

# StepChange submission to the Renters Rights' Bill Committee (House of Commons)

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StepChange Debt Charity is the largest specialist debt advice charity working across the UK to support people struggling with problem debt. In 2023 we gave advice to over 180,000 people seeking support with their debts and finances.

We welcome Renters Rights' Bill, which sets out plans for significant changes to the private rental market in England with the aim of “transform[ing] the experience of private renting”,<sup>1</sup> including the welcome abolition of Section 21 ‘no fault’ evictions.

Private renters have been over-represented among our clients for several years, and 2023 was no different. It is vital that the Government prioritises private renters, who are bearing the brunt of the cost-of-living crisis.

This submission highlights that:

- Repealing Section 21 will not by itself address the growing financial vulnerability, and therefore housing vulnerability many private renters face.
  - The Government says it wants to “ensure private renters ... have access to a secure and decent home<sup>2</sup>”. We strongly support this ambition.
  - Yet, without section 21, landlords will look to other options. Given that the most common reason landlords and estate agents end tenancies is a tenant being in arrears,<sup>3</sup> it is likely that Ground 8, for rent arrears, will be used in its place.
  - This means that there is still a risk of automatic eviction among under-pressure renters and a danger that people vulnerable to payment difficulties, but whose affordability issues quickly recover, simply won't get the security implied by the Bill's headline.
  - While it's important for landlords to be able to recover possession when this is fair and necessary, this should not be without proper safeguards. The Bill fails to address the fact that private renters dealing with arrears struggle to access the affordable repayment terms and forbearance programmes common to other tenures.
  - We welcome changes to Ground 8, but as the Renters Rights' Bill goes through Parliament, StepChange proposes that the Government end automatic evictions on grounds of rent arrears and instead provide for judicial discretion. This would recognise that affordable payments terms can make a real difference to people keeping their homes and would incentivise landlords to signpost support and offer a repayment pathway where these are viable options.
1. StepChange has warmly welcomed many of the Government's measures that make up the Renters Rights' Bill. The most important and welcome change in the Bill is the headline abolition of Section 21 so-called ‘no fault’ evictions. Repealing Section 21

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<sup>1</sup> [Renters \(Reform\) Bill: Explanatory notes](#), September 2024, Ministry of Housing, Communities and Local Government

<sup>2</sup> Ibid.

<sup>3</sup> [English Private Landlord Survey 2021: Main report](#), May 2022, Department for Levelling up, Communities and Housing

promises to give private tenants more security and confidence to exercise their legal rights or challenge rent increases without threat of eviction.

2. The end of Section 21 should therefore have a positive impact on the numbers of families who face eviction and homelessness.

### **The eviction debt threat for private renters remains**

3. We welcome changes to Ground 8, extending the period before which a possessions claim could be brought from two to three months, and discounting arrears covered by pending housing support claims. This is a change from the status quo that goes some way in recognising how people's financial difficulties can easily threaten their housing security.
4. However, StepChange is still concerned about the mandatory rent arrears possessions ground, which current applies for relatively small amounts of arrears. We are pleased that the Bill expands the threshold before which possession can be granted from two to three months, which will provide a greater buffer for struggling tenants.
5. Not even a judge is able to halt private landlord possession claims on grounds of rent arrears<sup>4</sup> – even if a tenant is in a position to clear them.
6. This contrasts sharply with the mortgage and social rented sectors, where a judge can order a repayment pathway on a case-by-case basis, when there's a strong case that affordable payments will help people keep their homes.

### **Financial vulnerability in the Private Rented Sector**

7. As a front-line debt advice charity, StepChange is keen to ensure that financially vulnerable renters have a safe route to sustain their tenancies, wherever possible, through short-term shocks and challenge.
8. The Private Rented Sector (PRS) plays host to more than 11 million people,<sup>5</sup> including working households, families raising children and older people. Many private tenants show high levels of financial vulnerability, and the decline in the size of the social housing sector means that many private tenants now look a lot like social tenants – their needs are increasingly aligned.
9. Our research shows that over 1 million private renters are in problem debt, and private renters are now twice as likely to be struggling financially compared to the general population.<sup>6</sup>
10. Even before the cost-of-living crisis, private renters were paying much higher housing costs, as a share of income, compared to people in social housing or with a mortgage. For

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<sup>4</sup> [Housing Act 1988, Ground 8, Schedule 2](#)

<sup>5</sup> [A fairer private rented sector: policy paper](#), August 2022, Department for Levelling Up, Housing & Communities

<sup>6</sup> [Private renters twice as likely to be in problem debt as general population](#), May 2023, StepChange

private renters, 38 percent of income is spent on rents, compared to around 29% among social renters and 34% among mortgagors.<sup>7</sup>

