

Time for reform:

How our neighbours with mature private renting markets guarantee stability for renters

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1. INTRODUCTION - A MARKET IN NEED OF REFORM

Over the last decade, private renting in England has changed beyond recognition. At one time seen as a stopgap for students and transient labour, today the private rented sector is home to millions of working people on low to middle incomes, older people and families raising children. Theresa May has spoken a number of times about helping struggling, working class families since becoming prime minister. Increasingly, they now live in private rented homes.

This transformation has been rapid. The number of people private renting has doubled in ten years. A quarter of all families with kids in England today live in a private rented home, while a decade earlier it was only one in ten.¹ This trend also looks set to continue. Even with serious government intervention to increase home ownership, the private rented sector is likely to continue to provide family housing well into the future.

But despite this transformation in who rents, the renting market hasn't kept pace with the change in its consumers. The families with children and older people who rent today value long term stability and want a place they can put down roots.² They can't afford to lock themselves into an agreement it would be expensive to escape if their circumstances change, but they need real certainty in order to plan for the long term.

The market has failed to provide this long term, stable renting. Even with determined government action to nudge landlords towards offering longer contracts, the overwhelming majority of tenants are on short term six or twelve month contracts and only able to plan up to a year ahead. As a result, many families worry that they are going to lose their current home – 43%

of renting families with children say this applies to them.³

A lack of security also makes many private renters feel like control over their lives is out of their hands. In talking about those struggling, working class families, the new prime minister said that giving them more 'control over their lives' would be the central mission of her government. A staggering 7 in 10 private renters say having a longer tenancy would do this.⁴

Why is the market failing to change to meet the needs of its current consumers? It isn't because the idea is an anathema to suppliers: private landlords. There will always be times landlords need to be able to regain possession of their property, for example when the rent isn't being paid. But around a third of landlords say that if they could get back possession in these circumstances, they would be willing to offer a tenancy with more long term security, which the tenant could also end early with notice. Roughly another third are open to the idea, and say they would be prepared to offer these tenancies if they saw them working in practice.⁵

It's the structure of the current rental market that acts as the main barrier to it catching up with the needs of today's

1. All statistics taken from English Housing Survey 2014-15: private rented sector report, annex table 1.2

2. For example, for tenants between 45 and 54 being able to stay in a home for long term is more important than its location, condition, size, the neighbourhood that it's in or its proximity to their family and friends. YouGov for Shelter, base: English private renters 45-54: 591. Survey conducted between 22nd June and 13th July 2015

3. YouGov for Shelter; base: 784 private renters with children in household, England, July 2015, online, weighted.

4. Results are based on a YouGov survey of 3262 private renters in England, aged 18+, September 2016, online, weighted to fit profile of England's private rented sector. Excludes don't knows

5. YouGov for Shelter, base: English landlords: 1006. Survey conducted between 22nd June and 13th July 2015

renters. And this is because our regulation works by setting a minimal baseline for security then relying on tenants to try to

negotiate-up any additional security that they need (see box).

Security from eviction in England

The overwhelming majority of private renters in England today have an Assured Shorthold Tenancy (AST).⁶ This tenancy was introduced in the Housing Act 1988 and gives tenants very limited protection from eviction because it allows landlords to evict tenants both with grounds (i.e. for a legal reason) and without grounds (i.e. for no legal reason).

Eviction with grounds

Landlords will always need to be able to regain possession of their property in particular circumstances, for example where their tenant isn't paying the rent.

Section 8 of the Housing Act 1988 gives them the power to do this at any time where they are able to demonstrate that they have one of a list of prescribed legal grounds for eviction. These include rent arrears, anti-social behaviour, death of the tenant, the landlord needing to reoccupy the property as their main home, etc.

Eviction without grounds

Landlords in England are also able to evict assured shorthold tenants without grounds. This means that a landlord does not need to demonstrate any legal reason for eviction at all, only to give the right notice. As such, an eviction without grounds is sometimes called a 'no-fault' eviction.

Landlords are restricted from regaining possession through a no-fault eviction within the first six months of a new tenancy. This means that English assured shorthold tenants only have a minimum of six months' legal protection from eviction for any reason or none, making their accommodation fundamentally insecure.

Security against eviction without grounds – fixed term contracts

English landlords and tenants are able to privately agree longer, fixed-term tenancies within which the tenant can only be evicted with grounds. Many do this. Almost half of English tenants initially rent their home on a 12 month fixed-term contract.⁷

However, these contracts also typically lock the tenant into the tenancy for a longer period and can be inflexible. While a tenant only has to give one month's notice to end a tenancy if they do not have a fixed-term contract (sometimes called having a 'statutory periodic' or 'rolling' tenancy), it can be much harder to leave a fixed-term contract before it comes to term. Consequently, it is impractical for most tenants to agree fixed-term contracts that are much longer than 12 months given uncertainty about their future employment, family size, etc.

6. Over 80% - English Housing Survey 2014/15, Private Rented Sector Annex Table 3.1

7. 47.8% - English Housing Survey 2014/15, Private Rented Sector Annex Table 3.2

Most private renters are not in any market position to take on this role of tough commercial negotiator, especially if they are working, earning a modest income and living in an area with few homes inside their budget.

As a result, even though most renters want more security most have not asked for a more secure tenancy. The reasons for this indicate their fundamentally weak negotiating power. Tenants say they are worried about 'seeming difficult'. 15% say they are worried about being locked into a tenancy that they can't get out of, suggesting they don't feel they will be able to negotiate a good break clause for themselves. More than a quarter don't even know they're allowed to ask for more security.⁸

Even if more renters could be encouraged to ask for a longer tenancy, the experience of those who have tried to negotiate more security show the fundamental weakness of their bargaining position. Half of those who have asked for a tenancy of any longer than just 12 months have never got one, let alone those who have asked for three, five years or more. Worse, families with children who ask for more security appear even more unlikely to get more secure private tenancies.⁹

What we can learn from other mature renting markets

To correct this failure at the heart of England's current renting market, we can learn from other rental markets that have managed to thrive and give renters the security they need.

