

## Renters' Reform Coalition – Renters (Reform) Bill Public Bill Committee Submission

1. The Renters' Reform Coalition (RRC) is made up of 20 leading housing organisations - from national housing charities and think tanks, to advice centres and renters' unions. We are united in our mission to reform the Private Rented Sector so that everyone who relies on it for their housing can prosper. For more information and to see our full membership, visit our website [here](#). Additionally, please contact Tom Darling, RRC Campaign Manager, via [tom@rentersreformcoalition.co.uk](mailto:tom@rentersreformcoalition.co.uk) if you would like more information.

### Executive Summary

2. Nearly five years since rental reform was first promised, the RRC welcomes this legislation, but warn there are significant shortcomings in the Bill which will hinder the Government's ability to deliver its own ambition of a Private Rented Sector (PRS) "with quality, affordability, and fairness at its heart"<sup>1</sup>. Our proposed changes to the legislation seek only to help the Government to deliver on that vision. The key changes we are proposing are summarised here:
  - Tenants being given 4 months' notice when they are evicted through the new no-fault grounds for possession, rather than the 2 months' notice proposed at present.
  - Renters to be protected from eviction under new no-fault grounds for the first two years of a tenancy, rather than the 6 months proposed at present.
  - Strong safeguards to prevent unscrupulous landlords abusing the new grounds for eviction, which otherwise risk becoming the new Section 21, including:
    - Re-let prohibited period to be 1 year;
    - Mechanisms for tenants to pursue landlords who abuse grounds;
    - Evidence required pre- and post-eviction.
  - Maximum discretion for judges to identify if there are good reasons why an eviction should not take place, with specific measures proposed for individual grounds.
  - An 'economic eviction' prevention mechanism that prohibits in-tenancy rent increases above the lowest of either inflation or wage growth.

### Why we need reform

3. The experience of most tenants who live in the PRS is not a happy one. A lack of security is one of the hallmarks: a quarter of all private renters have lived in three or more private rented homes in the previous five years<sup>2</sup>, and the mere existence of section 21 is a constant menace.
4. Poor conditions are also rife, with 22% of PRS households reporting avoiding complaints for fear of being evicted<sup>3</sup>, and a shocking 46% of those who complained about conditions receiving a section 21 within 6 months<sup>4</sup>. Government figures show 23% of PRS homes do not

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<sup>1</sup> <https://www.gov.uk/government/publications/a-fairer-private-rented-sector>

<sup>2</sup> [https://england.shelter.org.uk/media/press\\_release/every\\_seven\\_minutes\\_a\\_private\\_renter\\_is\\_served\\_a\\_no-fault\\_eviction](https://england.shelter.org.uk/media/press_release/every_seven_minutes_a_private_renter_is_served_a_no-fault_eviction)

<sup>3</sup> <https://www.gov.uk/government/collections/english-housing-survey>

<sup>4</sup> <https://www.citizensadvice.org.uk/about-us/about-us1/media/press-releases/complain-and-youre-out-research-confirms-link-between-tenant-complaints-and-revenge-eviction/>

meet the Decent Homes Standard – around 1 million homes. This compares with 13% of owner-occupied and 10% of social-rented homes.<sup>5</sup>

5. Losing a home can be traumatic, stressful, and challenging for anyone, but for those already struggling it can be particularly damaging. As such, section 21 notices are a leading cause of homelessness – last year 25% of households owed a prevention or relief duty by their local authority were homeless or at risk of homelessness due to the end of a PRS Assured Shorthold Tenancy (AST).<sup>6</sup>
6. A lack of affordability is also plaguing renters. Large numbers of households on low incomes are paying rents they cannot afford in the private rented sector, without access to alternative housing options. Four in ten of those in the bottom half of incomes are paying over 40% of their income in rent<sup>7</sup>, while Local Housing Allowance support for low-income renters is currently frozen, based on rents in 2019. The Renters (Reform) Bill will not tackle the cost-of-renting crisis – the Government should set out clearly what it intends to do to alleviate this crisis and bring rents down.

