

Written evidence submitted by Shelter to the Renters' Rights Bill Committee - October 2024

Shelter is one of the UK's largest housing and homelessness charities. We help millions of people each year struggling with bad housing or homelessness through our advice, support and legal services.

Executive summary:

- Shelter exists to defend the right to a safe home and fight the devastating impact of the housing emergency.
 - In 2022/23, we provided housing and homelessness advice to 16,000 households through our emergency helpline and a further 15,000 households through our webchat service. Through our local hubs, we provided face-to-face support to over 12,000 households, while our legal services worked with 4,500 households and our justice services assisted on close to 4,000 cases.
 - Shelter's online advice and support pages received 7.1 million visits, with our pages on private renting being the most frequently visited.
 - Shelter welcomes the Renters' Rights Bill. For too long, private renters have been living in a sector characterised by insecurity, discrimination, poor conditions and unaffordable rents. This bill is a critical opportunity to change that, by bringing fairness to renting and laying the foundations for private renters to live with security and stability in their homes.
 - We further welcome the "commitment to transform the experience of private renting" and the speed of progress made so far. The Bill represents a significant step in the right direction.
 - We strongly welcome the measures introduced to give renters greater security, including the immediate abolition of Section 21 'no-fault' evictions, the extension of notice periods to four months, and the introduction of a 12-month no reletting period.
 - We are encouraged to see a commitment to tackling discrimination in the private rented sector, though there is more work to be done here.
 - Additionally, if done right, the introduction of a landlord register will provide transparency and accountability in the sector, which will be crucial in enabling enforcement of existing and new standards.
 - However, we do have concerns about omissions and potential loopholes that will leave some tenants vulnerable to economic, dishonest evictions, and discriminatory practices in the private rented sector.
1. **Giving renters greater security:** the cornerstone of challenges in the private rented sector is the insecurity and uncertainty that characterises the current system. While scrapping of Section 21 and fixed term tenancies are welcome, transformative changes, more must be done to better prevent abuse of the new system of possession. Additionally, stronger measures are required to reduce the harm caused by punitive and often disproportionate evictions.
 2. **Preventing rent increases designed to force renters out of their homes:** 300,000 renters have been forced to move due to a rent increase in the last 5 years. With greater security of tenure in the new possessions system, there is a big risk that rent increases

could become the new de facto 'no-fault' eviction. For many tenants, especially households on a low income or claiming housing benefit, a rent increase is as good as an eviction. The Bill must set fair limits to rent increases within tenancies to prevent renters being forced out by large, unpredictable rent hikes.

3. **Removing barriers to accessing homes and tackling discrimination:** Shelter's services see renters denied homes that they can afford regularly. Renters relying on housing support are routinely discriminated against, disproportionately impacting black and Bangladeshi households, women, single parent households and disabled tenants. Shelter welcomes the intention prevent housing benefit and family discrimination, but the Bill must go further to clearly and effectively address the use of discriminatory practices in the private rented sector to make access to homes more equitable.

Recommendations:

1. **Extend the tenant's protected period from 12 months to 24 months**, preventing the use of Ground 1 (moving landlord or family member back in) or 1A (landlord sale) for 2 years after entering a new tenancy.
2. **Set out clearly the evidence threshold for landlords seeking to evict tenants under Ground 1 and 1A, alongside introducing a post-eviction evidence hearing**, to establish a mechanism to uncover lawful and unlawful action taken post-eviction.
3. **Make all eviction grounds discretionary**, as is the case in Scotland, to truly protect renters from homelessness and reduce the harm caused by evictions
4. **Limit rent increases to the lowest of inflation or wage growth in a given financial year**, to stabilise rents for sitting tenants and prevent renters being forced out their homes by large, unexpected rent increases.
5. **In cases of 'rental discrimination, increase maximum fines from £7,000 to £15,000 and enable tenant compensation**, to ensure local authorities and tenants can uphold their new rights, and effectively deter landlords from continuing to enact discriminatory policies.
6. **Limit rent in advance to no more than one month's rent** to tackle a key discriminatory barrier that is preventing low-income renters, disproportionately housing benefit claimants, from accessing homes in the private rented sector.
7. **Restrict the scenarios in which landlords can legitimately request a guarantor to where tenants are unable to prove their can afford the rent, and limit rent guarantees to no more than 6 months rent.**
8. **Scrap the discriminatory and dysfunctional right to rent policy** which has been found to cause racist outcomes and has no place in our renting system.

