

SHELTER

Shelter Submission: Reforming the Private Rented Sector

Introduction

- Shelter exists to defend the right to a safe home. Every day, we see the devastating impact of the broken private rented sector on families we support across the country.
- Reform of the private rented sector is long overdue. Twice the size it was twenty years ago, and now home to one in four families with children, it is high time that those who pay to live in privately rented homes are granted the security and good quality homes that everyone is entitled to.
- Shelter warmly welcomes the Government's ambition to create a fairer, more secure private rented sector. The proposals outlined in the *A Fairer Private Rented Sector* White Paper have the potential to radically improve the lives of private renters, bolster accountability in the sector, and rebalance power between tenants and landlords.
- To ensure the plans outlined in the White Paper meet the Government's ambition to tackle injustices in the private rented sector and ensure every renter has a secure, safe and decent home, the Government must now:
 1. Strengthen notice periods to at least four months where the tenant has not breached the tenancy agreement
 2. Increase the period of commitment for which a landlord cannot use a landlord-need ground from 6 months to 2 years
 3. Set out detail on the evidence bar required for individual grounds for possession
 4. Extend the re-letting period from three months to 12 months in cases where a landlord has evicted to sell or for them or their family to move in
 5. Unfreeze housing benefit and scrap the benefit cap so that people are not forced into homelessness as living costs and rents continue to rise
 6. Provide local authorities with ringfenced funding to carry out proactive enforcement
 7. Place a legal duty on local authorities to ensure that they have at least one tenancy relation officer in their housing teams
 8. Restore legal aid to ensure the Decent Homes Standard works properly, as well as other prior legislation like the Fitness for Human Habitation Act 2018
 9. Regulate and professionalise letting agents by bringing forward a legally enforceable code of practice that all letting agents must abide by.

SHELTER

Will the Government's White Paper proposals result in a fairer private rented - sector (PRS)?

- Yes. We strongly welcome the Government's *A Fairer Private Rented Sector* White Paper.
- The private rented sector is an overheated market, squeezed by high house prices and a dire lack of genuinely affordable social homes, where tenants pay more than anyone else for the poorest quality accommodation from which they have little protection from eviction. A lack of a robust regulatory framework has left some landlords in a strong position to exploit people who just want to live in safe and decent homes.
- The Government's White Paper acknowledges the size of the problem, and we warmly welcome the ambition of the scale of the reforms. It is impossible to separate out security of tenure from property conditions, property conditions from discrimination, and discrimination from enforcement and accountability.
- The reforms set out in the White Paper are bold and much-needed. To achieve a fairer private rented sector, the Government must now make sure that the detail that sits beneath these reforms will close loopholes that unscrupulous landlords could continue to exploit.
- These reforms are extremely popular; 77% of tenants agree that indefinite tenancies should be introduced as a priority.¹

Do the proposals for reforming tenancies, including the abolition of Section 21, strike the right balance between protecting tenants from unfair eviction and allowing landlords to take possession of their properties in reasonable circumstances?

- The Government's commitment to abolish Section 21 "no fault" evictions is absolutely critical to reform of the private rented sector, and if delivered properly, will be foundational in rebalancing power between landlords and tenants. The White Paper rightly recognises the need to improve security, but the Government should be conscious that some of its current proposals risk undermining its stated ambition unless amended.
- Proposals set out in the 2019 'New Deal for Renters' consultation to have a two year period where a tenant is protected from an eviction where they have done nothing wrong have been watered down to just six months.
- Combined with the proposal to keep notice periods at two months even where there has been no breach of the tenancy agreement suggests a misconception that because these reforms are going ahead, new protections must be the weakest version that they could be.

¹ Online survey conducted by YouGov Plc. Total sample size was 3561 adults. Fieldwork was undertaken between 6th August - 7th September 2021. The survey was carried out online.

