Written evidence for Renters' Rights Bill Committee submitted by the Greater Manchester Combined Authority (RRB61)

Introduction and summary

1. Thank you for giving us the opportunity to submit written evidence to the bill committee. The Greater Manchester Combined Authority (GMCA) is made up of the Mayor of Greater Manchester and the ten Greater Manchester (GM) councils. Our evidence has been informed by our leading work with GM councils to tackle homelessness and improve housing, and direct engagement with frontline officers.

2. Overall, the GMCA welcomes the measures in the Renters Rights' Bill and sees the repeal of Section 21 and a national landlord database as long overdue. Additional changes, such as extending the Decent Homes Standard and Awaab's Law to private renting will together make the biggest legislative change to the private rented sector in 35 years and bring the regulatory framework into the twenty-first century.

3. GMCA's evidence focusses on what more could be done in the bill to support local enforcement of its measures. In summary, the case is made in this evidence for the following amendments (references are to the bill as introduced):

    - **Recommendation 1: reduce the administrative burden on enforcement by amending the power of entry**
        - (Page 144, Clause 132) – further amending the current power of entry under section 239 of the Housing Act 2004, in addition to letting tenants waive notice, to remove the requirement on councils to give a landlord 24 hours' notice of an inspection of their tenant's home
    - **Recommendation 2: share vital intelligence with enforcement teams by giving DWP a power to share Universal Credit data for enforcement purposes**
        - (Page 143, Clause 131) – further amending councils' current access to information for enforcement purposes, by adding a power for the Secretary of State for Work and Pensions to share Universal Credit data with councils for the purposes of enforcing the landlord legislation
    - **Recommendation 3: incentivise landlord compliance by making basic compliance a pre-condition of a lawful rent increase notice**
        - (Page 10, Clause 7, Subsection 9) – adding two new sections, 13C and 13D to the Housing Act 1988 to make notice of a rent increase invalid if the landlord had breached prescribed requirements or failed to provide prescribed information to the tenant. This would replicate current equivalent requirements for a valid section 21 possession notice under section 21A and 21B of the 1988 act

4. To seek additional evidence on how our proposals are viewed by enforcement officers across England, GMCA sought support from Operation Jigsaw to run a survey of housing standards enforcement officers.[1] This survey, which received 129 responses, shows exceptionally strong support for our proposals from enforcement officers. Detailed results are included in the evidence under each proposed change.

Resources required to enforce the Renters' Rights Bill

5. The major legislative changes in the bill will only deliver the significant change renters need in practice if they can be enforced. Consequently, the bill gives local authorities at least 13 new enforcement duties:

    - A new general duty to enforce against: unlawful eviction and harassment,[2] failure to give a tenancy agreement,[3] misrepresentation of the nature of a tenancy or misuse grounds,[4] reletting within a restricted period,[5] discrimination in rental markets,[6] rental bidding,[7] failure to register with a redress scheme,[8] and failure to register on the national database or to provide false or misleading information to the database[9]
    - A new duty to inspect for serious breaches of the Decent Homes Standard[10] and enforce against serious breaches of the Decent Homes Standard[11]
    - A duty to add entries to the national database relating to banning orders, offences, financial penalties, etc.[12]
    - A duty to notify other local authorities if enforcing in their area[13]
    - A duty to report enforcement action to the secretary of state[14]

6. The resources required to effectively carry out these enforcement duties is likely to be significant. For example, considering harassment and unlawful eviction alone, this currently accounts for the second highest number of complaints received by the team that handles private sector housing enforcement at Manchester City Council.[15] Consequently, it is vital that the government provides adequate resources to local government to be able to resource and respond to

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[1] Operation Jigsaw is a project run by Powys County Council under funding from Regulator's Pioneer Fund. GMCA would like to thank Operation Jigsaw for their support
[2] Sections 1 and 1A of the Protection from Eviction Act 1977
[3] Chapter 1 of Part 1 of the 1988 Act, as amended by the bill
[4] Ibid.
[5] Ibid.
[6] Chapter 3, Part 1 of the bill
[7] Chapter 6, Part 1 of the bill
[8] Part 2 of the bill
[9] Part 2 of the bill
[10] Housing Act 2004, Section 2A as amended by the bill
[11] Housing Act 2004, Section 5 as amended by the bill
[12] Section 81 of the bill
[13] Section 105 of the bill
[14] Section 107 of the bill
[15] As reported to GMCA by Manchester City Council

the bill through a realistic new burdens assessment and transitional funding, such as an uplift to Homelessness Prevention Grant.