1. Giving renters greater security

Abolishing section 21 and fixed term tenancies urgently

- 1.1 500 private renters are served a no-fault eviction notice every day.¹ The loss of a private tenancy remains the leading cause of homelessness in England, and 26,150 households approached their local authority last year (2023/24) under threat of homelessness after receiving a section 21 no-fault eviction notice.² To prevent homelessness and give renters real security, the move to a new more secure tenancy system must be prioritised.
- 1.2 Section 21 evictions cause significant disruption for tenants and does result in homelessness for some households. These experiences can be incredibly harmful, particularly for more vulnerable groups. The constant threat of eviction negatively impacts the wellbeing of private renters – 35% of private renters say worrying about being evicted has negatively affected their mental or physical health.³
- 1.3 Evictions and unwanted home moves are preventing renters from putting down roots in their communities, contributing to their local economies and planning for their families' futures. Whether through lost workdays or impacts on educational attainment, England's insecure rented sector is holding the country back.⁴
- 1.4 In the last 5 years, more than 580,000 renters have lost wages due to missing work when viewing or moving between private rentals.

Private renter case study: impacts of insecurity

Last week my landlord phoned, he said he wants his house back to holiday let it to double his income. We assumed we had another year at least. He said he wanted us out by January the latest. I explained we have no savings, currently changing over to UC and we would be better off giving the chance to save for a new rented home. I asked could he give us notice in January instead. But I'm expecting [the notice] any day now.

We have paid over £100,000 of his mortgage in the last 6 years and been good tenants. Now I need to try find over £3500 by January for a deposit and 1st month's rent up front on another rented property.

My son 11 has just started High school he's doing amazing making new friends it's so upsetting we may have to move him as he suffers massively with anxiety. My daughter is 9, she's just gone into year 5 and enjoying school, she also has strong friendships. My son who's 17 unfortunately was diagnosed with a brain tumor in May and had brain surgery, he missed his retakes GCSE's because he was in hospital. [Despite this] he was accepted onto the level 2 Automotive course at college.

Now I'm worried and scared my family will all end up homeless and put into temporary accommodation. I'm very concerned how we will afford a B&B, the fuel costs and most of all my children being torn away from

¹ All figures are from a YouGov survey for Shelter of 4,023 private renting adults (18+) in England. The survey was conducted online between 14th July – 16th August 2023, and the results were weighted to be representative of private renters.

² The leading cause of homelessness is the loss of a private rented tenancy. This is calculated by looking at the reason given for the loss of their last settled home by households who were found to be owed a prevention or relief duty in the last three months. 23,510 households lost their last settled home due to the ending of a private tenancy (the ending of an AST and the ending of a private tenancy non-AST). This was more than the next most common reason (family and friends no longer willing or able to accommodate 22,690). . 26,150 households were threatened with homelessness as a result of a section 21 notice in 2023/24, [Statutory homelessness statistics, Table TA1](#).

³ *Ibid.*

⁴ The previous governments Kings Speech highlighted that school moves at non-standard times are associated with a 0.5 reduction in expected GCSE grades. King's Speech 2023, November 2023

their schools/ college and friends. I'm also self-employed and work from home, I wouldn't be able to carry out my job in a B&B.

- 1.5 Shelter's research has found that private renters who had complained about conditions or disrepair in their home are two and half times more likely to report being served with a section 21 eviction notice. A further 25% had foregone making a complaint in fear of a retaliatory eviction.⁵
- 1.6 This combination of factors is a key reason why conditions in the private rented sector are considerably worse than other tenures. Shelter research found that 76% of private renters have experienced disrepair in their current home.⁶
- 1.7 We view the removal of section 21 as the cornerstone of delivering a fairer and more secure private rented sector and strongly welcome its removal in the Renters' Rights Bill. Removing no-fault evictions from the system will improve private renters' security and stability, and consequently their health and wellbeing, immeasurably.
- 1.8 Further to this, the abolition of fixed term tenancies is positive. Shelter's services regularly see the harm caused by fixed term tenancies, particularly in situations where tenants are forced or feel forced to put up with poor conditions and unaffordable rents because they are 'locked in' and liable for rent payments during the tenancy.
- 1.9 Here, we believe the Bill strikes the right balance. By increasing notice periods for tenants' notice to quit and scrapping fixed terms, private renters will be protected from being trapped in unsuitable tenancies, while ensuring landlords are able to plan and prepare for new tenancies.
- 1.10 Shelter also welcomes the approach to implementation set out in the Bill. The provisions allow for the Government to provide landlords with sufficient time to prepare, while accelerating the process of implementation.