#### **Court reform + delays to Section 21 abolition**

7. We strongly oppose the Government’s proposal to tie the timing of implementation of the new tenancy system to changes to the justice system. It is a decision to prioritise landlord’s interests over those of tenants, who have already waited nearly 5 years for additional protections since the end to section 21 was first promised.
8. Similar tenancy reforms in Scotland have made little difference to the caseload of hearings; even when tenants have a right to challenge, they generally won’t challenge if they don’t have a case.<sup>8</sup>
9. We would support digitisation of the justice system which could have benefits for tenants as well as landlords. However, it should not be pursued at the cost of access to justice for tenants and there is absolutely no reason to suggest the implementation of s21 abolition should be made to wait until any changes in this area have been made.
10. The single most important measure to improve court processes would be an increase in funding, yet this demand is noticeably absent from the debate. The 2023 King’s Speech promised a meagre “initial commitment of £1.2 million to begin designing a new digital system for possessions”.<sup>9</sup>

#### **Rolling tenancies**

11. Mandating periodic tenancies in the PRS will help deliver on the Government’s promise to rebalance the relationship between tenants and landlords. Periodic tenancies enable renters to exit a tenancy where, for instance, a property is not as advertised, or serious disrepair comes to light after moving in. This is a basic consumer protection – giving tenants the

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<sup>5</sup> <https://www.gov.uk/government/collections/english-housing-survey>

<sup>6</sup> <https://www.gov.uk/government/statistics/statutory-homelessness-in-england-financial-year-2022-23/statutory-homelessness-in-england-financial-year-2022-23>

<sup>7</sup> <https://nationwidefoundation.org.uk/wp-content/uploads/2019/06/Definingandmeasuringhousingaffordability.pdf>

<sup>8</sup> <https://www.gov.scot/publications/new-deal-tenants-draft-strategy-consultation-paper/pages/6/>

<sup>9</sup> [https://assets.publishing.service.gov.uk/media/654a21952f045e001214dcd7/The\\_King\\_s\\_Speech\\_background\\_briefing\\_notes.pdf](https://assets.publishing.service.gov.uk/media/654a21952f045e001214dcd7/The_King_s_Speech_background_briefing_notes.pdf)

ability to leave a home that is not as advertised or is otherwise unsuitable is an important principle and should drive improvements in standards in the sector. It is also critical that tenants can leave a tenancy where unforeseeable circumstances, such as a family emergency, require an urgent move. This will be an important safeguard for tenants but will only be used in a very small number of instances.

12. It is a critical part of the package of reforms and as such must not be removed from the legislation. Similarly, there should be no 'period of commitment' required from tenants which would dilute the benefits set out here.

### **Notice periods**

13. We are deeply concerned that the notice period for new landlord circumstances grounds (Grounds 1 and 1A) is only two months, offering no improvement on the notice given when a section 21 is served at present. Only having two months to find a new property when tenants are evicted through a section 21 notice is a big part of the reason why the current system is a leading cause of homelessness. Simply put, tenants need more time to find a new home that suits their needs.
14. The DLUHC 2019 consultation<sup>10</sup> asked respondents if 2 months was an appropriate amount of notice if the landlord intended to sell. 63% of respondents thought it was not and of those 87% thought it was not long enough, versus only 3% who thought it was too long. 97% of the tenants who responded to the question thought two months was not long enough, of which only 1% thought it was too much time.
15. We urge the Government to increase the notice periods to four months. This will provide an additional sense of security to tenants when they are living in a rented home, and will be more likely to provide them with enough time to find a new home that suits their needs and, if they want to, in a similar area to the home they are being evicted from.
16. In addition, the Government should consider allowing tenants to move out during the notice period if they find a home sooner, without incurring further liability for rent.

