

Written evidence submitted by The Lettings Industry Council to the Renters' Rights Bill Committee (RRB16)

Theresa Wallace – Chair - The Lettings Industry Council (TLIC)

www.thelettingsindustrycouncil.co.uk

1. About TLIC

The Lettings Industry Council (TLIC) is a group of voluntary stakeholders from across the industry including professional bodies such as RICS, Propertymark, NRLA, Deposit and Ombudsman schemes, advice4renters, NTSELAT, GLA, VOA, The Property Institute, agents large and small and industry providers. For a full list of stakeholders visit: <https://www.thelettingsindustrycouncil.co.uk/about>

The aim of TLIC is to share the group's extensive lettings expertise through collaboration and accurate market data which allows us to inform, educate and improve the Private Rented Sector for all. All who engage in TLIC are united in their objective to see standards rise across the lettings sector. The group strives to ensure tenants and landlords are given everything they need to secure legally let and safe housing in the private rented sector.

1a. Our overarching thoughts on the Renters' Rights Bill

We support many of the proposals in the Renters' Rights Bill. However, for it to work in practice, and benefit tenants in particular, we believe there are essential changes required to the Bill to avoid mass homelessness and achieve the impact everyone is trying to achieve.

The huge housing shortages which have worsened in the PRS over the last few years, make it difficult for tenants to take advantage of any additional rights when there is either little choice, or no choice of moving to another property. Essentially although they may be able to enforce their rights, if this means choosing to move out of their home, they may not be any better off if they cannot find an alternative place to live. The need for more social housing is critical.

https://www.thelettingsindustrycouncil.co.uk/files/ugd/231fc4_049754c9bff241b3bd9b55e3ba49ce30.pdf

We call upon the Government to set up a cross-party committee to produce a long-term strategy with some short-term gains to provide more social housing through long and short-term solutions. With over 1m tenants in receipt of housing benefits which represents 25-30% of the private rented sector (PRS), providing more social homes would fix a lot of the issues being discussed in the Bill.

2. Introducing the Bill in one stage

- 1) **It will increase homelessness** if new and existing tenancies must comply from the same date, more section 21's will be served in the period prior to the changes being implemented. Local Authorities don't have the stock to house those tenants who qualify.
- 2) **Tenants will be penalised** in existing tenancies, where tenants who have secured homes for a longer period of time, usually 2-3 years or longer, to ensure due to schooling/caring/ jobs and fixed term work contracts, they could find they could be served four months' notice to move due to a landlord wishing to sell or move back in.

We call upon the Government to phase the changes to apply to new tenancies first and existing tenancies either at the end of the fixed term or 12 months from the implementation date, whichever is soonest. This

will allow tenants to enjoy the benefit of the fixed term they secured. Some landlords will realise during a transition period that the changes don't mean they must exit the PRS and will remain, preventing the loss of much needed homes to rent.

3) Written Statements

We call upon the Government to provide a 'Conversion to an Assured Periodic Written Statement', (similar to Wales). This is the only way for tenants to be advised of the changes in a consistent and easy to understand way.

3. PRS Database – Property Portal

Currently the situation is that tenants will not report damp and mouldy homes as often, they are paying below the market rent or they fear eviction. There is nothing on the market that they can afford and so they stay put, often paying below the market rent to have a home.

We support the creation of a PRS Database and believe it is key to eradicating properties not fit for purpose. It must not just be a database of landlords and properties. It must be the equivalent of a car MOT for property.

Without digitisation of property data currently being proposed by the industry, the portal will soon be out of date and the information will not be able to be shared efficiently or effectively across the public and private sector.

For example, the portal's main aim will be to ensure it doesn't allow unsafe properties, rogue landlords and/or agents to advertise or operate in the market.

To do this it must require Gas Safety Reports (GSR) and Electrical Installation Condition Reports (EICR) to have one standard template (the same as an EPC), to allow all the relevant information to be automatically uploaded and checked digitally. This, along with centralised gas and electrical registers, like the EPC register, will allow a coding system to be implemented to enable the portal to verify that safety certificates are in date and that there are no safety issues.