Many of our nearest neighbours have vibrant and mature private rented sectors that balance the needs of landlords and tenants and where it has long been normal for working class people to bring up children and grow old renting. They remain the most directly comparable examples of alternative renting markets we have.

Previous comparative studies have shown that our neighbours have accommodated

the different needs of these older private renters and renting families by giving them more security as a legal minimum. But studies have tended to select particular examples, like Germany and the Netherlands.¹⁰

While these are useful for giving a flavour of how other countries' systems can work, they have not given a complete picture of whether mature renting markets rely on moderate market intervention to meet their consumers' needs. There has been an obvious gap in the research: a comprehensive comparison of all our neighbouring countries' laws on tenancy length and rent predictability. This study fills that gap.

It reviews four aspects of tenancy law in 32 European countries:

- The minimum period within which the tenant is protected from eviction without grounds
- The grounds on which tenants can be evicted (such as rent arrears)
- The tenants' power to end the tenancy before the end of the minimum term
- The restrictions on rent increases within the minimum term

The research shows that government intervention is used to correct the free market's natural failure to provide secure renting in all of the biggest and most mature private rented markets in our neighbouring countries. They do this by giving more security to private tenants as a legal minimum.

This study shows this kind of moderate intervention isn't a threat to the supply. Indeed, it's the bedrock of the overwhelming majority of the private rented market across Europe. This not only applies to tenants living in Germany, the Netherlands or Sweden, but also in less affluent economies like Poland, Slovakia and Greece. More than 80 million renters across the countries studied rent in markets where more than a year's minimum security from eviction without grounds is the legal norm. This compares

8. All results are based on a YouGov survey of 3262 private renters in England, aged 18+, September 2016, online, weighted

9. Ibid.

10. For example see Rent stabilisation: Principles and international experience, Kath Scanlon & Christine Whitehead, 2014

to only 7 million outside the UK that, like us, get less than a year as a minimum.¹¹

And this is increasingly being recognised by England's very closest neighbours. For example, Irish renters have enjoyed more security following reform just over a decade ago and following a change in the law in Scotland earlier this year, private renters there will also soon enjoy much greater security too.

The experiences of our neighbours show that the current government has a profound opportunity. Further action will still be needed to meet renters' aspirations to buy. But with reform the private rented sector has the potential to do so much more to help renters live the lives they want to lead, while continuing to thrive as a market. It's time to recognise that renters will never be able to negotiate more security without the government's backing. It's time to intervene and correct the market failures that leave so many renters worried about losing their home and feeling like they don't control their lives. It's time for reform.

Our special thanks go to the global law firm Freshfields Bruckhaus Deringer who completed the review on minimum tenancy terms for Shelter on a pro bono basis.

11. Shelter's analysis of Freshfields' legal review; tenant numbers estimated from Eurostat 2014 Housing Statistics. Proportions of population in private rented sector taken from Eurostat Distribution by Tenure Status, Type of Household and Income data series, using % 'Tenant - market price'. All proportions then multiplied by Eurostat population estimates for 1st January 2014. 2014 figures used as most recent full dataset. Therefore, Scotland included in UK figures as having 6 months' security. Liechtenstein excluded due to no data entry in Eurostat tenure estimates.

Protection from eviction without grounds

As a minimum in law, how long do tenants tend to be protected from eviction for no reason?

OVER A YEAR

UNDER A YEAR

The map displays the following data points for each country:

- Iceland: 3-6 MONTHS
- Denmark: 0-3 MONTHS
- Finland: NO MIN.
- Sweden: PERMANENT
- Norway: PERMANENT
- Poland: PERMANENT
- Czechia: PERMANENT
- Slovakia: PERMANENT
- Hungary: PERMANENT
- Austria: PERMANENT
- Germany: PERMANENT
- France: PERMANENT
- Belgium: PERMANENT
- Netherlands: PERMANENT
- Luxembourg: PERMANENT
- Switzerland: PERMANENT
- Italy: PERMANENT
- Spain: PERMANENT
- Portugal: PERMANENT
- Greece: PERMANENT
- Turkey: PERMANENT
- Bulgaria: PERMANENT
- Romania: PERMANENT
- Serbia: PERMANENT
- Croatia: PERMANENT
- Slovenia: PERMANENT
- Latvia: PERMANENT
- Lithuania: PERMANENT
- Poland: PERMANENT
- Czechia: PERMANENT
- Slovakia: PERMANENT
- Hungary: PERMANENT
- Austria: PERMANENT
- Germany: PERMANENT
- France: PERMANENT
- Belgium: PERMANENT
- Netherlands: PERMANENT
- Luxembourg: PERMANENT
- Switzerland: PERMANENT
- Italy: PERMANENT
- Spain: PERMANENT
- Portugal: PERMANENT
- Greece: PERMANENT
- Turkey: PERMANENT
- Bulgaria: PERMANENT
- Romania: PERMANENT
- Serbia: PERMANENT
- Croatia: PERMANENT
- Slovenia: PERMANENT
- Latvia: PERMANENT
- Lithuania: PERMANENT

Source: Shelter analysis of Freshfields research, result for Scotland relates to new tenancies from 2017

- ## Time for reform

10% of the population privately rent; in many of these the private rented sector houses under 5% of the population. For example, in Romania where there is no minimum period of protection from eviction for no reason, only 0.7% of the population rents privately.

▪ **As a result, while over 80 million tenants across Europe have stronger protection than they would get in England, only 7 million European tenants have comparably poor protection.** As 11 million people in England privately rent, more renters with poor protection from eviction live in this country than in the rest of Europe combined.