Preventing short notice, frequent eviction to tackle homelessness

- 1.11 Unexpected moves at short notice puts private renters at significant risk of homelessness. Our research shows that 34% of renters needed more than 2 months to secure a new privately rented home the last time they moved. That increases to 42% for housing benefit recipients, 40% for renters with children, and 46% for Black renters.⁷⁸
- 1.12 Shelter therefore welcomes the increase in notice periods for Section 8 possession Ground 1 to 2ZD, 6, 8, 10 and 11, compared with the previous Renters' (Reform) Bill.

⁵ All figures are from a YouGov survey for Shelter of 4,023 private renting adults (18+) in England. The survey was conducted online between 14th July – 16th August 2023, and the results were weighted to be representative of private renters.

⁶ *Ibid.*

⁷ All figures are from a YouGov survey for Shelter of 4,023 private renting adults (18+) in England. The survey was conducted online between 14th July – 16th August 2023, and the results were weighted to be representative of private renters.

- 1.13 **We further support the Renters' Reform Coalition's recommendation for 'no-fault eviction compensation' - a two-month rent waiver for tenants evicted under new grounds where they are not at fault - and a 'right of first refusal' for Ground 1A.** These measures, combined with extended notice periods, give tenants more time to find a new home and reduce the risk of homelessness.
- 1.14 We do remain concerned that some tenants will still face unwanted home moves in a similar frequency to the current system.
- 1.15 Most tenants signing an assured shorthold tenancy currently sign for a 12-month fixed term, effectively protecting them from a no-fault eviction during that period.⁹ The Bill, in its current form, offers similar protection regarding Ground 1 and 1A, allowing landlords to evict tenants under these grounds after just 12 months.
- 1.16 17% of private renters have had to move 3 or more times in the last 5 years.¹⁰ Frequent, unwanted home moves erode renters' resilience and increase their risk of homelessness. This is due to both the mental and physical toll of moving home against their will, as well as the often-prohibitive cost attached to it. Shelter research shows that the average total cost of a tenants' most recent move was £1,245, with £670 of that being unrecoverable.¹¹
- 1.17 Almost half of private renters have no savings, leaving them even more vulnerable to the financial strain of moving.¹²
- 1.18 Consequently, we believe a greater shift to longer-term tenancies, through an extended protected period at the beginning of tenancies, is a vital measure in improving outcomes for tenants and preventing homelessness.
- 1.19 **Recommendation: Extend the tenant's protected period from 12 months to 24 months,** preventing the use of Ground 1 (moving landlord or family member back in) or 1A (landlord sale) for 2 years after entering a new tenancy.

Tackling disproportionate and unfair evictions

- 1.20 Section 8 possession grounds and associated policies should reflect the fact that evictions cause significant disruption to tenants' lives and are an extreme measure. The Bill should be guided by the core aim of reducing the instances of eviction to cases where there are no alternative courses of action.

⁹ MHCLG, English Housing Survey 2022 to 2023: headline report, December 2023

¹⁰ *Ibid.*

¹¹ All figures are from a YouGov survey for Shelter of 2,002 private renting adults (18+) in England. The survey was conducted online between 29th February - 19th March 2024, and the results were weighted to be representative of private renters.

