

Written evidence submitted by The Law Society to The Renters' Rights Public Bill Committee (RRB57).

The Law Society of England and Wales is the independent professional body that works globally to support and represent 200,000 solicitors, promoting the highest professional standards and the rule of law.

1. Introduction

The Law Society broadly supports the ambitions of the Renters' Rights Bill to reform the rental market.

We do, however, have concerns over the enforcement provisions in the Bill. They require clarity and further resourcing to be effective. Without investment for housing legal aid and the courts, the Bill will not achieve its aims and will instead lead to increases in court backlogs. This will have knock-on impacts meaning that landlords and tenants alike would be unable to enforce their legal rights.

Summary

- We are pleased to see that the Bill abolishes 'no-fault' evictions and that this reform will not be delayed until further court reform of the possessions process takes place.
- Housing legal aid is critical for many facing eviction, but legal aid deserts mean 43.6% of the population do not have access to a local housing legal aid provider. The Government must immediately invest £4.3 million in housing legal aid alongside this Bill to help mitigate this gap in provision.
- The Bill in its current form may lead to an increase in contested hearings in the short term as landlords will have to show good reason for eviction. The Government should outline how it intends to manage increased demand on the courts and what additional resourcing it will put in place to deal with existing backlogs.
- While we welcome the Government's commitment to end bidding wars by no longer allowing offers above the listed price to be accepted, we have concerns

that this does not address other exploitative practices such as rent-in-advance payments.

2. A crisis point for housing legal aid

The Bill's effectiveness is dependent on a housing legal aid system that is at the point of collapse. Many people across the country on low incomes and facing serious housing legal issues are struggling to get the local face-to-face advice they are legally entitled to.

43.6% of the population of England and Wales does not have a housing legal aid provider in their local authority area, a figure that has grown by around 6.6% since 2019.¹ This fall in legal aid providers is a direct result of years of government cuts to fees, meaning that providers are unable to recover the costs of providing legal aid, thus making housing legal aid work unsustainable.

This Bill may lead to fewer cases coming to court. However, those that do are more likely to be based on landlords' allegations of fault by the tenant, which may well be contested. This means early legal advice will become much more important to support the early resolution of claims and ensure tenants are equipped to deal with contested cases.

This lack of housing legal aid provision is compounded by the fact that debt and welfare benefits advice is not eligible for legal aid, having been taken out of scope for legal aid in 2013 by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). In many cases, people facing housing legal issues also have issues with debt or welfare, and so the inability to get advice on these issues limits the effectiveness of the support they are able to get.

To make housing legal aid more effective, welfare benefits and debt advice must be brought back into scope and should not be limited to circumstances where home loss is threatened.

It is in the interests of both tenants and landlords for tenants to be represented in contested cases to ensure the system is more efficient and cases are dealt with more quickly.

¹ <https://www.lawsociety.org.uk/campaigns/civil-justice/legal-aid-deserts/housing>

The Law Society is therefore calling for an investment of £4.3 million in housing legal aid for early advice to sustain housing legal aid providers in the short term while a wider review takes place.

Suggested amendment:

- Insert new clause after clause 29 (page 37, line 34) amending LASPO to bring welfare benefits and debt advice back into scope under the main legal aid scheme.

3. Court backlogs

Courts and tribunals are already under significant pressure due to case backlogs and delays. The pandemic worsened these backlogs but was not the cause; its origin lies in years of underinvestment.

This legislation may lead to more contested hearings, at least in the short term, as landlords will be required to prove fault or show good reason when evicting tenants. We have concerns as to how courts would be able to cope with such demand. Ensuring there are enough judges, court staff and lawyers to do the work must be a priority. If courts are to meet demand, the Bill must be accompanied with additional court investment.

We have heard from practitioners that there are already cases where section 21 proceedings have timed out due to delays in the courts, requiring proceedings to be reissued at the cost of more court time and higher administrative costs.

The courts themselves are facing serious repair issues which are exacerbating court backlogs. The Lady Chief Justice has said the courts face "*something like 100 unplanned courtroom closures every week*".² Additionally, some courts have had to close due to the presence of reinforced autoclaved aerate concrete (RAAC), causing extensive disruption.

² [Justice Committee Oral Evidence - committees.parliament.uk](https://committees.parliament.uk/oral-evidence/1007/attachments/1007/1007)

To overcome this, the Ministry of Justice and HMCTS should be given the funding needed to ensure the courts are kept in working condition.

Suggested amendment:

- Insert new clause after clause 6 (page 7, line 31) requiring the Secretary of State to lay a statement before Parliament setting out how she intends to ensure that there is sufficient physical court capacity, court staff and judges to handle the increased case volume.