11. Affordability pressures have intensified with recent record-breaking rent rises. According to the ONS, private renters have been hit by a 5 percent annual increase in rents over the last 12 months; since the start of the pandemic rents have risen by more than 25% .<sup>8</sup>
12. In the PRS, this combination of rising costs and declining resilience have been key factors driving greater housing stress and hardship.
  - According to Shelter, almost 2.5 million private renters are either behind or constantly struggling to pay their rent.<sup>9</sup>
  - Private renters now account for one third of StepChange clients, with cost pressures leading to an increasing prevalence of arrears.
  - Citizens Advice has reported a 13% increase in the number of people coming to them for help with an arrears-related eviction.<sup>10</sup>

## Debts unfairly dealt with

13. Yet while private renters face the same kinds of financial setbacks as people who live in council and housing association homes, they do not enjoy the same protections. Our research shows there is a large and growing number of renters who need more understanding and support from private landlords than they are currently willing or required to give.<sup>11</sup> We are concerned that the Bill still allows landlords to automatically evict private tenants in arrears.
14. While it's important for landlords to be able to regain possession when this is fair and necessary, this should not be without proper safeguards. The Bill doesn't address the fact that private renters dealing with arrears sometimes struggle to access support and often can't access the affordable repayment terms and forbearance programmes common to other housing tenures.
15. Our survey of StepChange clients showed that unaffordable rent arrears payment demands are 50% more likely in the private than in the social rented sector; and that private tenants are more likely to face the threat of eviction or pressure to move as a result of their arrears.<sup>12</sup>
16. We believe that financially vulnerable private tenants, like mortgagors and social tenants, need more protection through hard times.

## The solution: give struggling tenants a safe route to stay in their homes

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<sup>7</sup> StepChange client data for the first half of 2024.

<sup>8</sup> [Index of Private Housing Rental Prices, UK: May 2023](#), Office for National Statistics

<sup>9</sup> [More than a million private renters hit with a rent hike in the last month](#), Sep 2022, Shelter

<sup>10</sup> [Another year, another renters' crisis](#), Jan 2023, Citizens' Advice

<sup>11</sup> [Trapped in rent](#), May 2023, StepChange

<sup>12</sup> Ibid.

17. StepChange is calling on the Government to instead support struggling tenants seeking a safe route to keep their homes through short-term shocks and challenge. This would not be open-ended, but conditional on the viability of the tenant to sustainably pay back arrears, for instance through an objectively affordable repayment plan.
18. Our proposed changes to the Bill would ensure that people recovering from short-term difficulty are helped wherever possible to keep their homes. This would provide a better balance between the rights of tenants and landlords, ensure court action is only ever a last resort, and give private tenants a supported pathway where possible to pay their arrears and stay in their homes.

### **Financial vulnerability and Ground 8**

19. The Bill amends Section 7 of the Housing Act 1988, which provides that the Court shall only make a possession order on one or more of the grounds set out in Schedule 2 of the Act.<sup>13</sup> These grounds are divided into mandatory and discretionary grounds. Mandatory grounds require the court to grant possession, and therefore evict the tenant if a valid notice is served and the ground is met.
20. Under the 1988 Act, Ground 8 is a mandatory ground requiring the court to order possession where a tenant is in 8 weeks [2 months'] worth of rent arrears. The Bill expands this period to three months' worth of rent arrears. But as things stand, judges cannot have regard to the tenants' circumstances, their vulnerability to homelessness, or the reasonableness or otherwise of the landlord's previous action.
21. This Ground fails to consider the reasonable needs of people vulnerable to payment difficulty. It means that not even a judge will be able to halt private landlord possession claims on grounds of rent arrears – even if in a position to clear them.

### **Supporting financially vulnerable tenants in the PRS**

22. This approach to evicting people from their homes is no longer reasonable as the scarcity of social housing leaves more financially and otherwise vulnerable people living in the PRS.
23. A third of StepChange clients live in the PRS, but in many ways they look like our clients living in social housing. Around half of them are families with children. Half have additional vulnerabilities like poor mental health or disabilities on top of their precarious financial

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<sup>13</sup> [Housing Act 1988, Section 7](#)

situation. Over a third of them have deficit budgets, which means that their incomes not enough to meet essential expenditure.<sup>14</sup>

24. However, their rent takes up a much larger proportion of their income than social tenants, and they have less support and much less protection against eviction for rent arrears. So, while repealing Section 21 evictions is a vital step towards housing security for all private tenants, the Bill does not address the urgent policy need to support the most vulnerable tenants to stay in their homes.
25. We know that social landlords can make progress towards zero-evictions aspirations by supporting vulnerable tenants to stay in their homes, but we do not see anything like the same support in the PRS. According to a survey conducted last year, StepChange clients living in the PRS were much less likely to be signposted to advice services, assisted with benefit and discretionary housing claims and offered affordable rent arrears repayments than clients with social landlords.<sup>15</sup>
26. We understand that small private landlords do not have the same resources as larger social housing providers. But the 1988 Housing Act approach on over-protecting landlords' rights just pushes the problem of supporting vulnerable households elsewhere. It fails to give struggling renters the help they need and increases social burdens, through more debt, more evictions, and more 'temporary' or unsuitable accommodation. Councils in England spent £1.7billion on temporary accommodation for homeless households in 2022/23,<sup>16</sup> at a time when councils are cash-strapped and in crisis. Not tackling affordability issues in the PRS in the short-term has dire knock-on effects.
27. StepChange clients living in the PRS told us how worries about eviction, fear of complaining about poor housing negatively affected their health, family relationships and work life.<sup>17</sup> With recent polling showing over a third of private tenants having to use credit to pay soaring rents,<sup>18</sup> the need for a new policy approach to supporting vulnerable tenants is ever more urgent.