SHELTER

- In addition, the White Paper proposes to prevent a landlord from re-letting the property for just three months following an eviction on a landlord-need ground (like selling or moving back in).
- The Government risks losing sight of the reasons for implementing these reforms if there is a tit-for-tat trade off in every area of reform. The proposals set forward the lightest touch approaches on several areas of security.
- Shelter previously supported proposals for landlords to only be able to serve a notice on landlord-need grounds after the first two years of a tenancy.² This would give tenants the security and stability needed to put down roots.
- The Government must be more ambitious in protecting families from unexpected moves. The current proposals, whereby a landlord would be able to serve a two month notice after just six months if they decide to sell the property, could still leave families at risk of being forced to leave in the middle of a school year. This leaves families in turmoil and children uprooted from their homes.
- The Government should revert to its initial proposal of introducing a two-year period where landlords cannot serve notice on a landlord-need ground. At the bare minimum, landlord-need grounds, like a landlord selling or moving in, should be discretionary if used in the first two years.
- In the middle of a cost-of-living crisis, the Government must provide increased security for renters who will otherwise be forced to spend huge amounts of money moving unexpectedly. Households simply cannot be expected to stump up the extortionate cost of moving, which on average is around £1650.³ When official data shows that over half (53%) of private renters could not afford an unexpected yet essential cost of £850, these moving costs are clearly unmanageable for many living in the private rented sector.⁴
- Longer notice periods and a longer period of commitment would minimise the risk of frequent, costly moves.
- For those at the sharpest end of the housing emergency, longer notice periods help to prevent homelessness. Staff in Shelter services noted that they were better able to help clients avoid having to make a homelessness application thanks to the additional time granted through six-month notices.

I feel we are better able to help people resolve their issue due to the longer notice period as if it is for something like rent arrears it is giving people chance to pay these arrears/apply for DHPs or if it is a Section 21 it is giving

² Shelter (October 2019), Response: A New Deal for Renting.

³ A survey of private renters for Shelter found average cost of moving home for private renter, including deposits and rent in advance, is £1650. The survey was conducted by YouGov Plc. Total sample size was 3561 adults. Fieldwork was undertaken between 6th August - 7th September 2021. The survey was carried out online.

⁴ Office for National Statistics (March 2022), Impact of increased cost of living on adults across Great Britain: November 2021 – March 2022.

SHELTER

people more time to find alternative accommodation so they are not street homeless and having no other option but to take temp accommodation. - Shelter Adviser

- Taking two month notice periods for landlord-need grounds into the new tenancy regime feels like a missed opportunity to learn valuable lessons from the pandemic.
- The Government should extend notice periods to at least four months in cases where the tenant has not breached the tenancy.
- It is crucial that these reforms close loopholes and deter landlords from abusing the law. In order to do this, Government should extend the re-letting period from three months to 12 months in cases where a landlord has evicted to sell or for them or their family to move in.
- While we disagree with the principle of mandatory grounds for possession, we accept that they are embedded in the current system in England. However, it is only right that landlords must meet a high evidence bar in order to meet that mandatory threshold. **The Government should set out detail on the evidence bar required for individual grounds for possession.**
- Long-term, we should once again look to Scotland, who, five years after scrapping no-fault evictions and introducing the Private Residential Tenancy, are strengthening renters' rights further through the Coronavirus (Recovery and Reform)(Scotland) Bill by making all grounds for possession discretionary.

How easily will tenants be able to challenge unfair rent increases under the proposals?

- We welcome the recognition that renters need to be able to challenge unreasonable or unfair rent increases.
- There is a real risk that landlords will try to use an unreasonable rent increase to try and force tenants out. Without proper safeguards in place, unfair rent increases will allow for Section 21 evictions by the back door.
- We welcome the spirit of the proposals to make the Tribunal easier to access and remove some of the barriers that deter renters from applying to the Tribunal. Linking in reforms with court digitisation will make the process more accessible and removing the risk of the Tribunal increasing the rent will provide further reassurance to tenants seeking to challenge their landlords.
- However, the Government must consider other barriers that deter renters from asserting their rights.
 - Without strong security of tenure renters will not feel confident to challenge rent increases.
 - Renters need to know where to go. 40% of private renters rely on informal networks like family or friends for housing advice, and it is

SHELTER

essential that knowledge of tenant rights and how to enforce them is widespread.⁵

- The system needs to be adequately resourced.
- We must not be under any illusion that these proposals will make private renting significantly more affordable during this cost-of-living crisis.
- We know that generally, most landlords do not increase the rent during the course of a tenancy or when a fixed term period expires. 28% of landlords who have renewed or extended a tenancy in the past five years increased the rent, while 70% left the rent unchanged.⁶
- Landlords are far more likely to increase the rent when setting up a new tenancy (47%).⁷
- This correlates with available data on rent increases. Official ONS statistics show that rents have overall increased by 3% in the 12 months preceding June 2022. This includes in-tenancy rent increases and new lets. However, unofficial data from Rightmove shows that for new tenancies, rents have increased more than 20% in some areas.
- With a cost of living crisis raging and rents rising, **it is critical that Government unfreezes housing benefit and scraps the benefit cap so that people are not forced into homelessness.**

What impact, if any, will the reforms have on the supply of homes in the PRS?