Figure 2: cartogram comparison of the number of European renters with different levels of protection from eviction without grounds (each hexagon indicates 200,000 renters)

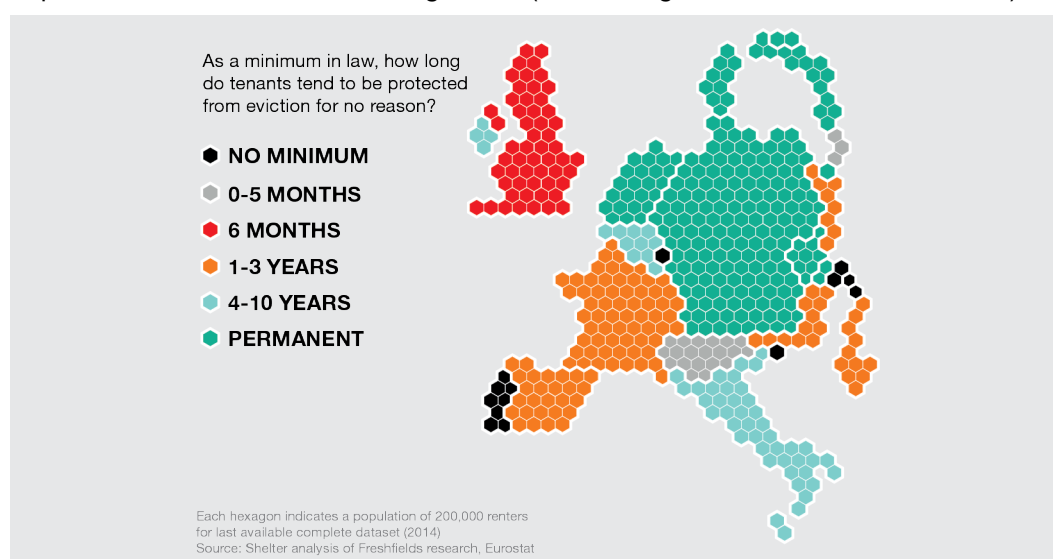
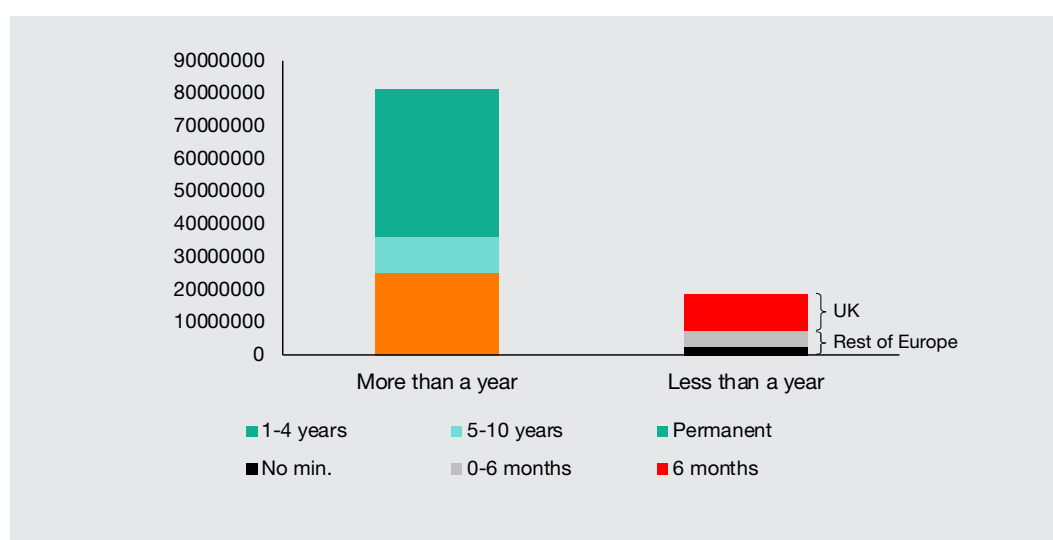


Figure 3: comparison of the number of European renters with more or less than a year's protection from eviction without grounds¹²



12. Ibid.

- Only two countries (Switzerland and Luxembourg) have a higher proportion of their population living in the private rented sector than England, while also having comparably poor protection from eviction without grounds in law.
- However, even where the legal minimum period is comparable to England's, the detail reveals additional government intervention:
 - In Switzerland, renters are able to request an extension to their tenancy of up to four years if their eviction would result in unjustifiable hardship
 - In Portugal, although there is no minimum tenancy length required by law, by default – if no other period is included in the tenancy agreement – it is two years

Flexibility to leave a tenancy

- In countries where private renters are given greater security of tenure, tenants can generally bring their tenancy to an end early if they give proper notice. However, the notice period is usually longer than the one month currently required for rolling month-to-month (statutory periodic) tenancies in England. In the majority of jurisdictions where tenants are protected from no-fault eviction for more than a year, they are required to give three months' notice to end their tenancy.
- In all countries, tenants and landlords are able to bring the tenancy to end more quickly on particular grounds. For tenants this includes grounds such as the landlord breaching the contract or the property being uninhabitable. For landlords grounds include rent arrears.

Table 1: tenants' flexibility to end a tenancy in countries where tenants get more security from eviction without grounds than in England¹³

Country	Tenant can end tenancy...
Austria	With 3 months' notice, after a year
Belgium	With 3 months' notice (and compensation in the first 3 years)
Czech Republic	With 3 months' notice
Denmark	With 3 months' notice
France	With 3 months' notice
Germany	With 3 months' notice
Greece	Only with agreement of the landlord
Ireland	With notice, which varies depending on how long the tenant has occupied the property
Italy	Only with agreement of the landlord
Latvia	With 1 months' notice
Lithuania	With 1 months' notice
Netherlands	With 1-3 months' notice
Norway	With 3 months' notice
Poland	With up to 3 months' notice
Slovakia	With 1 months' notice
Spain	With 1 month's notice, after 6 months (and potential one month compensation)
Sweden	With 3 months' notice

13. Shelter's analysis of Freshfields' legal review

- **In countries where private renters are given greater security of tenure, there is also typically some limit on the amount that the landlord is able to increase the rent during the period of the tenancy.** These limits do not mean that the government is trying to control market rents. They are typically there to prevent landlords from de facto ending the tenancy by raising rents dramatically over night.