¹² 46% of private renters have no savings, MHCLG, English Housing Survey 2022 to 2023, Annex Table 2.12, December 2023

- 1.21 The retention of mandatory grounds for possession, as is the case in the current drafting of the Bill, does not align with this aim.
- 1.22 In some instances, tenants' circumstances – such as poor health or a risk of unmet support needs – should be considered in court hearings, to establish whether an immediate order for possession is reasonable in the circumstances.
- 1.23 Shelter's services see many evictions reaching the county courts in which alternative solutions to eviction are available, yet have not been considered ahead of proceedings and communication with tenants has been absent.
- 1.24 Giving courts discretion in possession proceedings would allow for consideration of solutions that achieve the desired outcomes of both landlord and tenant, in terms of resolving the issue at hand while keeping tenants housed or safe from specific harms.
- 1.25 Some examples of such evictions include eviction for minor behavioural complaints, and for low level, recoverable arrears. The Tenancy Deposit Scheme's research from 2024 found that 90% of tenants in arrears take active steps to resolve them, and "in most cases the duration of arrears is relatively short".¹³
- 1.26 **Recommendation: Make all Section 8 eviction grounds discretionary**, as is the case in Scotland.
- 1.27 **Recommendation: the government must also amend Ground 6A, which currently would penalise tenants for landlords' failure to comply with standards and duties. Options for reform include making Ground 6A discretionary.**

Preventing abuse of eviction grounds and closing loopholes to unlawful evictions

- 1.28 Shelter strongly welcomes the introduction of a 12-month no reletting period, to deter landlords from wilfully or recklessly enacting unlawful and dishonest evictions. The extension of Rent Repayment Orders (RROs) across a number of offence areas, as well as increases to the time limits to make applications and to the maximum size of RRO awards is also welcome progress on the previous version of the Bill.
- 1.29 These measures will go some way to supporting tenants and local authorities to uncover breaches of possession grounds and the no reletting period that will be introduced by the Bill. However, as it currently stands, Ground 1 and 1A remain vulnerable to abuse and landlords could use these grounds to continue to carry out retaliatory and unfair evictions.
- 1.30 Research from Nationwide Foundation has found that 1 in 5 landlord sale evictions in Scotland, did not end up in a sale of the property.¹⁴ Further measures could ensure the Bill

¹³ TDS Charitable Foundation, Living in the private rented sector in 2024, 2024

¹⁴ Indigo House and Nationwide Foundation, RentBetter: Wave 3 final report, September 2024

is more watertight than Scotland's current regulations, and give tenants much greater protection from dishonest and retaliatory evictions.

- 1.31 Firstly, setting out clearly the legitimate reasons and the evidence required for landlords to regain possession of their homes would help prevent abuse.
- 1.32 Tenants and landlords both need clarity in what constitutes a legitimate eviction notice. The Bill could, for example, set out that landlords must provide a letter or other evidence demonstrating engagement of a solicitor as the time the notice is served for the landlord sale ground.
- 1.33 This would help to give tenants a better understanding of when and why a notice they suspect to be dishonest can be challenged in court. It is also important that judges have a strong steer from government, to prevent light touch or inconsistent scrutiny of possession claims.
- 1.34 This would also give landlords legitimately seeking possession confidence that the evidence they have provided will secure them possession, leading to less frequent and complex challenges in the county court.
- 1.35 We also recommend the introduction of a post-eviction evidence hearing. This could be held 16 weeks following a possession order – to provide evidence of the actions taken by the landlord.
- 1.36 Learning from Scotland's experience, relying on possession hearings and patchwork local authority enforcement to uncover abuses of the grounds is unlikely to be successful.
- 1.37 A post-eviction evidence hearing would ensure key provisions in the Bill are proactively monitored and landlords are effectively deterred from continuing to carry out unfair, dishonest evictions.
- 1.38 **Recommendation: Set out clearly the evidence threshold for landlords seeking to evict tenants under Grounds 1 and 1A, alongside introducing a post-eviction evidence hearing**, to establish a mechanism to uncover lawful and unlawful action taken post-eviction.

2. Preventing rent increases that force tenants out of their homes

Changes to rent increase rules are needed to prevent de-facto no fault evictions

- 2.1 We believe that the Renters' Rights Bill in its current form will not achieve the stated aim of protecting tenants from rent increases designed to evict them 'by the backdoor – otherwise known as 'economic evictions'.
- 2.2 Even with tightly designed and robust Section 8 grounds, there remains the very real risk of unaffordable rent increases becoming an alternative route to unfair and retaliatory evictions.

Case study from Shelter advice services: retaliatory rent increases

Jane is a 78-year-old woman who suffers from rheumatoid arthritis.

In July, her boiler malfunctioned leaving her with no hot water or heating, which affected her health significantly.

