

Immigration Bill Briefing: Removing clauses 15-32 'Residential Tenancies'

Background

This briefing is concerned with clauses 15-32 of the Immigration Bill, which require private landlords to check the immigration status of their tenants or prospective tenants. It prevents them from letting their property to non-EEA nationals without the necessary form of leave to enter or remain in the United Kingdom.

This requirement is unworkable and should be scrapped. It will simply restrict access to good quality accommodation from people with every right to rent a home in this country. It will make an already difficult, expensive, and over-heated rental market even worse for people whose options are extremely limited. The loss of an Assured Shorthold Tenancy is already the leading cause of homelessness. Anything that makes the private rented sector even harder to access is very concerning.

Summary

- **The private rented sector is under immense pressure.** Demand is growing rapidly in response to the shortage of affordable rented homes and the high cost of buying a home. Rents are now unaffordable to people on average incomes in half the country. In this overheated market prospective renters can face intense competition to secure a home in their price range.
- **Landlords in a position to choose between tenants are likely to choose the tenant who they believe is less risky.** A wide range of research already shows how groups perceived as 'risky' find it significantly more difficult to find a private rented home.
- **This requirement will exacerbate existing discrimination.** The added difficulties of verifying less familiar pieces of documentation and the risk of penalties to landlords will make it harder for many people in vulnerable situations to secure a decent, safe private rented home.
- **The Bill has not taken account of the impact this will have on people already in housing need.** They are still likely to be excluded from the mainstream private rental market, potentially increasing homelessness- particularly among BME households. In 2012 24 percent of households accepted as homeless in England were non-white. This is compared to 14.5 per cent of the total population.

The private rented sector is under immense pressure

The private rented sector is a market under immense pressure. Demand is growing rapidly in response to the shortage of affordable rented homes and the high cost of buying a home. Loss of an Assured Shorthold Tenancy is now a leading cause of homelessness: nearly three in ten (26 per cent) households accepted as homeless between July and September 2013 lost their home because their landlord simply decided to stop letting it to them¹.

There are now more than 1.3 million families with children renting privately. With local authorities having more power to place homeless households in the private rented sector, the changing shape of renting affects people from all walks of life.

The number of people chasing each property in high demand areas means that it is very easy for landlords or letting agents to choose their preferred tenants. Landlords are rationally concerned with ensuring a secure income stream. They will seek to avoid tenants who they think will delay the process of filling a vacant property.

¹ [DCLG 2013, Live tables on homelessness.](#)

Landlords already avoid renting to groups they perceive as higher risk

This overheated market creates incentives for landlords to choose the 'easiest' tenants. A wide range of research already shows how groups perceived as 'risky' find it significantly more difficult to find a private rented home.

- Only 27 per cent of landlords are willing to let to people on welfare benefits. This is a reduction of five per cent on the previous year; the perceived risk of letting to people on benefits has increased as Universal Credit approaches.²
- Interim findings from the Shelter and Crisis managed, Big Lottery funded, longitudinal research into the experiences of previously homeless private renters show that many of these renters feel stuck in their homes due to other landlords not being willing to accept them.
- Racial discrimination in accessing rental accommodation already happens. A recent investigation carried out by the BBC showed that Letting agents in London are prepared to discriminate against would-be tenants on the grounds of race.³

Given that landlords already have a huge amount of choice over which prospective tenants they let to, the proposed regulations are likely to exacerbate this as landlords will choose only to let to those who they perceive as safe and who will not expose them to the risk of a void period or a fine.

This requirement will exacerbate existing discrimination

The changes pose two financial risks to landlords, which could have an impact on their behaviour:

- i. If they find that they have let to people who do not have the right to be in the country, they could face a fine of up to £3000.
- i. If they pursue a letting and it transpires that the prospective tenant doesn't have an acceptable immigration status, the letting could fall through before it starts. This puts landlords at risk of a longer void period between tenancies, which could mean weeks or months without rent payments covering the mortgage.