4. Clauses 4 and 13 and Schedule 1 - Changes to grounds for possession

We welcome the immediate ban on Section 21 'no-fault' evictions, as we are aware that some rogue landlords use Section 21 notices to evict tenants who have requested repairs or better housing conditions.³ This has led to some tenants living in fear of using their rights to ensure that their homes are safe for them to live in.

That said, the Law Society recognises that with the abolition of 'no-fault' evictions, it is important that landlords have expanded grounds to repossess their properties using Section 8 eviction notices. A Section 8 notice gives the tenant a specified period to remedy the issues raised or vacate the property before the landlord can proceed with legal action to regain possession.

Schedule 1 to the Bill sets out new and revised grounds for repossession under this procedure. These include grounds that do not require fault but must be evidenced; for example, where the landlord is moving themselves or close family into the property (revised ground 1) or selling the property (new ground 1A).

We continue to have concerns about how these grounds for possession will be enforced and whether local authorities have the resources to hold landlords to account.

³ [Shelter: Renters who complain are twice as likely to be evicted by their landlord](#)

We recommend that the Government sets out in regulations or statutory guidance the kind of evidence landlords should provide to invoke grounds 1 or 1A.

Under clause 4, grounds 1 and 1A cannot not be used for the first 12 months of a tenancy. We welcome the extension of this protected period. The Bill also requires landlords to provide four months' notice when using these grounds (rather than three), giving tenants more time to find a new home, and reducing the risk of homelessness. We welcome the extension of these periods.

Restrictions in the Bill under clause 13 also prevent reletting or remarketing the property for 12 months following the service of a possession notice on grounds 1 or 1A. This will provide a much greater level of security in the rental market which we welcome.

A further way in which grounds 1 and 1A could be strengthened against abuse is to limit the number of times landlords may invoke them over a set period.

Suggested amendments:

- Add a new subsection to clause 4 at page 5 line 42 requiring the Government to make regulations or publish statutory guidance stating the robust evidence that landlords must provide to show that they are selling the property, moving in themselves or moving in a family member. Landlords should be required to submit this evidence, alongside a copy of the notice, to the local authority, who can then monitor how often these grounds are being used.
- Add a new condition to Schedule 1 at page 155 line 35 stating that the landlord must not have invoked ground 1 more than 5 times in the last 5 years
- Add a new condition to Schedule 1 at page 156 line 35 stating that the landlord must not have invoked ground 1A more than 5 times in the last 5 years

Clauses 15-18 and 104: Enforcement by local authorities

Clause 104 of the Bill imposes a general duty on local authorities to take enforcement action against landlords, which would be partly self-funded through the money local authorities raise from fines imposed under clauses 15-18.

Councils will be able to impose financial penalties up to £7,000, an increase from the £5,000 proposed in the last government's Renters (Reform) Bill. We are pleased to see this increase but are concerned that this will not be enough of a deterrent against bad practices. **We recommend increasing the maximum fine to £15,000.**

Even with this increase, funding from financial penalties is not going to be enough. There will need to be some initial 'bootstrapping' funding to get the system running and help with cash flow, as imposing financial penalties does not always result in the funds being collected. Figures obtained by the National Residential Landlords Association (NRLA) show that between 2021 and 2023 a total of £13 million worth of civil penalties were issued by councils but just £6 million has been collected so far.⁴ This £7 million deficit could be being reinvested in improving enforcement work to tackle rogue landlords and improve standards.

Local authorities must be provided with the resources they need to make their enforcement powers effective. Funding for recruitment and training is required to enhance capacity in council enforcement teams and support the sharing of best practice between councils.

Suggested amendments:

- In clause 15 (page 21, line 28), increase the maximum financial penalty that local housing authorities can issue to landlords for breaches of the legislation from £7,000 to £15,000.

5. Clause 55 - Rental bidding provisions

⁴ [The Enforcement Lottery: Local authority enforcement 2021-2023 | NRLA](#)

The Bill aims to end the practice of bidding wars by prohibiting landlords and letting agents from asking for, encouraging, or accepting any bids above the published asking price for a property. While we are pleased to see this included in the Bill, we believe the Bill needs to go further and address rent-in-advance practices.

The Bill will not prevent Landlords or letting agents from requesting that tenants provide multiple months of rent in advance as an alternative to the rental bidding procedure. Rent-in-advance requests are a discriminatory practice against low-income tenants, inhibiting their access to the private rental market, and should be outlawed.

Suggested amendment:

- Clause 55 (page 78, line 9) should include a limit on the amount of rent a landlord can request from tenants in advance. We suggest a cap of one month's rent in advance.

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