Despite notifying the landlord, no action was taken for four days. The landlord initially promised a quick resolution but failed to follow through.

After it was communicated that the client's daughter would be involving the local Citizens Advice Bureau to enforce the landlords repairs responsibilities, the landlord agree to make the repair but also raised the rent by £130 – a 25% increase – and served the tenant with a section 21 notice simultaneously.

Shelter is supporting Jane as the rent increase and eviction notice may put her at risk of homelessness.

- 2.3 For many renters, a steep increase in rent is as good as an eviction notice. According to a recent Shelter/YouGov survey, one third of renters are already paying 50% or more of their income on their rent. This is well beyond the 30% threshold that often constitutes the accepted upper limit of what 'affordable' means. Recent record-level rent rises have led to 60,000 renters being forced to move in the last year, specifically because their landlord increased the rent.¹⁵
- 2.4 As currently drafted, the Bill would allow landlords to increase rents annually during a tenancy, with only 'market rent' as an upper limit should tenants challenge the new rent at a First Tier Tribunal.
- 2.5 Evidence from the previous 100 relevant tribunal hearings demonstrates that in many circumstances, a ceiling of 'market rent' means tenants will continue to see their rent increased by a very significant proportion:¹⁶
- The average increase in rent permitted by the tribunal was 23% and two thirds of the cases resulted in a rent increase of 10% or more. Shelter's recent research found that 56% of renters say they would not be able to afford a rent rise of 10% or more.¹⁷
 - And in 16 of these 100 cases, the tribunal permitted an increase of over 40%.
 - In at least 4 cases, there was clear evidence of landlords using rent increases alongside eviction notices or because they had failed to secure an eviction.
- 2.6 These cases show how the tribunal process, being only able to establish whether the *eventual* rent is equivalent to a 'market rent', is relatively toothless in preventing even very large proportional increases – sometimes specifically designed to force tenants out.

¹⁵ Shelter/YouGov polling, March 2024

¹⁶ Analysis of 100 most recent First Tier Tribunal Section 13(4) Housing Act 1988 'market rent' decisions. Cases involving Rent Act tenancies and registered providers were excluded to ensure relevance. Some cases lack published "reasons" documents. These have been discounted as rent increase sizes cannot be ascertained.

¹⁷ All figures are from a YouGov survey for Shelter of 4,023 private renting adults (18+) in England. The survey was conducted online between 14th July – 16th August 2023, and the results were weighted to be representative of private renters.

- 2.7 While it is welcome that the eventual rent will no longer be able to exceed the original request in the landlords Section 13 notice (which is currently a rare occurrence), this will not make a significant difference in preventing economic evictions. Evidence from the above cases show that, even where the Tribunal determines a lower rent than requested, cases still frequently conclude with very large proportional increases in rent.

Rent tribunal case study:¹⁸

In July, the first-tier tribunal approved a rent increase of £500 per month (an increase of one third) with no adjustment.

The background evidence states that the landlord had served a section 21 notice. The tenant reported in a letter that the property had not been well maintained, but was unable to provide additional evidence due to illness.

The Tribunal subsequently used Google Maps, and information on “various agents’ websites, property portals and information provided by the landlord”, to establish the size and location of the property and confirm that the property was well maintained.

No inspection was carried out. That a section 21 notice had been served by the landlord had no bearing on the eventual decision.

The Tribunal permitted the rent increase with no adjustment. The Tribunal does not consider whether permitting this increase would mean the tenant has to move home.

Limiting rent increases is a core feature of secure tenancies across Europe

- 2.8 Without fundamental changes to the guidance and framework that constitutes the process of an increase in rent, tenants will continue to be forced out of their homes by unpredictable and unfair rent hikes. In order to provide the transparency, stability and security promised, the government must limit the size of in-tenancy rent increases, as is common across Europe.
- 2.9 Countries with large renting populations often have rent stabilisation measures in place. For example, France, Germany, Ireland, Belgium and Switzerland.¹⁹ Experiences in these and other countries show that, contrary to some claims, this moderate form of rent control is compatible with relatively large, functioning, private rented sectors and does not prevent investment.²⁰
- 2.10 Studies from the United States show that in jurisdictions with rent stabilisation policies, low-income renters face fewer forced moves. Rent stabilisation contributes to community continuity and workers can stay in cities that otherwise would have become unaffordable to them. In turn, higher housing stability is better for mental and physical health and children's educational attainment.²¹