- France), or two of the three (e.g. Germany). Some countries (e.g. Latvia) allow increases only by mutual agreement. Some have a mechanism for judicial intervention where no agreement can be reached on a rent increase (e.g. Sweden). Only one country (Austria) has a limit that places an absolute restriction on the amount that can be charged for a given property in a given area, which could be characterised as a rent cap.
- Therefore, while most countries do not seek to control general market rent levels by regulating rents, they do give renters more certainty about future rents within the period of their tenancy, and protect them from being intentionally evicted through an above-market rent hike.

[illegible]

Table 2: limits on rent increases within a tenancy, in countries where tenants get more security from eviction without grounds than in England¹⁴

Country	Limit on the amount that rent can be increased within a tenancy
Austria	Maximum rent for a particular property in an area is fixed
Belgium	Increases limited by indexation (except in exceptional circumstances)
Czech Republic	Rent may not exceed local market levels. Limit of 20% increase over 3 years
Denmark	In response to increase in costs or where landlord has reserved right to do so
France	Increases limited by indexation
Germany	Rent may not exceed local market levels. Limit of 15%-20% increase over 3 years
Greece	Increases cannot be 'excessive'
Ireland	Rent may not exceed local market levels
Italy	Increases limited by indexation in line with inflation
Latvia	Increases limited by mutual agreement
Lithuania	Increases limited by mutual agreement
Netherlands	Increases limited by indexation for regulated rents; unreasonable to charge a rent with a major difference to comparable homes for liberalised rents ¹⁵
Norway	Increases limited by indexation for 2.5 years, after which can be increased to market levels
Poland	Maximum of 3% increase per year except in justified cases
Slovakia	Increases possible certain circumstances, by mutual agreement
Spain	Increases must be agreed at the outset of the tenancy
Sweden	Increases limited by mutual agreement or up to a level the court considers reasonable

14. Shelter's analysis of Freshfields' legal review

15. Data on the Netherlands incomplete and here taken from My Rights as a Tenant in Europe, Christoph U. Schmid and Jason R. Dinse eds., 2014

3. UNDERSTANDING THE RESULTS

Longer term security is the norm

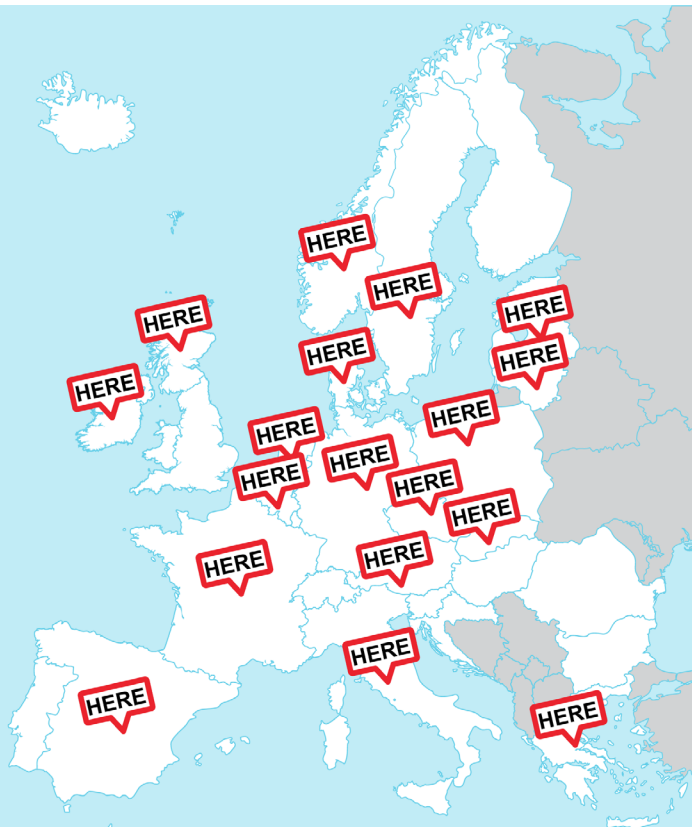
The findings of this review comprehensively show that government intervention to guarantee private renters' security is widespread across Europe's mature private rented sectors.

Renters across Europe can be confident that as long as they do their part by paying the rent and abiding by the terms of their tenancy, they will be able to stay in their home for the long term.

Although today's English renters also want this - and a large number of English landlords are willing to offer it - the growing number of families who rent do not get it.

Some English renters may have suspected this result. Few are likely to be surprised that their counterparts in Germany or Sweden have less reason to worry about losing their homes. But some may be surprised that they would also get more security in less affluent economies like Poland, Slovakia and Greece.

Where would English private renters get more power to stay in their home for the long term?



Source: Shelter analysis of Freshfields research, result for Scotland relates to new tenancies from 2017

This lack of security has a major impact on English renters' lives.

- **It means that they move often.** 29% have moved three or more times in the last five years.¹⁶
- **It leaves them out of pocket.** A quarter say their last move strained

their finances and more than a third went into debt to pay for it.¹⁷

- **It means they worry about losing their home.** 37% of English renters worry they might lose their current home.¹⁸

16. YouGov for Shelter, base: English private renters: 3792. Survey conducted between 22nd June and 13th July 2015

17. Ibid.

18. 37% of renters strongly agree or tend to agree with the statement "I worry that I might lose the home that I am currently living in. YouGov for Shelter; base: 3792 private renters, England, July 2015, online, weighted.

- **It has helped contribute to the rise in homelessness.** Loss of a private tenancy is now the leading cause of homelessness.¹⁹

The consequences are often worst for families with children, who find it more difficult to bear the cost of moving and whose lives can be more seriously disrupted by a move. For example, families face being forced to change their child's school whenever they move.