### **Protected period**

17. Under the proposals in the Renters (Reform) Bill, tenants will be protected from eviction using the new landlord circumstances grounds (Grounds 1 and 1A) for 6 months at the start of a tenancy, meaning landlords can serve their tenants notice to vacate after only 4 months. The DLUHC explanatory notes on this provision explain that the length of time "mirror[s] the protection tenants currently receive"<sup>11</sup>.
18. But one of the central problems of the current system is that tenants do not have enough security in their homes. Shelter research from 2022 found a quarter of all private renters had had three or more private rented homes in the previous five years<sup>12</sup>. This instability prevents

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<sup>10</sup> <https://www.gov.uk/government/consultations/a-new-deal-for-renting-resetting-the-balance-of-rights-and-responsibilities-between-landlords-and-tenants/outcome/a-new-deal-for-renting-government-response>

<sup>11</sup> <https://publications.parliament.uk/pa/bills/cbill/58-03/0308/en/220308en.pdf>

<sup>12</sup> [https://england.shelter.org.uk/media/press\\_release/every\\_seven\\_minutes\\_a\\_private\\_renter\\_is\\_served\\_a\\_no-fault\\_eviction](https://england.shelter.org.uk/media/press_release/every_seven_minutes_a_private_renter_is_served_a_no-fault_eviction)

renter households from establishing roots in their local communities and erodes their sense of belonging.

19. Such instability also has a financial cost to tenants – analysis by RRC member Generation Rent in 2021 found that upfront moving costs were £1,709 for the typical household<sup>13</sup>. The Government have acknowledged this, and the fact that frequent moves “makes it harder for renters to save a deposit to buy their own home”<sup>14</sup>.
20. It is not right that a tenant should continue to be vulnerable to a de facto no-fault eviction after only six months of starting a tenancy. In most cases, the landlord should have been able to foresee circumstances – either selling a property or moving family in – before the start of the tenancy. We therefore urge the Government to ensure that renters are protected from eviction under new landlord circumstances grounds for the first two years of a tenancy. This was originally proposed by DLUHC in its 2019 consultation and the Government has not set out a convincing argument for reducing that time period.<sup>15</sup>

### **Mandatory vs discretionary grounds**

21. Many of the new proposed grounds for eviction are ‘mandatory’ grounds. Mandatory grounds prevent the Court from taking tenants’ circumstances into account. It is easy to consider circumstances where there may be compelling reasons for refusing immediate possession: the tenant or a member of his or her family has a serious terminal illness and a very limited life expectancy, or the tenant or a member of his or her family has a severe disability which means that the tenant will need a longer period in which to find alternative accommodation.
22. The advantage of discretionary grounds is that the Court is empowered to consider all the circumstances. Discretionary grounds also offer an additional protection for a tenant to prevent abuse of possession grounds *before* an eviction takes place, rather than simply seeking recourse after the fact.
23. Similar reforms in Scotland made grounds for possession discretionary.
24. We would like to see judges offered maximum discretion in possession proceedings. We recommend the Government makes all new possession grounds discretionary.

### **Preventing abuse of grounds – no let period**

25. We have serious concerns that the new grounds for eviction – particularly Grounds 1 and 1A – will be abused by unscrupulous landlords, retaining in practice the same problems that plague tenants under the current system. Without effective enforcement, tenants will continue to fear retaliatory evictions, and will not feel empowered to stand up to their landlord to demand improvements to the condition of their home or to challenge unfair rent increases, undermining the Government’s stated rationale for reform.

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<sup>13</sup> [https://www.generationrent.org/2021/08/31/unwanted\\_moves\\_costing\\_renters\\_229m\\_per\\_year/](https://www.generationrent.org/2021/08/31/unwanted_moves_costing_renters_229m_per_year/)

<sup>14</sup> <https://www.gov.uk/government/publications/a-fairer-private-rented-sector/a-fairer-private-rented-sector>

<sup>15</sup> <https://www.gov.uk/government/consultations/a-new-deal-for-renting-resetting-the-balance-of-rights-and-responsibilities-between-landlords-and-tenants/outcome/a-new-deal-for-renting-government-response>

26. The Renters (Reform) Bill includes a three-month ban on re-letting a property after a landlord has invoked one of the new landlord circumstances grounds – 1 and 1A. Three months is not long enough to act as a meaningful disincentive for landlords – particularly mortgage-free landlords - not to abuse these grounds by lying about their requirement to take possession of the property. We encourage the Government to make the no-let period one year.
27. Moreover, in the Government’s proposals, the no-let ban only applies when the tenant has left voluntarily after being served a notice, and not after a court has awarded possession. This is a significant shortcoming of the legislation: it is those who have challenged their eviction in court who are most likely to pursue their landlord if they think they have abused the new grounds. The ban should apply to both.

