

Shelter briefing: Westminster Hall debate on the use of Section 21 notices

Summary:

Shelter is the UK's largest housing and homelessness charity. Last year we gave information, support and advice to millions of people experiencing bad housing and homelessness.

Over the last decade, private renting in England has changed beyond recognition. At one time seen as a stopgap for students and short-term work opportunities, today the private rented sector is home to millions of working people on low to middle incomes, older people and families raising children.

As the face of private renting has changed, regulation of the sector has failed to keep up. This is no better demonstrated than the use of Section 21 notices – so called 'no fault' evictions – which make instability and insecurity an inherent feature of private renting.

To tackle increasing homelessness and give renting families more certainty, Shelter are calling on the government to **introduce legislation** to give **all renters a minimum of three-year tenancies**, as proposed in their recent consultation.

Context: changing face of the private rented sector

- The private rented sector has **doubled in size** over the past decade. It is now responsible for providing a home to **one in every five** households in the country
- **One in four** families with children are now privately renting. This is up from **one in ten**, ten years ago.
- There are also increasing numbers of older people now living in the PRS

The problem with Section 21 notices

England's private renting laws currently give tenants **very little security** from eviction or certainty to plan for the long-term. After the first six months of a tenancy and outside a fixed term contract, a privately renting family can be evicted for any reason or none (using a **Section 21** notice). The vast majority of renters want more security and stability, particularly families and older people.

The ending of an assured short-hold tenancy is a **leading cause of homelessness**: 27% of households becoming homeless in 2017/18 did so because of the end of a Private Rented Sector tenancy (accounts for 15,490 households). This is **30% more** than five years ago (11,960 households).

27% of renters with children have moved **three times or more in the last five years**. This is clearly not sustainable and can have clear knock-on effects to children's education and wellbeing.

CASE STUDY: Emma, 49, and her two sons live in London. Since becoming a single parent in 2011, she's been struggling to find a long-term rental property and pay rent. Emma's eldest son is now nine but he's already lived at six different addresses and Emma describes how hard it is to explain to her sons why they have to keep moving. Emma has been given notice by the landlord at the last three addresses and she wishes she could have a longer tenancy so she could plan ahead and make their house a proper home. Emma asked her last landlord for a five-year contract, but he refused.

Impact of instability

The majority of moves are driven by tenants, but a significant minority, **around 1 in 5**, are not. With there being around 800,000 moves between private rented homes a year, this is a huge number of people who are moving without it being their choice. Frequent moves can have a significant impact on physical & mental health, as can living with the uncertainty of knowing you can be asked to move at any time.

- Knowing that they can be evicted without a reason can cause significant anxiety **and over half of private renters worry** about being asked to leave by their landlord before they want to.
- **Over 75%** of renters report that having a longer term or indefinite tenancy would make it easier for them to **plan ahead in their lives**.
- In Shelter's latest survey of private renters, **84%** of renters said they would **like to be able to stay** in their home for as long as they choose to.
- **Almost 75%** of renters **worry** about how they will find a decent, affordable home when they next need to move.

CASE STUDY: Charlie, works for a local authority and has been renting a 2-bedroom flat with her 20-year old daughter in Enfield. When her tenancy came up for renewal, Charlie asked her agent about the possibility of slightly lowering the £1400 per month rent, as she was struggling to pay. In response the agent said the landlady wanted her property back and a few days later Charlie received a section 21 notice. Charlie said she didn't realise how serious a Section 21 notice was, until she found a Facebook Group about it. Charlie can't find anything else affordable in the area and is worried about where she and her daughter will live when they have to move out. The uncertainty has had a significant impact on Charlie's physical and mental health and her daughter dropped out of her second year of university, because she was so worried about where they were going to live.

Retaliatory evictions & consumer power in the private rented sector

Security of tenure is fundamental to improving consumer rights in the private rented sector. This is particularly important given the positive changes that are being introduced via the **Fitness for Human Habitation Bill** & the **Tenant Fees Bill**. For renters to feel empowered to exercise the new rights in these Bills, they need **protection from retaliatory eviction**. Landlords should not be able to evict tenants simply because they are taking a case to court to resolve unfitness in their home or because they have been forced to pay back a (soon to be) prohibited letting fee. **Section 21** notices provide landlords with the means by which they can carry out these retaliatory evictions, as they do not have to provide a reason.

CASE STUDY: Laura, a lawyer and lecturer, lives with her two daughters and granddaughter in Manchester. The family found a cottage to rent in Oldham but when they moved in tiles were falling off the walls, the property was damp throughout and a window in Laura's daughter's room was dangerously loose. When Laura complained to her landlord only minor works were ever carried out and Laura paid for a lot of work herself. Eventually Laura complained through her solicitor and in response her family were served a section 21 eviction notice. Laura withdrew her legal action in the hope that the landlord would reconsider but the landlord still continued with the eviction.

- **Almost 70%** of renters agree that they would **feel more confident in raising concerns** about the condition of their property if they knew they couldn't be evicted without good reason
- **13.2%** of private renters **have not asked for repairs and/or not challenged a rent increase** in the last year because of fear of eviction.

Some protections from revenge evictions do exist, but they are **complicated to make work** and rely on **overstretched Local Authorities**. The recent inquiry in the private rented sector by the Housing, Communities and Local Government Committee found that these protections in the Deregulation Act 2015 need to be reviewed and stated that tenants need greater legal protections from retaliatory eviction.

Court processes

Section 21 is not the only way to evict a tenant, although it is the **most commonly used**. In many circumstances, landlords opt to use Section 21 due to a **lack of faith in court capacity and other court processes**, namely Section 8 (evictions with grounds e.g. rent arrears). Recent research from the RLA confirms that Section 21 is often used in cases where a landlord would have had grounds under Section 8.

Indeed, a key concern we hear regularly from landlords is how easy it will be to recover their property if they need to. In our latest survey, only 25% of private landlords said they had confidence in the court system and **only 4% described their confidence as strong**. This is despite the fact that fewer than 1% of landlords, had actually used the court system, which suggests that this barrier might be as much about perception as actual poor experience.

The over-reliance on Section 21 can be viewed as evidence that the court system is **not currently working** for either tenants *or* landlords. We welcome the government's consultation on the case for a separate housing court as an opportunity to improve the process of redress for all parties. The court should offer guaranteed service standards, integration with other housing services and return legal aid to lower-income households.

A possible solution: Government consultation on longer tenancies

Ultimately Shelter believes that no-one should be evicted without a reason. As a first step towards this, and addressing the issues created by the use of S21, Shelter is calling on the government to change the law to give all renters a minimum of three- year tenancies, as proposed in their recent consultation. Shelter facilitated thousands of responses to the consultation, the overwhelming majority of which showed support for changing the law. We are still waiting for the government to respond to this consultation and announce how they intend to introduce longer tenancies. We are hoping the government will commit to changing the law and give renters the security that many of them desperately need.

If you would like more information, please contact poppy_terry@shelter.org.uk or 0344 515 2274.