The PRS Database should provide evidence of the property's required valid safety certificates, absence of damp and mould and adhere to the Decent Homes Standard rules once introduced. This could be achieved through a health and safety pre let check. Like EPC providers, people can be trained to check that a property is fit for habitation prior to a tenancy and then periodically renewed, say every 3 years.

If landlords upload their own data, a rogue landlord could upload false information. This is why we need integration that enables the Property Portal to check compliance using APIs, so it is automated. For example, using the Unique Property Reference Number (UPRN) it could instantly check if there is a gas supply. If there is it could instantly check if there is a valid GSR recorded against it. Likewise, the EPC could be checked and if not E rated or better, it could check the exemptions register, etc. Use of UPRN's could facilitate this digitally. Similar to when applying to tax a vehicle, automatic checks happen in the background. Details of ombudsman membership and membership of a deposit protection scheme should also be included on the Database.

The Database needs to have a clear objective to deliver the data required to ensure bad landlords, properties and agents cannot operate. It needs to have interoperability with the finance and property sector as well as local authorities, so all can check a privately rented property is compliant.

This will enable the Database to identify to a local authority that enforcement is required, rather than the local authority having to manually search through millions of records, which will be impossible. Enforcement is key. It will be resourced by landlord registration fees.

TLIC believe the hugely complex Selective Licensing schemes which were initially intended to purely identify properties in certain locations, will not be required if we have a fully functional PRS Database which can also provide funding for Local Authority enforcement.

We call upon the Government to:

a), Introduce mandatory centralised gas and electrical registers and standard templates for contractors to issue so they can be uploaded and checked digitally.

b), Ensure the property portal is fully digitised and can verify all safety reports uploaded.

c), Introduce a pre let health and safety check for every rental property to be completed every 3 years.

4 Regulation of Property Agents (ROPA)

Letting agents need to be regulated to ensure the properties they let are safe, secure and fit to live in. Agents must deal with over 140 laws and regulations and to do so need to be regulated. We call upon the Government to introduce legislation to regulate agents as a matter of urgency.

5 Rent

5a) Rent hikes - Rents have been increasing due to various factors including soaring mortgage interest rates and the removal of mortgage interest tax relief. This has meant that some landlords are making a loss resulting in increasing rents or selling, reducing supply. Providing more social homes would stop rent pressures.

5b) Bidding wars - Due to the lack of supply it is not unusual for tenants to offer above market rent to secure a home. If this was illegal under the regulation of property agents, it would prevent this from happening

5c) Payment in advance - We are concerned for tenants who cannot, for all sorts of reasons, meet the affordability criteria or are unable to pass references due to adverse credit history. In the cases where the reference company requests advance payment to either cover the shortfall or the first 12 months' rent, to meet affordability should be allowed. Equally where a tenant asks to pay in advance, maybe due to adverse credit history, overseas skilled workers, students or to offer below market rent, this should be allowed. Preventing payment in advance will penalise the very people this Bill is trying to protect.

We call upon the Government to allow for payment in advance when tied to affordability when referenced, adverse credit history or to secure a lower rental.

6. Longer Tenancies

Tenants are concerned they will lose their ability to fix longer term lets which means they can't 'put down roots'. They should be allowed to choose a fixed term if this is what they want while retaining their ability to give two months' notice to the landlord after 2 months. This allows them to stay for short - or longer-term work contracts and fit in with schooling and will stop properties moving over to short lets (see below).

If the property is not fit for purpose, then the tenant could serve 2 months' notice to terminate the tenancy or for urgent cases ask the Local Authority to visit and determine the property as unfit.

This will increase landlord and lender confidence and make letting financially viable again, reducing the number of landlords exiting the PRS which is currently putting pressure on supply versus demand, which will only increase when landlords become aware of the RRB main changes. Whilst tenant demand continues to grow, demand will outstrip supply increasing homeless if we don't increase landlord and lender confidence.

