

Shelter Briefing: Steps the Government must take to protect private rented sector (PRS) renters.

The Government today announced a further extension of four weeks to the ban on evictions which has been in place since March due to the Covid pandemic, alongside six-month notice periods. This extra time must be used to make the changes necessary to protect thousands of renters from eviction when the suspension does come to an end.

As we transition from the immediate public health crisis and risk a new economic crisis, the implications for those not in stable housing must be considered and the worst effects of rent arrears accrued during lockdown mitigated. Action from government now to protect private renters will avoid incurring the costs, both social and financial, of rising levels of homelessness over winter.

Legislation / Financial Assistance

Private renting was already insecure, and renters have been hard-hit by the broader economic impact of Covid. Often working in lower-paid, insecure jobs, as of June at least 230,000 private renters had fallen into arrears since the start of the pandemic. This means the total number of private renters in arrears has at least doubled in under six months.

As a result of a loss of income, a wait for benefit payments, or ineligibility to claim, many renters are now at risk of eviction and potential homelessness as a result of their Covid-arrears.

Many of these renters will have suffered a short-term financial shock, and now, or soon, be in a position where they are receiving benefits or have returned to work. However, the current housing system has nothing in place to help those who have fallen into debt because of the pandemic. Renters in arrears are very vulnerable to eviction whatever the reason for those arrears – 8 weeks of arrears are a mandatory ground for eviction, and in fact they could lose their home for no reason at all with Section 21 ‘no fault’ evictions which are also mandatory. As such, there are no protections in place to help people to stay in their homes and stabilise after the initial financial shock during lockdown. Protections are needed and could be achieved through small changes to legislation and through a financial assistance package.

Legislation

Existing legislation could be amended to grant judges discretion to consider the impact of Covid when hearing possession claims. The new court rules designed to mitigate the impact of Covid are inadequate for doing this as the working group who advised the Master of the Rolls have been clear; court rules cannot overrule housing law, and judges are currently unable to stop an eviction even when a tenant could financially recover, so long as their landlord has provided information about their circumstances. Both Section 8 Ground 8, and Section 21 of the Housing Act must be amended as soon as Parliament returns from recess. This would prevent automatic evictions where renters could have found the means to establish repayment plans or cover the rent going forwards.

Section 8

Under Section 8 of the Housing Act 1988, landlords must give a specific, defined reason as to why they are seeking possession. Under Ground 8, Section 8, if a tenant has eight weeks of rent arrears when a notice is served and at the point of a hearing, the judge must grant a possession order and cannot consider any delays to benefit payments or health conditions that have led to arrears accruing.

For the government to meet its objective of ensuring that no one who has lost income due to coronavirus is forced out of their home, government must disapply ground 8 to ensure that judges can decide whether coronavirus has had an impact on the tenant's ability to pay rent.

Without giving judges discretion to decide whether a landlord has been reasonable in negotiating a fair repayment plan with the tenant, tenants will be evicted because of arrears they have accrued because of coronavirus, due to loss of income, benefit shortfalls or delays in welfare payment.

Section 21

In April 2019, government announced its intention to scrap Section 21 'no-fault' evictions and later announced a proposed Renters' Reform Bill. While it is understandable that the Bill will be delayed due to the pandemic, it is essential that government follows through to give private renters the security they need so that no-one is evicted for no reason.

Abolishing Section 21 now would not, however, protect current private renters. It is therefore essential that government considers how it can protect those who are already renting privately by amending Section 21 of the Housing Act 1988.

This would prevent judges from being forced to grant a possession order where it is unjust to do so due to coronavirus. For example, if a tenant had been served with a Section 21 'no-fault' notice because they had accrued arrears following a job loss, and the landlord had not offered a reasonable repayment plan, a judge could refuse to grant a possession order.

While this changes the fundamental nature of Section 21, it is already government's intention to abolish no-fault evictions. It has long been accepted that the relationship between landlord and tenant must be rebalanced; amending Section 21 in light of the pandemic would give judges the power to do so.

Financial Assistance

To ensure that those who can afford their rent in the long-term are not saddled with debt that threatens their tenancy, government should introduce a package of financial assistance to clear Covid rent arrears. Even if legislation is not achieved, a package of financial assistance will still go some way to prevent unnecessary Covid-evictions from the private rented sector over the next few months. We have developed proposals as part of a cross-sector group comprised of landlord, tenant and letting agent groups calling for the following:

- For those tenants in receipt of benefits, or who would otherwise be eligible for benefits but have no recourse to public funds, support should take the form of a dedicated grant. This could be administered by local authorities, using a mechanism like the Discretionary Housing Payment, but it must be designed so that it gets to those that need emergency funding now to pay off their arrears.
- Further funds could be made available through an additional cash injection into local welfare assistance schemes, building on the £63 million the Government committed in June 2020.
- For other tenants, such as those who have been furloughed and are struggling to pay their rent now but will be able to pay in the future, support should take the form of a Government-backed, interest-free loan. This could be administered by a third party such as a credit union or a bank or building society.