¹⁸ First-Tier Tribunal Property Chamber (Residential property), Case reference: HS/LON/00AJ/MNR/2024/0090, July 2024

¹⁹ Gibb, K., James, G. and Smith, M. (2022) CPG Housing Working Group Report on Rent Control. UK Collaborative Centre for Housing Evidence

²⁰ *Ibid.*

²¹ Pastor, M., Carter V., Abood, M, Rent Matters: What are the Impacts of Rent Stabilization Measures?, October 2018, available online at https://rentboard.berkeleyca.gov/sites/default/files/2022-01/Other_2018_Oct_Rent_Matters_PERE_Report.pdf

- 2.11 Further, concerns that all or most landlords would automatically increase rents to any given cap is not the case. In Belgium, where rent increases are allowed annually in line with a cost-of-living index, more than three-quarters of landlords chose not to raise their rents in 2021-22 despite rapidly rising market rents.²²
- 2.12 Lastly, setting clear limits to rent increases would effectively end the need for complicated, challenging tribunal hearings – which often put renters off from challenging a rent increase.
- 2.13 In Belgium, the government publishes the cost-of-living index by which rents can be raised.
- 2.14 Taking this approach would enable landlords and tenants to understand what rent increase is permitted, and in all but a very small number of cases, remove the need for any tribunal challenge whatsoever. This contrasts with the current ‘market rent’ ceiling, which is vague and complicated to assess, even for those with market expertise.
- 2.15 **Recommendation: Annual in-tenancy rent increases should be limited by an index of the lowest of inflation (CPI) or median wage growth (calculated across a 3-year period).**

3. Removing barriers to accessing homes and tackling discrimination

Outlawing blanket bans on tenants claiming housing benefit and those with children

- 3.1 Shelter strongly supports the government’s efforts to outlaw blanket bans against tenants in receipt of housing benefit and those with children.
- 3.2 ‘No DSS’ and ‘No Kids’ policies are still too widespread in the sector. Shockingly, 52% of landlords do not or prefer not to let to people in receipt of housing benefit.²³
- 3.3 This is a serious concern, not least because nearly a quarter of private renters rely on housing support.²⁴ Indeed, the English Housing Survey found that nearly 100,000 households were refused tenancies in the last 12 months because they were in receipt of housing support.²⁵
- 3.4 These discriminatory practices disproportionately impact women, disabled households and people of colour and are already unlawful as indirect discrimination under the Equality Act 2010.

²² Brussels Times, Three quarters of Belgian landlords do not index rents, September 2022

²³ All figures are from a YouGov survey of private landlords in England. Total sample size was 1007 adults. Fieldwork was undertaken between 14th - 26th July 2023. The survey was carried out online.

²⁴ Ministry of Housing, Communities & Local Government (2024) *English Housing Survey 2022 to 2023: rented sectors*. [online] MHCLG. Available at: <https://www.gov.uk/government/statistics/english-housing-survey-2022-to-2023-rented-sectors/english-housing-survey-2022-to-2023-rented-sectors>

²⁵ Ibid.

- 3.5 Making these practices directly illegal has the potential to clarify the law and simplify discrimination challenges for tenants and local authorities, raise awareness of landlord and letting agent responsibilities and kickstart further efforts to make the rented sector more accessible.
- 3.6 However, the potential of these provisions risk going unrealised for two key reasons; first, the rewards available to local authorities for undertaking enforcement action in this area are not adequate to cover the costs of doing so. And second, the evidential thresholds for proving that discrimination has taken place are insurmountably high to allow the majority of cases to be brought, let alone succeed.
- 3.7 The costs involved in investigating a complaint of discrimination can be substantial, as clear records that confirm the existence of a blanket policy will be hard, if not impossible, to come by. There is increasing awareness of the illegality of such practices which, while generally positive, will encourage those determined to flout the rules to avoid committing any such policy to paper. Without unequivocal evidence, local authorities will have to undertake significant investigatory work to compile a case that has any chance of success. The maximum CPN available for this type of enforcement could be totally eclipsed by the costs involved, particularly as landlords can appeal to tribunal, which usually results in a reduction to their fine.
- 3.8 **Recommendation: the government must increase the CPNs available to local authorities in discrimination cases to £15,000 to ensure that the cost of bringing such cases does not eclipse the potential reward.**
- 3.9 The way the bill is currently worded imposes an unrealistic burden of proof on the tenant, which hinges entirely on evidencing the landlord's *intention* to discriminate. Intention is subjective and therefore easy to disown or dispute, and insurmountably difficult to satisfactorily prove. By discounting the evidence of the impact of such policies and placing all the emphasis on intention, the bill risks undermining the ability of tenants and local authorities to bring winnable cases to court.
- 3.10 **Recommendation: the government must recalibrate the test for discrimination to focus on the impact of the landlord or agent's policies or practices instead of the stated intention behind them.**