### **Preventing abuse of grounds – evidence**

28. It is critical that the burden of proof when invoking new landlord circumstances possession grounds should fall on landlords to provide unequivocal evidence of their intent in each circumstance, as the vast majority of tenants are not well-placed to prevent abuse of possession grounds themselves. We believe the Court should require certain evidence from landlords to seek possession using grounds 1 and 1A both the pre- and post-eviction.
29. In the case of Ground 1, the Government should require that both the landlord and, if applicable, the family member they intend to move in, provide a sworn statement to the Court. In addition, after using this ground the landlord should be required to provide another statement to the court 16 weeks after possession was granted. In this statement, a landlord would state that they have used the ground as intended, or be required to justify that they had changed their intentions and why. If a landlord lies to the court they would be open to litigation and may be liable to pay damages to the tenant under Section 12 of the Housing Act 1988.
30. In the case of Ground 1A, in Scottish Law, a landlord’s stated intention is not sufficient<sup>16</sup>. There must be some objective evidence that an agent has been instructed, or the appropriate documentation for marketing drawn up. The Renters (Reform) Bill ought to contain similar provisions. As above, when using this ground, a landlord should be required to provide another statement to the court 16 weeks after possession was granted.
31. Given recent press statements by DLUHC suggest that “where landlords seek possession through a court, they must prove their intention to sell or move themselves or family members into the property”<sup>17</sup>, we hope the Government will accept these changes.

### **Preventing abuse of grounds – enforcement**

32. Enforcement is also critical. After an eviction takes place, either following notice or due to a possession order, the Government have set out two avenues for enforcement: local authority enforcement action; and redress through the PRS Ombudsman.

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<sup>16</sup> <https://www.legislation.gov.uk/asp/2016/19/schedule/3?view=plain>

<sup>17</sup> <https://www.independent.co.uk/news/uk/citizens-advice-government-landlords-bill-communities-b2357800.html>

33. As above, in the first instance the burden of proof should be on the landlord. But with the patchy nature of local authority enforcement, it is important that there is an avenue through which tenants themselves may seek compensation for abuse of possession grounds. We encourage the Government to allow a tenant to pursue a Rent Repayment Order – a clear legal mechanism for compensation based on provisions in existing law. This will help tenants enforce their rights and provide an important backstop and disincentive for landlords considering abusing new possession grounds.

#### **Ground 6A**

34. We are concerned that Ground 6A penalises the tenant for the landlord's poor behaviour. Moreover, the Government's enforcement regime is part predicated on a productive working relationship between tenants and the local authority, but Ground 6A provides a disincentive for tenants to cooperate with a local authority pursuing enforcement action against their landlord, for fear it might lead to them being evicted. The Government should set out how it intends to manage this tension.

#### **Ground 8**

35. We welcome the change to Ground 8 so that if a tenant's arrears are only because a Universal Credit payment that they are entitled to has not yet been paid, they cannot be evicted. As above, however, we would recommend the Government make this ground discretionary so that a Court can identify if there are reasons an eviction shouldn't take place.

#### **Ground 8A**

36. The RRC is very concerned by Ground 8A, which we believe is a draconian provision and will almost certainly lead to unfair evictions, including of vulnerable people. It will affect many tenants who, generally, pay their rent without difficulty. Between isolated periods of arrears, a tenant may be fully up to date with their rent and may have very quickly made up the arrears in full. It does not take account of reasons why a tenant might face delays in receiving a lump sum, accrue eight weeks' arrears or more and then be able to pay the arrears back in full - including students, those awaiting lump sum loan payments, those changing employment and the self-employed.

37. Without amendment, Ground 8A will lead to many unfair evictions. We believe that Ground 8A should be removed from the legislation altogether.