This helps to explain why 43% of private renting families with children worry that they may lose their current home.²⁰

This research shows that this worry is not just a perception problem on the part of tenants. Only a minority of private renters are evicted by their landlord under England's current law. But the risk of a no-fault eviction is a legal reality *for all English tenants* in a way that it is not for the overwhelming majority of tenants living in our neighbouring countries.

Case study: Instability is “no way to live”

Rachael lives in a private rented home with her son.

“We are on a rolling contract so are permanently two months away from moving, it is a horrible way to live. It never feels like home, the anxiety it causes is immense. You don't feel you can be part of the community as you never know when you might have to go. The more you put in the more upset you are to lose it.”

“This is not the way I wanted to bring my son up, I wanted him to start and finish at the same school with his friends. I wanted him to feel settled, to have pets to love, to plant flowers, vegetables and fruit in the garden and watch them grow. To have a bedroom decorated to whatever this week's craze or interest is.”

“I know these are ‘first world problems’. We are lucky. I know we have a roof over our head, but this instability is no way to live.”

Diversity of detail; common principles

The research results demonstrate that there is no one size fits all approach to giving private renters greater security of tenure. Different countries have found different ways of guaranteeing renters security through their legal systems. But there are some common principles :

- **Renters need at least three years of certainty.** Those countries that give tenants more than six months' security from eviction without grounds, offer

the protection for a range of time periods. Countries offer 3, 5, 8, 9 or even indefinite protection.

However, there is a common principle that a meaningful period of security means three years or more.²¹

- **Renters need to be able to end the tenancy, with a reasonable notice period.** Some renters worry that having a longer tenancy would mean being locked in for the long-term too, meaning they wouldn't have the flexibility to move home if their circumstances change. In none of the

19. Statutory Homelessness, October to December Quarter 20215, DCLG

20. YouGov for Shelter; base: 784 private renters with children in household, England, July 2015, online, weighted.

21. Only in the French furnished sector do tenants get more than six months' protection but less than three years

countries reviewed is this the case, as there is a universal recognition that landlords and renters have different needs – and that forcing tenants to maintain a long term tenancy that they can no longer afford to sustain is simply impractical.

As an increasing number of older people and families with children privately rent, renters need to be able to find a stable, rented home for the long-term. Landlords on the other hand only need enough notice to find a new tenant to keep their financial investment going.

- **Within longer tenancy periods, there are circumstances in which landlords may legitimately need to end the tenancy.** All the countries reviewed give landlords some power to regain possession of their property, at least under particular grounds. These include breach of the tenancy agreement (such as non-payment of rent, or damaging the property), but can also include allowing the landlord to sell the property, or to move into it themselves.
- **To have real security of tenure, renters need protection from being purposefully evicted by a rent hike.** In all of the countries where tenants get longer security from no-fault eviction, there is also some limit on in-tenancy rent increases.

Without such limits it would be possible to circumvent the law by increasing the rent by an amount that is patently impossible to pay (e.g. 1000%). Some forms of limit, such as index-linked maximums, have the added benefit of giving tenants some degree of certainty about what their future rent is going to be.

Interestingly, restrictions on rent increases already exist in England,

despite our weak security of tenure. Renters have limited power to appeal against above-market rents under the 1988 Housing Act,²² for example. They are rarely used, but arguably this is because renters lack the security they would need to follow such an appeal through.

Greater security is possible

The debate over whether to increase renters' security of tenure and rent certainty has been fierce and polarised. Some have suggested that reform will lead to a collapse in the size of the private rented sector.

However, this research shows that the proposed reforms are moderate and pragmatic. Of those countries studied, those with larger renting populations also tend to give renters more stability and certainty over their future rent. This shows that offering renters more security doesn't result in market collapse.

At the same time, it would be a mistake to jump to the conclusion that more security of tenure necessarily leads to a bigger private rented sector. Academic studies have shown that there is "no simple relationship between regulation and size" of the private rented sector, and that other factors are more important in determining the number of people who rent.²³

For example, it is possible that the causal relationship runs in the opposite direction. Countries where lots of people rent may introduce greater security of tenure because they recognise that big renting populations inevitably include more parents with children and that these families need stability. From this perspective, English law simply has not caught up with the huge transformation of the last decade: the dramatic growth

22. For example, Section 22 gives powers to tenants to appeal 'excessive rents'

23. The Private Rented Sector in the New Century: a comparative approach, University of Cambridge, 2012

of the private rented sector and our increasing reliance on it as a home for families. England now has the third largest population of private tenants of any European country, in absolute terms.

Irrespective of this, we can categorically conclude from this research that it is perfectly possible to have a large, thriving private rented sector at the same time as giving private renters the security of tenure that they need. In fact, it's the norm.

This adds further weight to the body of evidence that shows that moderate reform to the private rented sector does not pose a risk to renters or landlords.²⁴

This is not to say that it would be possible to introduce any of the systems studied overnight, without considering other elements of the housing system that may need to be changed. Shelter has long argued that giving renters more security may also require other changes, for example to give landlords confidence that they will be able to regain possession in a timely way when they do have grounds.

24. For example, last year Shelter commissioned the Cambridge Centre for Housing and Planning Research to look at the effect that giving renters more certainty about their future rents would have within the English context. Their modelling showed no considerable impact on the size of the sector if longer tenancies with index limited rents were introduced

4. THE NEED FOR A LEGAL CHANGE IN ENGLAND

This international comparison focusses on the laws in different European countries and shows that giving greater security to private tenants as a minimum is the norm across the European single market.

Of course, on its own this doesn't prove that legal change is needed here in England. Scope exists within English law for tenants and landlords to adopt longer tenancies by voluntary agreement and it can be argued that we should simply try to promote more voluntary adoption.