If there is extra 'hassle' or a time delay involved in accepting someone with less familiar documentation, the landlord or letting agent is likely to choose the tenant with the most familiar documentation. Even where the landlord is willing to make checks with the Home Office any delay in receiving confirmation that the immigration status is appropriate could lead to them choosing to rent to another party.

Although the Bill provides a comprehensive list of accepted documentation this will not entirely prevent landlords from discriminating against perceived 'high risk' tenants. Many of those in housing-need will still struggle to provide this documentation. To avoid the extra resource burden, rather than checking against the longer list we believe landlords will be inclined to pick the 'easiest' tenants. Therefore, these requirements may simply increase discrimination.

We do not believe that the Bill's proposed 'Code of Practice' will be enough to mitigate against this potential for discrimination. Enforcement will rely upon tenants reporting suspected cases of discrimination. In an overheated rental market many tenants will be unwilling to 'rock the boat'. Rather than going through lengthy complaint procedures they will move on swiftly to the next available option. We already see this happening across the sector. Renters desperate for a home are often unaware of their rights. Or they do not feel powerful enough to enforce them.

² National Landlords Association 2013, Press Release, 30 July 2013, "Landlords exit Local Housing Allowance market": <http://www.landlords.org.uk/news-campaigns/news/landlords-exit-local-housing-allowance-market>.

³ BBC News, 2013, Web Page 14th October 2012, "London letting agents 'refuse black tenants'": <http://www.bbc.co.uk/news/uk-england-london-24372509>.

The Bill will affect people who are in housing need

The hassle of verifying less familiar pieces of documentation, and the risk of penalties to landlords, will make it harder for people in vulnerable situations to secure a decent, safe private rented home.

Many homeless people simply do not have documents such as a passport or birth certificate. They often get lost or stolen during periods of moving around or when sleeping rough or living in insecure accommodation. Sustain, a longitudinal study being carried out by Crisis and Shelter looking at the experiences of homeless people placed in the PRS, has found that a lack of ID is already a major barrier to accessing services and benefits.

Other groups in housing need may also struggle to access the required identity documents. Women fleeing domestic violence for instance will often leave their home without any possessions and could struggle to retrieve them from an abusive partner. People leaving prison may also have limited documents to prove their identity. Given the strong links between stable housing and reduced reoffending it should not be made any more difficult for ex-offenders to secure private rented housing.

It is already challenging for housing advisers to find properties and willing landlords to house people who have been homeless. Many landlords are reluctant to let to people on benefits or are prevented from doing so by their mortgage conditions. Low Local Housing Allowance rates mean that there is often very little accommodation that is affordable to benefit recipients. These proposals will place new barriers in the way of people breaking out of homelessness.

The most vulnerable households will simply be pushed to the bottom end of the market. Many landlords are responsible and professional. However, Shelter and Crisis also see a minority of wilful rogue landlords, who are already aware they are breaking the law but find loopholes and ways to avoid enforcement to continue their practice.⁴

Some of the scenarios where people could find it even harder to find decent accommodation include:

- **A 19 year old thrown out by abusive parents, who doesn't have access to their documentation.**
- **A BME adult, born in the UK, whose parents migrated to the UK 40 years ago with a 'foreign sounding' first and last name, but a British passport.** While they may have identity proving their right to live in the country, they may be less likely to be selected by a landlord or letting agent if there is another renter with a more 'British sounding' name with similar financial circumstances pursuing that property.
- **A person with a lesser known EEA passport.** Landlords or letting agents may not be familiar with full membership of the European Economic Area, and may prefer to rent the home to a person whose nationality they are more certain has the right to live and work in the UK.
- **A household with a legitimate right to live in the UK, but an unfamiliar status, e.g. 'limited leave to remain'.** In this case, a landlord or letting agent may find the hassle factor of verifying this status too off-putting, and so may prefer to rent with a tenant with a more simple status.

For more information please contact

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19th February 2014

⁴ Shelter 2011, Asserting authority: Calling time on rogue landlords.