#### **Ground 14**

38. Ground 14 of the Housing Act 1988 – which provides landlords with a mechanism to gain possession on the basis of a tenant's antisocial behaviour (ASB)<sup>18</sup> – is amended via the Renters (Reform) Bill so that it no longer references conduct 'likely to cause nuisance or annoyance' and now references behaviour 'capable of causing nuisance or annoyance'. This is a change from what was proposed in the White Paper, and we oppose this change.

39. The notice period remains 14 days, but a landlord can make a claim immediately following notice, meaning that a tenant can be evicted by a court order on the 15th day. This

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<sup>18</sup> <https://www.legislation.gov.uk/ukpga/1988/50/schedule/2/part/II/crossheading/ground-14>

incredibly short notice period does not allow tenants to adequately seek legal counsel and represent themselves in court.

40. We agree with the Domestic Abuse Housing Alliance (DAHA)-led National Housing & Domestic Abuse Policy & Practice Group who are concerned that this definition could easily include victims of domestic abuse, whose experiences can result in 'nuisance and annoyance' to neighbours, housemates, and the landlord, yet is not, and should not be considered ASB. Evicting a tenant due to ASB, when it is domestic abuse, could lead to significant harm and homelessness for victims of domestic abuse, including children<sup>19</sup>. Additionally, there are many other situations where other issues are misidentified as ASB, such as mental health issues, and where the ground could lead to the eviction of a very vulnerable person or persons.

#### **Removal of section 21 protections**

41. Currently, there are several requirements with which landlords must comply in order to use the section 21 no fault eviction route. These include having protected the tenant's deposit; having issued the 'how to rent' guide to tenants; supplied a gas safety certificate and an energy performance certificate.
42. There are no equivalent requirements in the Renters (Reform) Bill in relation to grounds 1 and 1A aside from protecting tenants' deposits. This is a huge oversight in the legislation, and one which threatens a genuine reduction in tenants' protection from unfair eviction in relation to the status quo.
43. In order to ensure these important protections are not lost, the Government should require that eviction notices be registered on the Property Portal, which should also require similar information about the property to be registered (see below). Registering a notice on the Portal should be a condition of the use of an eviction ground being binding.

#### **Rent increases**

44. The Government's White Paper initially suggested that the First-Tier Tribunal would not be able to increase the rent above that proposed in the landlord's section 13 notice, however, the Renters (Reform) Bill provides the Tribunal with the ability to suggest a rent higher than what the landlord asked for. It is not clear why this change from the White Paper has been made, but it appears to be an attempt to disincentivise use of the tribunal and will mean tenants face greater uncertainty in their negotiations with their landlord. The RRC opposes this departure from the White Paper proposals.

#### **Economic evictions**

45. The intention to improve security for tenants will be undermined by the fact the Renters (Reform) Bill does not prevent unaffordable rent increases being default eviction notices – or 'economic evictions'. If a tenant cannot afford a proposed rent increase, they would have no choice but to leave their home.

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<sup>19</sup> [https://www.dahalliance.org.uk/media/11261/daha-national-group\\_asb-da-briefing.pdf](https://www.dahalliance.org.uk/media/11261/daha-national-group_asb-da-briefing.pdf)

46. Fear of this happening would perpetuate issues currently associated with section 21, including renters not feeling confident to make complaints about conditions – it undermines efforts to address the imbalance of power between tenants and landlords.
47. The DLUHC explanatory notes acknowledge the need to prevent ‘backdoor’ evictions in this way, but the policy doesn’t go far enough in preventing unaffordable rent increases being used to evict tenants.<sup>20</sup>
48. Secretary of State Michael Gove has described 20% and 30% rent increases as “unacceptable”<sup>21</sup>, but the Renters (Reform) Bill at present will not prevent these increases from taking place. This is because rent tribunal adjudications are tied to market rents, meaning an increase is permissible if the final rent is comparable to market rents in the local area, as defined by the rent agreed on new tenancies, which lead overall rent levels.<sup>22</sup> It is not hard to see how this would particularly impact renters on lower incomes, for whom market rents may already be unaffordable.
49. The government should prevent landlords retaining the power to carry out no fault evictions via unreasonable rent hikes, by limiting rent increases within tenancies to the lowest of either inflation (CPI), or median income growth, averaged over the last 3 years.