7. The implementation of the bill comes at a time when resourcing for local government is under huge pressure, with councils in GM particularly hard-hit by an increase in homelessness in recent years. In particular, GM has seen a significant and sustained increase in people requiring support to prevent or relieve their homelessness following a section 21 eviction.[16] While the intention of the bill is to help reduce homelessness over the medium to long term, resource requirements for at least the short to medium term will be higher, both as a result of new enforcement duties and short-term effects on landlord behaviour.

8. Within this context, the bill must explore every opportunity to make existing enforcement resources go further by making powers easier to use, giving councils access to data and otherwise incentivising compliance. This will not offset the need for additional resources, but it does not make sense to pass up opportunities where they exist. While the bill currently includes new investigatory and enforcement powers, these do not focus on making day-to-day enforcement resources go further. Additionally, while new powers to raise revenue for enforcement through financial penalties could contribute to funding enforcement activity, GM's experience is that significant investment is needed up-front to be able to unlock the ability to use these powers.[17] The challenges of using these powers is demonstrated by research by the National Residential Landlords Association that found almost half of councils (49%) have not issued a single civil penalty.[18]

Reducing the administrative burden on enforcement

Recommendation 1: reduce the administrative burden on enforcement by amending the power of entry

9. The bill as currently drafted will amend councils' power of entry under section 239 of the Housing Act 2004, to allow tenants and landlords to waive their right to 24 hours' notice of a formal inspection, by adding subsection 5A (Page 144, Clause 132). While this is welcome, this clause of the bill should also amend subsection 5 of the Housing Act 2004 to entirely remove the requirement for councils to give landlords 24 hours' notice of an inspection of their tenants' homes where the

[16] 405 households were owed a prevention duty in the quarter ending March 2024, due to receiving a section 21 eviction notice. This represents 19% of all households found to be at risk of homelessness at this time. When compared with 3 years prior, in the same quarter in 2021, only 163 households were at risk of homelessness due to receiving section 21 eviction notices, representing 9% of all households at risk at this time

[17] GMCA is currently spending £2.1 million over two years, funded as part of an MHCLG pilot, to support councils to unlock the use of civil penalties across the conurbation. This work has identified that while there is potentially significant value in civil penalties to support enforcement, major barriers stand in the way of making use of them, the largest of which is capacity

[18] The Enforcement Lottery: Local Authority Enforcement 2021-2023, 2024

property is occupied. For example, this could be achieved by amending the current subsection 5 to (revision in bold):

"Before entering any premises in exercise of the power conferred by subsection (3), the authorised person or proper officer must have given at least 24 hours' notice of his intention to do so—

(a)to the occupier (if any), or

(b)to the owner of the premises (if unoccupied)."

10. GMCA asked Operation Jigsaw to survey housing standards enforcement officers working in councils across the country, to ask them to what extent they agreed that removing the requirement to contact the landlord would reduce the administrative burden of enforcing against poor housing conditions in their area using a five-point scale. Of 129 respondents, 111 (86%) said they agreed or strongly agreed.[19]

11. Council enforcement officers want to be able to focus on investigating complaints and improving the condition of properties. This work is currently bogged down in administrative requirements with no clear benefit that occasionally threaten serious harm. The requirement to give landlords 24 hours' notice is a prime example of this. Giving notice only to the occupier would be consistent with the power of entry in equivalent legislation, the Environmental Protection Act 1990.

12. Under section 239 of the Housing Act 2004 ('the HA04'), councils are currently required to give tenants, and their landlord 24 hours' notice of an inspection. If they do not give this notice, it is likely that any subsequent enforcement action – such as an improvement notice, prohibition order or emergency remedial works – will be overturned by a tribunal at appeal.

13. This requirement can generate significant transaction costs for council enforcement teams – before they have even checked the seriousness of hazards – due to the need to find the landlord's correct correspondence address. If the notice is served to the wrong address, this again poses a legal risk to subsequent enforcement action. While the national landlord database will hopefully make finding addresses easier, council officers will still need to check other sources to satisfy themselves that the information on the database is up to date.