Our own research supports the idea that there is some potential for an increase in voluntary use of longer tenancies. For example, it shows that almost a third of landlords say they like the idea of offering tenancies of at least three years, including a clause so the tenant could bring the tenancy to an end with a couple of months' notice.²⁵

So it is understandable that recent government efforts have focussed on encouraging voluntary adoption rather than making longer tenancies a legal requirement. These have included positive steps like, for example, the introduction of a new model tenancy and work to push buy-to-let lenders to remove proscriptions from offering longer tenancies from their terms and conditions. These efforts have

had some positive impacts: for example, the bulk of mortgage lenders now allow their landlord clients to offer longer tenancies.

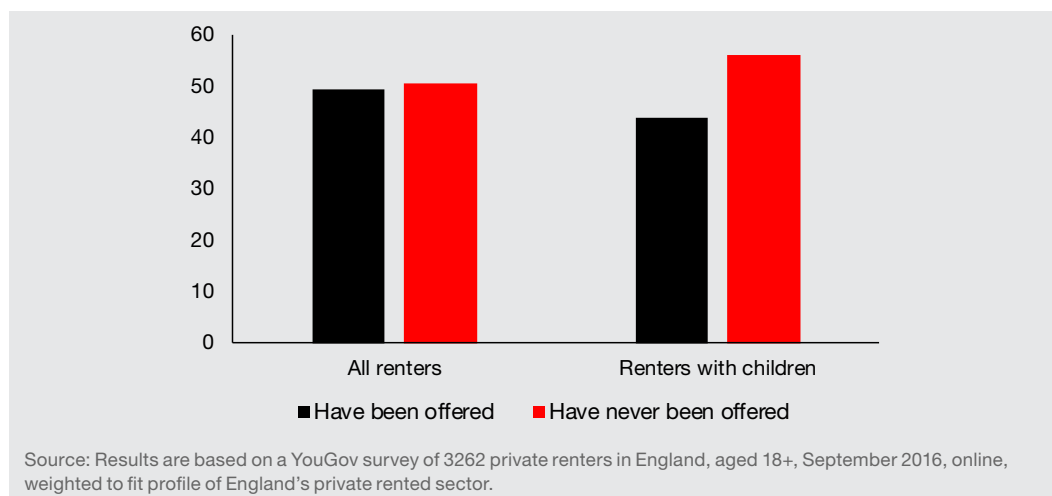
But despite this progress there has been no noticeable change in industry practice so far. Our research shows that relying on voluntary adoption alone will never be able to deliver longer tenancies for everyone who needs them. It also shows that introducing longer tenancies as a legal minimum will have a very positive impact on private renters' feeling of control over their lives.

Renters are asking for longer tenancies and not getting them

Lack of demand from renters is sometimes cited as a reason that more landlords do not voluntarily offer longer tenancies.

However, research by YouGov for Shelter shows that a significant number of renters are already asking for longer tenancies. More than one in five tenants has asked a landlord for a tenancy longer than 12 months.²⁶ But roughly half of the tenants that have asked for a longer tenancy have never been granted one.

Figure 5: percentage of renters who have been offered a longer tenancy, of those who have previously asked a landlord for one²⁷



25. 31%. YouGov for Shelter, base: English landlords: 1006. Survey conducted between 22nd June and 13th July 2015

26. Results are based on a YouGov survey of 3262 private renters in England, aged 18+, September 2016, online, weighted to fit profile of England's private rented sector.

27. Ibid.

Even more concerning, although renting families value stability more and are more likely to ask for a longer tenancy, they also appear more likely to be turned down. Over a quarter of the renters with children surveyed had asked for a longer tenancy, but well over half of these had never been granted one.

It is important to note that this measure includes all tenancies of over 12 months that tenants have asked for, not only those that fit the European norm of 3 years or above where tenants have the flexibility to leave with notice. For example, it also includes 18 and 24 month tenancies which lock the tenant in for the entire period. It is also a generous measure of how often landlords agree to even this broad category of longer tenancies, because it doesn't give any measure of how many times renters have asked for one before they are offered one. A renter may have asked for a longer tenancy multiple times and only been offered one once.

This research clearly shows that there

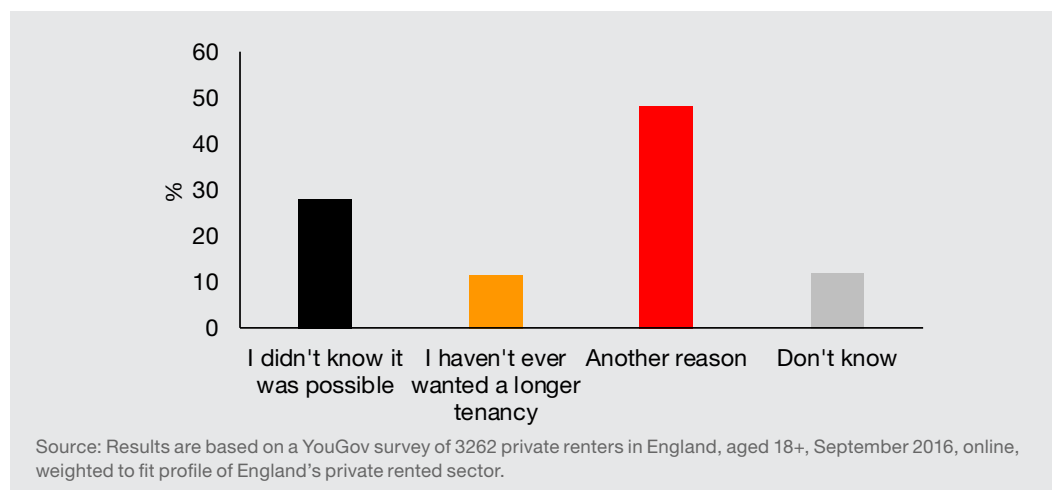
is already unmet demand for longer tenancies. Many renters are already asking for more stability, but are being denied it, strongly suggesting that a purely voluntary approach is unlikely to work.

English renters can't negotiate terms renters overseas get as a minimum

Although a significant number of tenants have asked for tenancies of over 12 months, the majority have not.