- While we are unable to predict the behaviour of landlords, we do know that these reforms will be welcomed by many landlords. Landlords agree that a stronger framework and regulations are needed, with 39% believing that the current requirements for landlords to maintain and improve their properties should be more stringent.⁸
- These reforms will clarify landlords' responsibilities and support them in performing their duties. Piecemeal legislation over the last years has resulted in regulation that, though necessary, has created complexity and confusion over the role of landlords. Wholesale reform via the Renters' Reform Bill will give landlords much more clarity about their responsibilities.
- The experience from other countries in the UK demonstrate that wholesale rental reform does not negatively impact the supply of privately rented homes. When Scotland implemented its Private Residential Tenancy Act in 2017, the worst predications suggested that the new private rental agreements would lead to a collapse in supply. According to an evaluation conducted by Shelter two years after its introduction, there was no evidence

⁵ Online survey conducted by YouGov Plc. Total sample size was 3561 adults. Fieldwork was undertaken between 6th August - 7th September 2021. The survey was carried out online.

⁶ Online survey conducted by YouGov Plc. Total sample size was 1037 landlords offering long term residential tenancies in England. Fieldwork was undertaken between 8th- 22nd October 2021.

⁷ Ibid.

⁸ Ibid.

SHELTER

of a substantial reduction in the size of the rental sector in Scotland since changes to its tenancy law.⁹

- We acknowledge that this is a turbulent time for the rental market, and the supply of homes in the PRS will be affected by both economic and housing market factors. At such a time, Shelter's priority is that tenants live and have access to safe, secure and decent homes, and that criminal landlords who maintain poor conditions and bad practices are held to account. A sector that does not guarantee the rights and safety of tenants is not fit for purpose.

What should be included in the new decent homes standard and how easily could it be enforced?

- The extension of the Decent Homes Standard (DHS) will be significant in driving up standards in what is currently the worst performing sector. 21% of homes in the PRS are still non-decent, with 13.2% of renters living in homes with category 1 hazards.¹⁰
- For the DHS to be effective, it must respond to the specific nature of the PRS and meet the needs of the diversity of tenants that live in the sector, especially those at the sharpest end. The Standard must also reflect contemporary expectations of a safe and decent home- such as accessibility adjustments for older people and disabled tenants, digital connectivity and energy efficiency.
- The new DHS should clarify how the standard will interact with existing legislation that tackle poor conditions in the sector. This includes Section 11 of the Landlord and Tenant Act 1985, The Homes (Fitness For Human Habitation) Act 2018, the Housing Health and Safety Rating System (HHSRS), as well as minimum energy efficiency standards and the requirements of selective licensing schemes. Government should also clarify how the Standard will be joined up with other aspects of the Renters' Reform Bill such as the property portal for landlords. The DHS has the potential to become a vehicle that brings together disparate legislation on standards in the PRS into a cohesive system that creates a simplified experience for both tenants and landlords in understanding their rights and responsibilities.
- The DHS should also be accompanied by an assessment of the financial investment required to bring every non-decent home in the PRS up to standard. However, it is not yet clear what the Government intends to happen to those landlords that will struggle to upgrade homes, or how to ensure that tenants do not end up homeless as a result.

⁹ Shelter (2019), The new private rental tenancies: Evaluating changes to rental agreements in Scotland.

¹⁰ Department for Levelling Up, Housing and Communities (August 2022), A fairer private rented sector white paper.

SHELTER

- It is important that the costs of improvements are not passed on to tenants, particularly those on lower incomes and those who receive benefits. Private renters are already paying higher housing costs than any other tenure, with average private rents being higher than mortgage repayments or social housing costs.¹¹ As the cost-of-living crisis deepens and puts tenants in more precarious situations, we have heard from private renters worried about additional energy costs and the prospect of having to leave their homes because they cannot afford repairs and rent hikes.
- Strong enforcement will be key to ensuring that the DHS fulfils its aspirations. This requires clarity over the responsibility of landlords to ensure that homes meet the standard and the role of local authorities in leading inspections consistently and enforcing proactively. Last winter our services frequently heard from people experiencing numerous repair problems such as no heating or hot water for long periods. The standard should also include details about how long landlords have to resolve issues before facing consequences for their inaction.
- The end of Section 21 will go a long way in giving tenants the confidence to raise complaints about poor conditions, knowing that they will no longer be at risk of unfair eviction. In order to completely eliminate fears of repercussion, vulnerable tenants must be supported in knowing their rights and how to exercise them.
- For local authorities to enforce effectively and proactively, they need ringfenced funding and resources. Currently, local authorities are overstretched by their existing statutory duties and face numerous challenges to enforcement that can be addressed through increased resourcing, capacity and knowledge sharing.
- Net expenditure from English local authorities on ensuring good private sector housing standards decreased from £12.58 per private renting household in 2009/10 to £7.02 per private renting household in 2018/19; a reduction of 44%.¹²
- Budget cuts have also resulted in an undersupply of essential professionals able to tackle bad conditions. According to a workforce survey published by the Chartered Institute of Environmental Health, there were only 859 full-time officers working across England, amounting to 2.5 FTE per council if split evenly across England's 333 local authorities.¹³
- Our own research has shown that the lack of environmental health officers in certain areas have caused teams to resort to downgrading hazards they have come across during property inspections. Additionally, the lack of tenancy relation officers, who play a crucial role in tenant and landlord resolutions,

¹¹ English Household Survey (2020-21).