Addressing informal barriers to marginalised and low-income households accessing private rented homes

- 3.11 A simple prohibition on blanket bans policies and practices would not eradicate all forms of discrimination in the sector.
- 3.12 Discriminatory practices can be covert, and so further measures are needed to address the less visible barriers to private renting that will proliferate as letting agents and landlords simply change their tactics - such as asking for multiple months' rent in advance and that renters appoint a high-earning guarantor.

3.13 Shelter's research has found that:²⁶

- 59% of the tenants we surveyed report that they were asked to pay rent in advance when attempting to secure a property the last time they moved, some of whom were asked for in excess of 6 months' rent upfront.
- 1 in 10 have been denied a property in the last five years because they were unable to afford the rent in advance.
- Benefits recipients face even greater hurdles, being almost twice as likely to have been unable to rent a home in the last five years because they could not afford to pay rent in advance, compared to those not on benefits.

3.14 ACORN's polling of their members has revealed that:²⁷

- Benefits recipients are **more likely** to be asked for rent in advance than those not in receipt of benefits.
- Benefits recipients are more likely to be asked for **higher levels** of rent in advance than those not in receipt of benefits. 42% of benefits recipients had to pay more than 6 months' rent up front compared to 29% of those not in receipt of benefits, and 19% of benefits recipients had to pay 12 months' rent up front compared to 6.1% of those not in receipt of benefits.

3.15 Universal Credit payments are paid in arrears, which means that those who rely on benefits to meet their housing costs have zero advance rent available to them when trying to secure a home.

3.16 21% of tenants were asked to appoint a guarantor, and nearly a third reported that they were unable to meet this demand.²⁸

3.17 For those claiming benefits, securing a guarantor is even more challenging; 45% of benefits recipients asked to provide a guarantor said they found it difficult, compared to just 24% of those not on housing benefit.²⁹

3.18 Guarantor requests are frequently employed unfairly, often based on assumptions about tenants' ability to pay the rent. 33% of landlords who asked for a guarantor did so because they were letting to a tenant they considered to be 'high risk'.³⁰ Even where tenants are

²⁶ All figures are from a YouGov survey of private landlords in England. Total sample size was 1007 adults. Fieldwork was undertaken between 14th - 26th July 2023. The survey was carried out online.

²⁷ ACORN internal poll entitled 'Private Renters Poll'. Total sample size consisted of 353 respondents who had moved within the last 3 years. The poll ran from Tuesday 1st October to Sunday 6th October 2024.

²⁸ All figures are from a YouGov survey for Shelter of 4,023 private renting adults (18+) in England. The survey was conducted online between 14th July - 16th August 2023, and the results were weighted to be representative of private renters.

²⁹ Ibid.

³⁰ YouGov survey of private landlords in England. Total sample size was 1007 adults. Fieldwork was undertaken between 14th - 26th July 2023. The survey was carried out online.

able to demonstrate they can afford the rent, assumptions are made around their likelihood to default due to their benefits status. This is highly prejudiced and leads to disproportionately worse outcomes for households on low incomes.

Private renter case study: discriminatory barriers to accessing rented homes

"I am a single, disabled, neurodivergent, debt free woman in my 40's, which statistically should indicate that I present a negligibly low risk to all involved. However, renting whilst being a benefits recipient is the second most unstable living situation to be in (the first being homelessness).

We jump through hoops for properties that are barely fit for purpose, face living with zero repairs (despite the problem being dangerous in many cases) rent hikes (which can be used as a tactic to force you to move out), and facing Section 21 evictions at any point during a tenancy.