We call upon the Government where a tenant requests and a landlord agrees to a longer fixed term, allow them to do so providing the tenant can have a 2-month break-clause ongoing from month two.

6a) Short Lets

The impact periodic tenancies will have on the PRS in areas where 'Air B&B's' are in high demand should not be underestimated. Short term holiday lets will be achieved at long term rentals and will take much needed stock from the PRS.

Shorts let periods are defined by government as generally less than 90 days, and it is generally accepted that short lets operate under a Licence, (not under an assured periodic tenancy) and rents include utilities and council tax.

Airbnb lets are on the whole purely holidays lets, most short lets processed by agents are longer. Of all the short lets created in the last full year by a TLIC agent, the average tenancy length was 91 days.

To create a trading gap between the short-let market and the long-let market, we propose that the current 2 months minimum term for tenants is increased to a 4 months term, with the TT serving 2 months' notice to expire on or from the 4th month.

We also call on all Short Lets to be registered on the Property Portal.

7. Court reform

The biggest risk to tenants is landlords exiting the market in fear of not recovering possession of their property.

The English Housing Survey says there are 4.6¹ million tenancies in the PRS. (19% of all tenures). 9% of landlords ended tenancies.

Of those 9%² who were asked to leave, more than two-thirds (67%) of households reported it was because the 'landlord wanted to sell or use the property', 2% mentioned 'problems with the property' and 31% reported other reasons.

TLIC agents confirm the reasons landlords serve notice are:

To sell

To move back in

Rent arrears

Anti-social behaviour

Tenant not maintain the property

Tenancy breaches

They do not serve notice to earn more rent as a void period and the additional reletting costs outweigh any rental increase.

Source: ¹<https://www.gov.uk/government/statistics/english-housing-survey-2022-to-2023-rented-sectors/english-housing-survey-2022-to-2023-rented-sectors>

²<https://www.gov.uk/government/statistics/english-housing-survey-2022-to-2023-security-of-tenure-fact-sheet/english-housing-survey-2022-to-2023-security-of-tenure-fact-sheet>

The industry continues to see more landlords leaving the sector as they don't have confidence that when needed, the court system can deliver in a timely manner. The average waiting time to gain possession is 7 months (MoJ). However, this does not allow for the time it takes the courts to open and accept applications which can add a considerable amount of time. Bailiff availability is very limited and in some areas once a possession order is granted, you can wait months for a Bailiff date.

Delinking court reforms from the ban on section 21 notices is a major concern for both landlords and lenders. Many Councils continue to advise tenants to remain in their property until an eviction order is granted. We previously sent the PRS team in MHCLG evidence showing 9 Councils who did this during the period we were collating the evidence.

We call upon the Government to:

Issue a letter to Local Authorities advising them they must not advise tenants to wait for a possession order otherwise they will be deemed intentionally homeless. It causes anxiousness and stress to tenants when faced with the worry of being taken to court.

Ensure the courts have the investment and resource to deal with cases in a timely manner and commit to see waiting times falling when it comes to the courts considering and processing legitimate possession cases.

Improve court and tribunal staff recruitment and access to legal aid support for renters.

8 First Tier Tribunal (FTT)

We believe the FTT will see a significant increase in cases once the Bill comes into force. Any challenge to a rent increase will have to be through the FTT. It is imperative that we learn lessons from Scotland, where the FTT was under resourced when they changed to the new system. The FTT must be resourced as currently we don't believe they can cope with an increase in cases in a timely manner.

Of the 4.6³ million current tenancies in the UK, moving forward the majority will receive a Section 13 notice on an annual basis. If even 25% of these households challenge the rent increase through the FTT, this means an average of 1,150 million cases per annum.

Furthermore, there must be a transparent criteria published, which is to be used to determine a market rent. Landlord's and agents need to know the criteria to ensure consistency and fairness. This will be essential for rural properties where there is no or limited comparable evidence.