14. In addition to individual transaction costs, the requirement frustrates efficient everyday working, which can lead to unnecessary repeat visits. For example, during a property licensing compliance inspection – which does not require notice to be given – if officers identify a serious hazard, they are unable to take

[19]In response to the question 'To what extent do you agree with the following statement: "Removing the requirement to give landlords 24 hours' notice of an inspection under section 239 of the Housing Act 2004 would reduce the administrative burden when enforcing against poor housing conditions in my area"' 93 strongly agreed, 17 agreed, 11 neither agreed nor disagreed, and 4 disagreed. Online survey sent to housing standards enforcement teams by Operation Jigsaw for GMCA, open 18th-25th October 2024

enforcement action until they have left, given notice and returned. This issue was recognised by an independent review into selective licensing, commissioned by MHCLG in 2019.[20] Similarly, if officers travel to inspect one property, they cannot combine this with formally inspecting another nearby property, unless they have also served notice first.

15. In some cases, the 24 hours' notice requirement also creates a dangerous legal impediment to responding urgently in an emergency, a risk for tenants or frustrates other investigations. The HA04 gives officers strong powers to prohibit the use of properties for housing (prohibition orders) or remedy dangerous hazards immediately (emergency remedial action). But the legal uncertainty about whether these powers can be used unless the landlord has been served with 24 hours' notice in advance means that most councils will not do so, significantly impacting their ability to use their powers in the HA04 in an emergency.

16. Giving notice to landlords can put tenants in a difficult position and discourage them from making housing complaints. This may become a particular issue with the new £7,000 civil penalty for category one hazards and type one failures to comply with the Decent Homes Standard contained in the bill.[21] There is a risk that if landlords receive notice of an inspection, even if they have no legal right to attend, they may seek to pressure tenants not to provide access if they know a fine might follow.

17. **Case study – how the requirement for 24 hours' notice risks other investigations.** A GM council has been part of an investigation into properties being used by gangs for the purpose of housing people with unclear immigration status. The requirement to give the landlord notice, combined with the absolute duty in HA04 to inspect properties if, for any reason, they believe it contains a category one hazard posed a fundamental threat to the investigation. A complaint about a hazard would trigger the duty and require the council to serve notice to the landlord. The landlord would then respond by removing the illegal migrants who had been housed there and undermine evidence of the offence.

18. Despite these impacts on tenants and effective enforcement, it is unclear what the justification for notifying landlords is or what practical benefit landlords receive (other than giving landlords acting in bad faith a potential legal loophole). With 24 hours' notice, a landlord is unable to enter their tenants' property themselves, to either check for or remedy problems, due to the requirement on them to give their tenants notice of a visit. They have no legal right to attend during an inspection. As most inspections by officers are in response to complaints made by a tenant which their landlord has already failed to address, in the majority of cases

[20] An Independent Review of the Use and Effectiveness of Selective Licensing, MHCLG 2019 (paras 12.27-12.29)
[21] Page 187, paragraph 6

landlords will already have been made aware of the issue to which the inspection relates.

19. A precedent exists for removing the requirement to give landlords 24 hours' notice of an inspection. Under the Environmental Protection Act 1990, a similar piece of enforcement legislation to the HA04, there is no requirement to give notice to the landlord of an occupied rented home. Notice must only be given only to 'the occupier' of a property. Changing to this legislative approach would ensure that tenants have adequate notice of a visit – where they do not want to waive their right to notice – and let enforcement teams focus on the work that makes a meaningful difference.

Sharing vital intelligence

Recommendation 2: share vital intelligence with enforcement teams by giving DWP a power to share Universal Credit data for enforcement purposes

20. The bill as currently drafted will extend councils powers to use Council Tax data and data from tenancy deposit schemes to wider housing enforcement purposes than currently permitted (Page 143, Clause 131). This clause of the bill should also be extended to allow the possibility of sharing Universal Credit housing element data with councils for housing enforcement purposes by giving the Secretary of State for Work and Pensions an explicit power to do so. For example, this could be achieved by amending section 133A of the Social Security Administration Act 1992, subsection 2 to (addition in bold):

    "(2)Information to which this section applies may be supplied to—

    (a)a local housing authority;

    (b)a licensing authority; or

    (c)a person authorised to exercise any function of a local housing authority or a licensing authority,

    for use in connection ***with enforcing the landlord legislation, the exercise of any functions under Parts 1 to 4 of the Housing Act 2004 or*** *obtaining a rent repayment order in respect of an award of universal credit or recovering an amount payable under such an order."*[22]

21. GMCA asked Operation Jigsaw to survey housing standards enforcement officers working in councils across the country, to ask them to what extent they agreed that having access to Universal Credit data would put their council in a stronger

[22] The same definition of the landlord legislation as included in the bill would need to be added to the definitions under subsection 3.

position to enforce against landlord non-compliance. Of 129 respondents, 116 (90%) said they agreed or strongly agreed.[23]

22. Access to good quality intelligence supports better enforcement and reduces the time to find necessary information. However, in recent years a vital source of intelligence for council enforcement – Housing Benefit data – has been significantly degraded due to the shift to Universal Credit. Access to these data will be particularly important for effectively enforcing the new landlord database.

