonable	4/19/2021 9:46 AM

### Q44 Do you think the abolition of peaceable re-entry and the introduction of the processes set out in the Termination of Tenancies Bill will increase the burden on the courts?

Answered: 73 Skipped: 4

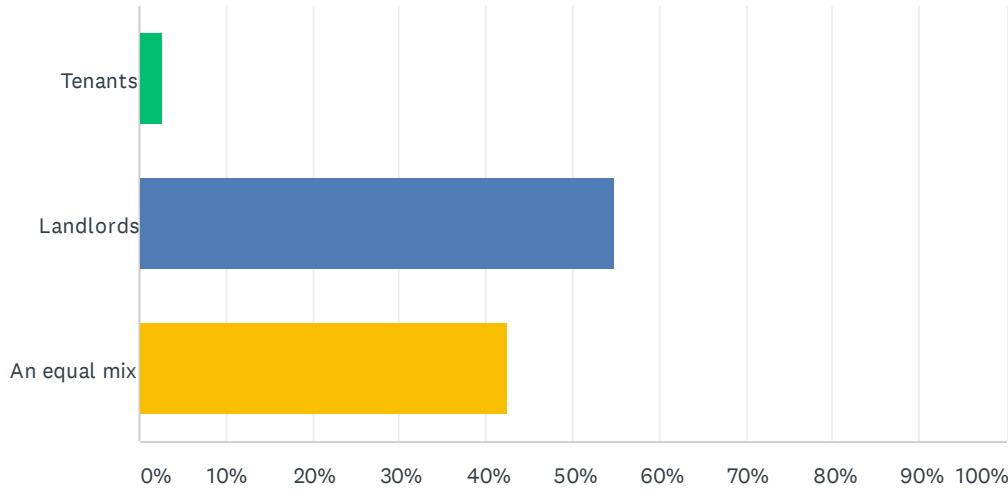


ANSWER CHOICES	RESPONSES
Yes	95.89% 70
No	4.11% 3
TOTAL	73

#	COMMENTS	DATE
1	It inevitably will because court action will become the only means of forfeiture. It will probably reduce the occurrence for forfeiture but not so much as to remove the burden of work. i	5/7/2021 12:12 PM
2	it has to as the bulk of commercial forfeiture in my experience is re entry.	5/7/2021 9:44 AM
3	MUch forfeiture work is done without court interfercne, and id effective. It would be a major burden on the industry as well as the courts for forfeiture to have to go to court	5/7/2021 8:57 AM
4	Peaceable re-entry is a widely used remedy. If abolished, it will naturally increase the number of referrals to court.	5/4/2021 5:01 PM
5	Hard to tell	4/21/2021 5:41 PM
6	In simple cases, it is the most cost effective way of terminating or forcing a tenant to seek relief, which will prompt payment of the rent	4/21/2021 9:28 AM
7	Most forfeiture never reaches the court	4/20/2021 7:46 PM
8	massivley - at a time where the Courts are underfunded and under performing	4/20/2021 5:18 PM
9	Undoubtedly.	4/20/2021 3:32 PM
10	Without doubt the Bill, if made law without amendment, will substantially increase the administrative and cost burden on the courts.	4/19/2021 9:46 AM

### Q45 Do you act mostly for:

Answered: 73 Skipped: 4



ANSWER CHOICES	RESPONSES	
Tenants	2.74%	2
Landlords	54.79%	40
An equal mix	42.47%	31
<b>TOTAL</b>		<b>73</b>