### **Property Portal**

50. With England as the only UK country without a mandatory national landlord registration scheme, the RRC welcomes the introduction of a Property Portal (or Private Rented Sector Database). This has been one of our longstanding asks and is a long overdue measure.
51. The legislation contains provisions that ‘continuing and repeat breaches offences’ related to the Portal open the landlord up to potential Rent Repayment Orders (RROs). We support making simple failure to register an RRO offence – this will drive compliance. Without strong penalties for non-compliance, it will be difficult to drive take up.
52. The key to the success of the property portal in driving up standards and accountability will be the level of information landlords are required to provide. This information should include:
  - Require all landlords and their managing agents to publish their contact and address details, and details of each of their properties.
  - Include details of past enforcement action against landlords and agents, as well as Rent Repayment Orders and banning orders.

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<sup>20</sup> <https://publications.parliament.uk/pa/bills/cbill/58-03/0308/en/220308en.pdf>

<sup>21</sup> [https://inews.co.uk/news/tenants-choice-rent-hikes-losing-homes-michael-gove-2259076?utm\\_source=POLITICO.EU&utm\\_campaign=d29b2a31cb-EMAIL\\_CAMPAIGN\\_2023\\_04\\_11\\_03\\_07&utm\\_medium=email&utm\\_term=0\\_10959edeb5-d29b2a31cb-%5BLIST\\_EMAIL\\_ID%5D](https://inews.co.uk/news/tenants-choice-rent-hikes-losing-homes-michael-gove-2259076?utm_source=POLITICO.EU&utm_campaign=d29b2a31cb-EMAIL_CAMPAIGN_2023_04_11_03_07&utm_medium=email&utm_term=0_10959edeb5-d29b2a31cb-%5BLIST_EMAIL_ID%5D)

<sup>22</sup> Phenomenon explored here with regards to London: <https://www.london.gov.uk/sites/default/files/2023-06/Housing%20Research%20Note%209%20-%20Understanding%20recent%20rental%20trends%20in%20London%27s%20private%20rented%20market.pdf>



- Require eviction notices (and therefore the use of eviction grounds) to be registered, enabling easier identification of instances where there may have been abuse of the grounds.
  - Require basic safety information, including a gas safety certificate, Electrical Installation Condition Report (EICR) and proof of smoke and carbon monoxide alarms, and be joined up with the Government's register of Energy Performance Certificates (EPCs).
  - Require landlords and housing management agents to provide up-to-date information about the rents they charge for properties. This data would provide valuable insight into the affordability crisis in renting and help local authorities target their resources to areas most in need.
53. In the short term the Portal must not replace local authority landlord licensing, rather it should support and complement selective licensing by making it easier for local authorities to identify landlords in their area.
54. It is essential that any registration scheme for short term lets is integrated with the Property Portal to help tenants understand the rights they are entitled to, and so local authorities can take effective action against criminal landlords.

#### **Private Rented Sector Ombudsman and access to justice**

55. The RRC has previously called for a mandatory redress scheme, and therefore welcomes these provisions. A successfully delivered PRS Ombudsman will widen tenants' access to redress. However, the RRC continues to believe that access to justice is imperative to rebalancing the power between tenant and landlord - all renters should have timely access to legal advice, and the Ombudsman should not be seen as a substitute for this.
56. Furthermore, the government must guarantee all renters have access to legal aid should they need it. Renters should not be forced into mediation; however, if they enter it, they should be offered legal advice on their rights, and should always have the opportunity to present their case and vindicate their rights in court.

#### **Outstanding White Paper proposals**

57. The White Paper proposals missing from the legislation include: a statutory decent homes standard, proposals to outlaw discrimination against tenants in receipt of benefits or with children; strengthening councils' enforcement powers. These should be added to the legislation via Government amendment as soon as possible so there is sufficient opportunity to scrutinise them.