Our research shows that this is not because renters don't want them. Only 12% of renters who haven't asked for a longer tenancy say the main reason is because they haven't wanted one. The other 88% give another reason or say they don't know. For renters with children, only 6% say it's because they haven't ever wanted one.²⁸

Figure 6: the main reason that renters have not asked for a tenancy of more than 12 months, of those renters who have not asked for a longer tenancy ²⁹



Lack of knowledge is sometimes cited as the reason that renters who want a longer tenancy don't try to negotiate one. But our research shows that this accounts for only a minority of renters. Although 28% of renters who haven't asked for a longer tenancy say this is because

they didn't know they could, more than 48% give a different reason. These other reasons indicate the fundamentally weak negotiating position that private renters are in (see page 17 for the detailed breakdown).

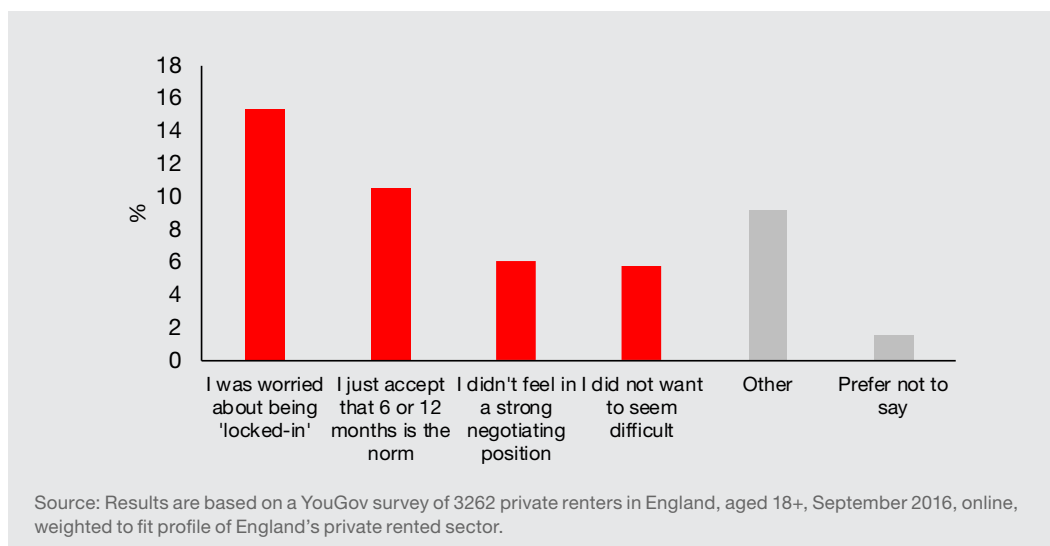
28. Ibid.

29. Ibid.

For example, 15% say that they haven't asked because they are worried about being locked in to a longer tenancy, showing that renters do not believe they will be able to get the types of terms that renters overseas expect as a legal minimum. A further 12% say that they

haven't asked because they didn't want to seem difficult or didn't feel that they were in a strong bargaining position. 10% just say they 'accept 6 or 12 months is the norm' and clearly don't feel in a position to negotiate something better.³⁰

Figure 7: The other reasons that renters have not asked for a tenancy of more than 12 months, of those renters who have not asked for a longer tenancy³¹



The experience of those renters who have asked for longer tenancies show that this is not just a problem of perception, but based in fact. It is a matter of fact that most tenants will not be able to negotiate a tenancy of a minimum three years in which they still have the flexibility to end the tenancy by giving notice. Our legal framework puts renters in a fundamentally weak position to argue for this type of tenancy, particularly in areas where demand for housing is high.

Legal change would give renters back control over their lives

We have also looked at the positive impact that changing the law to introduce longer tenancies would have on renters' lives. To do this we commissioned YouGov to ask renters what extent having a longer

tenancy would increase the feeling of control over their lives.

We were particularly interested in renters' sense of control because people coming to our services say that unstable renting makes them feel powerless (see case study on page 12). In her first speech as Prime Minister, Theresa May set out her ambition to give struggling families "more control over your lives". Increasingly, these families are private renters – half of all children in middle income families, according to research by the Institute of Fiscal Studies, are now growing up in a private rented home.³²

Our research explained to respondents the terms which renters can typically expect in our neighbouring countries.³³ It found that 70% of renters who had a view believe a longer tenancy would increase their feeling

30. Ibid.

31. Ibid.

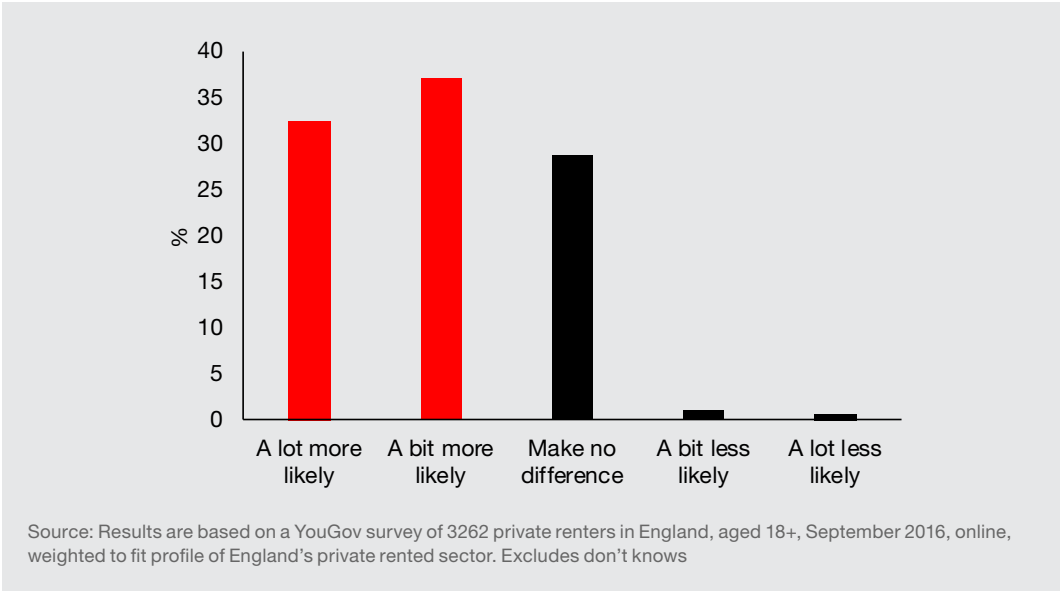
32. Half of middle-class children now being raised in rented accommodation, The Telegraph, 14/07/2016