23. Section 237 of the HA04 gave housing enforcement teams the legal power to access – for enforcement purposes – information that their council already held for the purpose of administering Housing Benefit (as well as Council Tax). Historically, enforcement teams have used these Housing Benefit data for a range of purposes, including identifying unlicensed houses in multiple occupation (HMOs) or other properties that need a licence, providing evidence for new licensing schemes and finding landlord contact details.

24. However, with the shift to Universal Credit the number of Housing Benefit claims administered by local authorities has shrunk dramatically and is reducing all the time. DWP administers Universal Credit, including the housing element, and as section 237 relies on councils being able to use data that they already hold it does not allow them to access Universal Credit data from DWP. There is no current explicit legal power for DWP to share Universal Credit data with councils for the purpose of enforcement. A narrow power currently exists in section 133A of Social Security Administration Act 1992, but only for the limited purpose of "obtaining a rent repayment order" which DWP is currently working with councils to use.

25. Access to Universal Credit data will be particularly important for effectively enforcing the new national landlord database at scale, as Universal Credit is the single largest publicly held dataset with live records of privately rented addresses. With 30% of private rented households in England currently receiving Universal Credit, cross-referencing addresses would allow for rapid identification of landlords who are not complying with the legal requirement to register their home as private rented.[24] Without this access, the risk is that enforcement of the database remains localised, reactive and partial and that many landlords who do not register go unpunished, potentially undermining trust in the database as a whole.

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[23] In response to the question 'To what extent do you agree with the following statement: "Having access to some local universal credit housing element data would put my council in a stronger position to enforce against landlord non-compliance, including enforcing the new national landlord database."' 101 strongly agreed, 15 agreed, 12 neither agreed nor disagreed, and 1 disagreed. Online survey sent to housing standards enforcement teams by Operation Jigsaw for GMCA, open 18th-25th October 2024

[24] Estimated using total number of privately rented households taken from English Housing Survey 2022-23, DLUHC, and total number of PRS claimants from Stat-Xplore, provisional figure for May 2024, DWP

26. **Case study – how access to UC data could support enforcing the national landlord database.** Landlord A does not want to pay the registration fee for joining the national landlord database. However, in the course of a tenancy, their tenant has a change in circumstances and begins claiming the housing element of Universal Credit. Landlord A receives a warning notice advising them that they have been identified as letting a home without fulfilling their legal requirement to register. The letter advises them that a wide range of publicly held and published data are used to identify unregistered landlords, without divulging their tenant's change in circumstances.

Rent increases in non-compliant tenancies

Recommendation 3: incentivise landlord compliance by making basic compliance a pre-condition of a lawful rent increase notice

27. At the same time as repealing section 21 of the Housing Act 1988, the bill as currently drafted will make the section 13 process under the same act the only lawful way of increasing rent within a tenancy (page 7, Clause 7). This clause of the bill should go further, by replicating the existing requirements under sections 21A and 21B of the Housing Act 1988 and applying them to section 13 (as amended by the act) through two new sections 13C and 13D. The effect of this would be that landlords would need to be compliant with basic legal and information requirements in order to be able to serve a lawful rent increase. As the full text of this proposed amendment is longer, it is included as an appendix.

28. GMCA asked Operation Jigsaw to survey housing standards enforcement officers working in councils across the country, to ask them to what extent they agreed that requiring landlords to meet basic legal compliance standards to be able to increase rent would incentivise compliance. Of 129 respondents, 117 (91%) said they agreed or strongly agreed.[25]

29. With more than 12 million private rented homes across the country, enforcement needs to be able to prioritise. The law currently helps enforcement teams focus on the most serious cases by incentivising general compliance with basic legal requirements – like getting an annual gas safety certificate and an energy performance certificate – through an interaction with serving a valid section 21 notice. Sections 21A and 21B of the Housing Act 1988 currently render any Section 21 eviction notice invalid if the landlord is in breach of:

    - 21A: "a prescribed requirement… [relating to] the condition… health and safety… or the energy efficiency of dwelling-houses"

[25] In response to the question 'To what extent do you agree with the following statement: "Requiring landlords to meet basic legal compliance standards -- such as giving tenants a gas safety certificate -- in order for them to legally service notice of an in-tenancy rent increase could help to incentivise compliance with basic legal standards."' 97 strongly agreed, 20 agreed, 10 neither agreed nor disagreed, and 4 disagreed. Online survey sent to housing standards enforcement teams by Operation Jigsaw for GMCA, open 18th-25th October 2024

- 21B: certain “regulations [that] require information about the rights and responsibilities of a landlord and a tenant”

30. Consequential regulations mean that any Section 21 notice is invalid if the landlord has failed to:

    - provide a valid gas safety certificate
    - provide the government’s How to Rent guide
    - provide an energy performance certificate

31. These existing requirements could be moved to having the effect of invalidating section 13 notices by replicating the existing language of 21A and 21B in new sections applying to section 13. The government may also want to consider updating the existing requirements, however, to include requirements that have been introduced in recent years – such as compliance with electrical safety or energy efficiency regulations – and forthcoming requirements, such as registering on the database.

32. Just as with any other invalid notice of a rent increase (e.g. where it had not been served on the prescribed form), a tenant would be under no legal obligation to pay the level of increase in rent where the basic landlord requirements had not been met. It would make sense to also update the prescribed rent increase form (Form 4) to indicate that any notice served without meeting the prescribed legal requirements rendered it invalid, and potentially including a checklist of those requirements

33. **Case study – how the incentive could work in practice.** Landlord B is an accidental landlord, who rents out the property they lived in before moving in with their partner. They are a parent and employed full-time and although they are responsive to their tenant’s requests for repairs, etc, they do not keep fully up to date with changes in rental law. When Landlord B decides that they want to increase the rent, they check online for the correct process and download the prescribed form. As part of filling in the prescribed form they see a checklist of things they are required to have done for the notice to be valid. This includes getting a gas safety check within the last year, which they realise they have failed to do. Landlord B gets the gas safety check, bringing them into compliance, and issues the notice of a rent increase.

Conclusion

34. Without effective enforcement the real-world effect of the legislative reforms in the Renters’ Rights Bill will be significantly reduced. Local authorities are the relevant enforcement authorities and currently face an extremely challenging financial picture across the country. The government must deliver the resources needed to enforce the bill through a realistic new burdens assessment, which should include

transitional funding to allow councils to build capacity to make more use of new civil penalty powers, as well as ongoing funding to carry out their new duties.

35. However, there are opportunities in the legislative process itself to make existing enforcement resources go further. By cutting the administration involved in enforcement, sharing vital intelligence and effectively incentivising landlord compliance, Parliament will demonstrate its support for enforcement teams to implement this important legislation.

Appendix: rent increase compliance incentive

Page 10, line 21 (as the bill was introduced), at end insert –

“13C Compliance with prescribed legal requirements

(1) A notice under subsection (2) of section 13 may not be given in relation to an assured tenancy of a dwelling-house in England at a time when the landlord is in breach of a prescribed requirement.

(2) The requirements that may be prescribed are requirements imposed on landlords by any enactment and which relate to—

(a) the condition of dwelling-houses or their common parts,

(b) the health and safety of occupiers of dwelling-houses, or

(c) the energy performance of dwelling-houses.

(3) In subsection (2) “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.

(4) For the purposes of subsection (2)(a) “common parts” has the same meaning as in Ground 13 in Part 2 of Schedule 2.

(5)A statutory instrument containing regulations made under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

13D Requirement for landlord to provide prescribed information

(1) The Secretary of State may by regulations require information about the rights and responsibilities of a landlord and a tenant under an assured tenancy of a dwelling-house in England (or any related matters) to be given by a landlord under such a tenancy, or a person acting on behalf of such a landlord, to the tenant under such a tenancy.

(2) Regulations under subsection (1) may—

(a) require the information to be given in the form of a document produced by the Secretary of State or another person,

(b) provide that the document to be given is the version that has effect at the time the requirement applies, and

(c) specify cases where the requirement does not apply.

(3) A notice under subsection (2) of section 13 may not be given in relation to an assured tenancy of a dwelling-house in England at a time when the landlord is in breach of a requirement imposed by regulations under subsection (1).

(4) A statutory instrument containing regulations made under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament”

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