Additionally, I'm now encountering a new issue that's arisen surrounding guarantorship; I do not have friends or family who are able to act as one, but so few Letting Agencies/Landlords are willing to accept 3rd party companies who fill the role in lieu of a traditional guarantor.

Likewise, I'm still seeing far too many Letting Agents/Landlords expect 6 or 12 months' rent in advance if you are unable to provide a Guarantor. It's not logical that Letting Agents/Landlords are legally no longer allowed to charge high deposits/bonds, but for all intents and purposes can ask and expect a low-income person [to stump up] thousands of pounds in advance to secure a property.

It's exactly the same discrimination as before; weed out the 'undesirable' tenants before they can even apply. Both my mental health and physical have declined significantly [after years] of constantly looking over my shoulder and being expected to pay increasingly more for living conditions [that are] so much less than I deserve as human being. We need reform, our rights restored and a government bold enough to make it happen and count."

3.19 Recommendation: the government should cap the amount of rent in advance a landlord or managing agent can request to one month to ensure households at the lower end of the income scale are not prevented from securing a property in the private rented sector.

3.20 Recommendation: the government should set restrictions on the scenarios in which a landlord or letting agent can legitimately request a guarantor. A tenant should not be asked to appoint a guarantor:

- **where a deposit and/or rent in advance has been paid, or**
- **where a tenant's income (inclusive of any benefits they receive) is sufficient to cover the full rent, or**
- **where a landlord has obtained insurance covering any non-payment of rent, or**
- **where a tenant has obtained insurance covering any non-payment of rent**

3.21 Recommendation: Where these criteria have not been met and a landlord or managing agent can legitimately request a guarantor, the government should restrict the amount that can be guaranteed to six months' rent to improve a tenant's chances of appointing a suitable candidate.

Ending hostile environment policies which fuel discrimination and racism

3.22 Shelter has long campaigned for an end to the discriminatory Right to Rent policy.

- 3.23 This policy not only leads to landlords turning away people without a regularised immigration status. It has also been shown to lead to discrimination against migrants and racial discrimination.³¹
- 3.24 Where a tenant's immigration status is not straightforwardly proven, the Right to Rent scheme tempts landlords to resort to proxies – such as skin colour, name, or accent – to judge whether it is safe to let to them, or choose the much simpler option of rejecting their applications outright.
- 3.25 **Recommendation: to truly eradicate discrimination, the government must scrap the dysfunctional and discriminatory Right to Rent policy.**

4. Effective enforcement of the new system

Funding local authority enforcement

- 4.1 Shelter strongly supports the introduction of the private rented property portal. Which, if implemented effectively, will help local authorities crack down on failing landlords and make it easier for good landlords to keep up to date with the latest regulations.
- 4.2 However, without increased funding for local authority enforcement staffing provisions in the Bill risk being ineffective. Deterrents against poor practice will quickly fail to deter breaches if the threat of enforcement action is not credible.
- 4.3 Unscrupulous landlords will continue to abuse loopholes in the system and tenants will continue to face poor conditions because of a lack of action and a lack of confidence to make complaints.
- 4.4 The government must commit to equipping local authorities with the resources they need to deliver ambitious enforcement of their existing obligations, and the new expectations bestowed by the Renters' Rights Bill.
- 4.5 Many local authorities do not currently have the staff or infrastructure to enforce new duties in the Bill. As such, relying on self-funding mechanisms such as ring fencing civil penalties, will not be effective as they rely heavily on staff and teams being in place to take on complex cases and collect (and often chase) fines.
- 4.6 **Recommendation: The government must provide significant new funding sufficient to enable local authority enforcement teams to recruit enforcement officers and establish enforcement schemes.**

Retaining access to the court system

- 4.7 Legal Aid services have also seen significant cuts in recent decades.

- 4.8 While the new private sector Ombudsman would be a great help for some types of problem the government should not view the Ombudsman as a replacement for professional legal advice and improved access to justice.
- 4.9 Improving access to legal aid would have the added benefit of reducing delays in the courts; early and comprehensive legal advice will give complainants the tools they need to make well-informed choices about court action and even resolve cases before reaching the court proceeding stage.
- 4.10 **Recommendation: the government should remove barriers to accessing Legal Aid and take measures to increase its availability across the country.**