33. The question included the following description of other rental systems: "In Scotland and many other countries, private renters have longer term (3 or 5 years) or even indefinite tenancy terms. They can only be evicted if they do not pay rent, damage the property, or the landlord needs to sell, and rent increases are normally at a set level agreed at the outset of the tenancy. Please imagine tenancies like this were available in England and you were renting with one."

of control over the life, and that for more than 30% it would be a lot more likely to increase their feeling of control. This finding is particularly significant because it relates to a sense of control over renters'

entire lives, rather than just their housing situation alone. As such, it shows what a fundamental improvement to renters' lives a change in the law would make.

Figure 8: The extent to which renters say that having a longer tenancy would increase their 'feeling of control over their life'³⁴



34. Results are based on a YouGov survey of 3262 private renters in England, aged 18+, September 2016, online, weighted to fit profile of England's private rented sector. Excludes don't knows

5. CONCLUSION AND RECOMMENDATION

Our renting market is out-of-step with the needs of its consumers. The growing number of low to middle income families who rent need security, but the free market can't provide it.

This is because renters are in no position to negotiate more security on a voluntary basis. Many of those who have asked for a longer tenancy have never been offered one. And many more never ask because they don't feel like they're able to negotiate the kind of tenancy that they need.

In some respects it isn't surprise that the market has failed to keep up. Our existing laws were written in another era, and the change in who rents has been rapid. But English renting now needs to evolve, urgently.

The findings of this comprehensive review of tenancy law across Europe indicate the direction our laws should head. Our closest neighbours have managed to combine thriving private rented sectors whilst also giving renters the security they need as a legal minimum. We can do this

in England too. By doing so we will reduce the number of renters who worry about losing their home and increase the number who feel in control of their lives.

Recommendation – make the Stable Rental Contract the legal minimum

We first proposed the Stable Rental Contract as a way to give renters more stability in 2012.³⁵ At the time we designed it as something that renters could try to negotiate on their own. However, the findings of this research show that they are in no position to do this.

The experience in our neighbours' mature renting markets demonstrate that reform to require the use of a Stable Rental Contract for all rented homes (barring exceptions like holiday lets) is possible. The government should reform the dysfunctional renting market and legislate to make the Stable Rental Contract the legal minimum in England.

Shelter's Stable Rental Contract

The fundamental elements of the Stable Rental Contract are:

- A minimum period of five years within which the tenant is protected from eviction without grounds. This period is long enough for families to make long-term plans and will significantly reduce the risk that parents will be forced to change their child's school as a result of moving home. The landlord is still able to regain possession with grounds such as rent arrears or needing to sell the property during this period.
- The opportunity for the tenant to end the tenancy at any time with two months' notice. This would double the current notice period that tenants have to give under a statutory periodic assured shorthold tenancy, to give landlords more time to find a replacement tenant.
- An inflation-based limit on rent increases within the five year period of the tenancy. The landlord has full freedom to achieve a market rent at the beginning of the tenancy and at the end of each five year period. The findings of this research show that other means of protecting tenants from eviction are possible and that some of these are largely in place in England. However, an inflation-based limit would also have the added benefit of helping tenants plan their finances over the long term.

35. See A better deal, Shelter 2012

6. APPENDIX: RESEARCH APPROACH

Shelter commissioned the global law firm Freshfields Bruckhaus Deringer to conduct a review of tenancy law across the 32

countries with access to the European single market (all EU and EFTA members):

- | | | | |
|--------------|-----------|----------------|---------------|
| ▪ Austria | ▪ Finland | ▪ Latvia | ▪ Portugal |
| ▪ Belgium | ▪ France | ▪ Lichtenstein | ▪ Romania |
| ▪ Bulgaria | ▪ Germany | ▪ Lithuania | ▪ Slovakia |
| ▪ Croatia | ▪ Greece | ▪ Luxembourg | ▪ Slovenia |
| ▪ Cyprus | ▪ Hungary | ▪ Malta | ▪ Spain |
| ▪ Czech Rep. | ▪ Iceland | ▪ Netherlands | ▪ Sweden |
| ▪ Denmark | ▪ Ireland | ▪ Norway | ▪ Switzerland |
| ▪ Estonia | ▪ Italy | ▪ Poland | ▪ UK |

The firm contacted lawyers who practise in-country across the single market, and who either work for Freshfields or for its *StrongerTogether* network of leading national law firms from across the globe. Those lawyers were asked to answer four questions:

1. Ignoring any legal grounds the landlord may have for terminating the tenancy early (eg. rent arrears, anti-social behaviour), what is the minimum term guaranteed by law to a private tenant?
2. If there are legal grounds that allow the landlord (or tenant) to terminate the tenancy during the minimum term, what are they?
3. Does the tenant have the right to leave during the minimum term? If so, how much notice does the tenant have to give for this?
4. Within the minimum term, what right does the landlord have to increase the rent? Is there any limit placed on how

much the landlord can increase the rent by during the minimum term?

Given the differences in legal traditions and languages between the countries reviewed and the complexity of some of the systems explored, it was necessary to achieve some consistency between the responses, ensuring they were concise but accurate. We are confident that this review will be an invaluable resource for campaigns, researchers and policy makers.

Shelter helps millions of people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help.

We're here so no one has to fight bad housing or homelessness on their own.

Please support us at shelter.org.uk

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