¹² Sagoe, C., Ehrlich, R., Reynolds, L., Rich, H. (2019) Time for change: Making renting fairer for private renters. Shelter.

¹³ Chartered Institute of Environmental Health (April 2021), Environmental health workforce survey report: local authorities in England.

SHELTER

has significant implications for local authorities' capacity to enforce renters' rights and carry out proactive work to prevent the escalation of conflict.

- **Local authorities should be given ringfenced funding to carry out proactive enforcement and a legal duty should be placed on local authorities to ensure that they have at least one tenancy relation officer in the housing team.**
- Legal aid for disrepair must be restored to ensure that DHS and other prior legislation like Fitness for Human Habitation Act 2018 are effective

How enforceable are the proposals to make it illegal for landlords to have blanket bans on letting to people on benefits or with children?

- Government's commitment to enforcing against blanket bans builds on the success of court victories that have proven 'No DSS' advertising to be unlawful indirect discrimination under the Equality Act 2010. Yet despite these rulings, 32% of private renters currently receiving housing benefit have been unable to rent somewhere they wanted in the last five years because they were on benefits.¹⁴
- Our research shows that people most likely to experience income discrimination are amongst the least likely to pursue a complaint. Tenants can make a complaint to The Property Ombudsman about agents who are part of their scheme. However, only a third of private renters (34%) agreed that they know what the Ombudsman does, and just 28% agreed that they would have confidence in the Ombudsman's ability to help if they complained to them.¹⁵
- Government must firstly specify the agency responsible for enforcement. We believe that local authorities are best placed to tackle discrimination in their areas, however we also acknowledge that this places an additional responsibility on them at a time when they are resource-constrained. Local authorities will require additional resources, powers and capacity to enforce properly.
- Government must also ensure that people are provided with a fast and simple route to redress with the knowledge that they will be supported in raising claims when discrimination occurs. Legal aid should be available for civil claims and people should be able to claim compensation through schemes such as the Property Ombudsman.
- Discrimination against people who receive benefits and who have children is not always explicit, and informal barriers are being placed in front of renters:
 - 15% of private renters have been unable to rent somewhere they wanted in the last five years because they needed to provide more than two months' rent up front.

¹⁴ Data is from an online survey conducted by YouGov Plc. Total sample size was 2,019 private renters in England. Fieldwork was undertaken between 6th April - 12th May 2022. The figures have been weighted and are representative of all private renting adults in England (aged 18+).

¹⁵ Ibid.

SHELTER

- 14% of private renters have not been able to rent somewhere they wanted in the last five years because they could not provide a guarantor with a certain income level.¹⁶
- Government should therefore work with the wider sector to bring forward interventions that combat covert barriers to accessing homes. This includes making sure referencing companies include benefits as income in their affordability checks, and formalising the pre-referencing stage with consistency and limitations over the types of questions and information that a tenant is asked for when they want to view a property.
- Additionally, we know that letting agents are also responsible for blanket bans, and influence landlords' behaviour. 19% of private landlords who use letting agents agreed that they don't let to people who receive benefits because their letting agent advised against it, and 34% agreed that they would let to this group if their letting agent said they should.¹⁷
- **Government must regulate and professionalise letting agents by bringing forward a legally enforceable code of practice that all letting agents must abide by.**

Overall, what additional pressures will the proposals place on local councils, and how many of these will require new burdens funding?

- As aforementioned, local authorities don't have enough resources and capacity to carry out their current duties, let alone utilise the full range of their powers. The DHS and new legislation to make blanket bans illegal will place an additional (though necessary) burden on local authorities who are already struggling to enforce the HHSRS.
- Additional ring-fenced funding will be absolutely necessary to ensuring that local authorities have enough professionals and capacity to carry out their enforcement duties. Other 'softer' interventions will be important such as the requirement to report enforcement actions and opportunities for local authorities to share best practice with one another.

¹⁶ Ibid.

¹⁷ Data is from an online survey conducted by YouGov Plc. Total sample size was 506 private landlords. Fieldwork was undertaken between 11th - 13th April 2022.