Without a transparent criteria, there is a far greater risk of more tenants referring Section 13 notices to the FTT.

We also call for each Local Authority to have access to market data, such as Rightmoveplus, (the most commonly used comparable tool used by estate agents across the UK), which can be used to find comparable evidence for market rents.

We therefore call upon the Government to ensure there is a transparent criteria to determine a market rent and ensure the First Tier Tribunal have the investment and resource to deal with cases in a timely manner.

Sources: ³<https://www.gov.uk/government/statistics/english-housing-survey-2022-to-2023-rented-sectors/english-housing-survey-2022-to-2023-rented-sectors>

9 Rent arrears

We are concerned that there will be less property to meet growing tenant demand due to the changes to serving notice for rent arrears. Under the proposals in practice a landlord cannot start proceedings for almost 4 months. (3 months' rent arrears up from 2 months and 4 weeks' notice up from 2 weeks). It means landlords could be faced with having to see upwards of a years' worth of lost rent (taking current court delays), before regain possession, which in effect would penalise landlords who have not done anything wrong. This will result in losing more landlords from the PRS. We call upon the Government to revert to the original time frame of 2 months arrears before a landlord can start possession proceedings.

10 Marketing for let following gaining possession using Ground 1A

Losing more properties from the rental market when we don't have enough stock to meet the demand will only penalise tenants, who will need a home while these properties sit empty.

The bill proposes a 12-month period between gaining possession using Ground 1A and re-letting. In cases where a landlord can provide evidence that the property was marketed through an agent at a market price and either, the property didn't attract any offers or, offers were accepted but fell through due to the buyer withdrawing, we call upon the Government to reduce the time from 12 months to 4 months.

If evidence cannot be provided then the landlord cannot relet during the 12 months.

11 Serving Notice

The bill states to specify where notice is served but not how. This means tenants could serve notice by social media messaging or sending a WhatsApp. This would be hard to verify and could easily be missed, meaning tenants would not receive any advice on what to do when vacating a property or how to get their deposit back.

We call upon the Government to specify notice must be served in writing either in an email or letter to the landlord or agent.

12 TLIC Recommendations

- 1.** Set up a cross party committee to produce a long-term strategy with some short-term gains to provide more social housing through long and short-term solutions.
- 2.** Introduce the Bill in two stages.
 - 2a.** Introduce a Written Statement.
- 3.** Introduce mandatory centralised gas and electrical registers and standard templates for contractors to issue so they can be uploaded and checked digitally.
 - 3a.** Ensure the property portal is fully digitised using the UPRN as the property identifier and can verify all safety reports uploaded.
 - 3b.** Introduce a pre let health and safety check for every rental property to be completed every 2-3 years.
- 4.** Introduce legislation to regulate agents (ROPA).
- 5.** Allow for payment in advance when tied to affordability when referenced or when due to adverse credit history or, to secure a lower rental.

6. Increase the current 2 months minimum term for tenants to a 4 months term, with the TT permitted to serve 2 months' notice to expire on or after the 4th month.
- 6a. Short Lets to be registered on the Property Portal.
7. Ensure the courts have the investment and resource to deal with possession cases in a timely manner.
- 7a. Re-issue a letter to Local Authorities advising them they must not tell tenant's to wait for a possession order.
- 7b. Improve court staff recruitment and access to legal aid support for renters.
8. Ensure there is a published criteria to determine a market rent.
- 8a. Ensure the First Tier Tribunal have the investment and resource to deal with cases in a timely manner.
- 8b. Improve tribunal staff recruitment and access to legal aid support for renters
9. Revert to the original timeframe of 2 months arrears before a landlord can start possession proceedings.
10. Reduce the time for marketing to re-let where evidence can be provided that the property is not selling from 12 months to 4 months.
11. To specify notice must be served in writing either in an email or letter to the landlord or agent.

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