### **Proposed amendment to Ground 8. Pre-action process and court discretion**

- 28.** Our proposed amendment (annex 1) would bring consideration of support for financially vulnerable tenants into the legislation and would change the Bill's policy focus to ensure it delivers a fair deal for the most vulnerable private tenants.
- 29.** Our proposal contains two interlinked parts. First, we believe the Bill should end the current approach to mandatory possession grounds for rent arrears, and instead provide for a degree of judicial discretion. This would affect Ground 8 by

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<sup>14</sup> All stats from StepChange client data 2023.

<sup>15</sup> [Trapped in rent](#), May 2023, StepChange

<sup>16</sup> [Homeless accommodation bill hits £1.7bn](#), October 2023, Shelter

<sup>17</sup> Ibid.

<sup>18</sup> [StepChange responds to further rise in private rental prices](#), October 2023, StepChange

**putting the balance back in the hands of judges, landlords would be under a stronger incentive to sustain viable tenancies rather than abruptly collapsing them.**

30. Making rent arrears grounds discretionary would recognise the need to get support to vulnerable private tenants to help them deal with rent arrears and wider financial difficulties before facing eviction proceedings. Court discretion would allow a judge to consider the tenants' circumstances, their vulnerability to homelessness, or the reasonableness or otherwise of the landlord's previous action, before adjourning, suspending on terms, or deciding the final outcome.
31. The second part of the amendment sets out new requirements on landlords while also balancing this by qualifying the judge's discretion. **It introduces a pre-action process to PRS evictions, mirroring a similar process in the social rented sector that puts much greater emphasis on helping people to stay in their home.**
32. This part of the amendment says that landlords must, in these cases, demonstrate to the court that the steps set out in pre-action guidance (to be published by the Secretary of State) have been followed. These new provisions would only apply to the mandatory possession grounds for rent arrears set out in Schedule 2 of the Act – Ground 8.
- 33. Our proposals require landlords to take steps in cases of rent arrears to ensure tenants access support to repay those arrears. The steps include signposting to advice, giving a tenant time to apply for hardship grants, discretionary housing payments, and benefits, and seeking to agree an affordable repayment plan to pay back their rent arrears.**
- 34. Our proposals would ensure private landlords have to act reasonably and fairly by their tenants before seeking to evict vulnerable tenants, while also ensuring the court has qualified discretion to suspend possession proceedings where these steps have not been taken.** This approach would be similar to the pre-action protocols that exist in the mortgage<sup>19</sup> and social rented sectors<sup>20</sup>. These protocols have created and strengthened the focus on helping people to re-pay their rent/mortgage arrears and therefore stay in their homes.

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<sup>19</sup> [Pre-action Protocol for Possession Claims based on Mortgage Arrears](#), last updated Jan 2017, Ministry of Justice

<sup>20</sup> [Pre-action Protocol for Possession Claims by Social Landlords](#), last updated Jan 2020, Ministry of Justice

# Annex 1 – Proposed Amendment

## Subject

Introducing discretion for the court in possession claims on the ground of rent arrears

## Proposed amendment

*'In Clause 3 of the Bill (Changes to Grounds for Possession), after Clause 3 (3) (g) add the following:*

*(h) After subsection 1 (b) insert –*

*“(c) In respect of Ground 8 the requirements of subsection 1A are met”*

*(i) After subsection 1 insert new subsection 1A as follows–*

*“1A The landlord demonstrates in the notice that the steps required in pre-action guidance published by the Secretary of State are met.”*

*(j) Insert new subsection 1B as follows:*

*“1B The Secretary of State will publish pre-action guidance setting out the steps that a landlord must take to demonstrate that, as far as it is reasonable, they have:*

- a) Contacted the tenant as soon as reasonably possible*
- b) Tried to reach an agreement with the tenant on affordable repayments of rent arrears*
- c) Supported the tenant to access other help relevant to paying rent and rent arrears including:
  - i. Establishing entitlement to benefits*
  - ii. Accessing other financial support*
  - iii. Seeking debt advice*
  - iv. Such other advice and assistance that may help the tenant stay in their home.”**

*(k) Insert new subsection 1C as follows:*

*“1C The condition 1C is met where the tenant has reasonably engaged with the steps in 1B”*

*(l) Insert new subsection 1D as follows*

*“1D Where the court concludes that the conditions of subsection 1A and 1C are not met, the Court has the discretion to suspend possession proceedings where it considers that the steps outlined in the pre-action guidance have not been followed sufficiently.”*



