

Written evidence submitted by the National Residential Landlords Association [RRS 207]

1.0 About the National Residential Landlords Association

- 1.1 The National Residential Landlords Association (NRLA) is the leading voice for private sector residential landlords.
- 1.2 The NRLA represents more than 98,000 landlords, by far the largest membership organisation in the sector. The membership owns and manages around 10% of private rented housing in England and Wales equating to around half a million properties.
- 1.3 NRLA members range from full-time landlords running property portfolios to those letting single bedroom flats. We help our members navigate the regulatory and legal framework for the private rented sector through providing training and support for landlords to ensure they fully understand their responsibilities and are equipped to provide good quality housing for their tenants.
- 1.4 It is a major source for market-leading intelligence about private renting and campaigns for policies that seek to improve the private rented sector for the benefit of tenants and good landlords alike.

2.0 Executive Summary

- 2.1 The rental reform White Paper represents the most significant reform of the private rented sector in many years and as such, the ramifications and likely effectiveness of the Government's proposals need to be carefully considered.
- 2.2 The NRLA supports the Government's aim of improving the experience of renters in the private rented sector, but these measures must also enjoy the support of good, responsible landlords. Landlords must feel that the changes in the White Paper are, in the long-term, of benefit to them and the Government needs to ensure that it gets this critical reform right. A failure to do so risks landlords reducing their portfolios or leaving the sector altogether. This will only serve to restrict the supply of private rented homes, which is already being outstripped by demand.
- 2.3 As our survey results show, there is considerable unease amongst landlords about the Government's proposals, most notably the end of fixed-term tenancy contracts and abolishing Section 21. These concerns must be allayed if the PRS is to continue to provide much-needed homes for millions of tenants.
- 2.4 Principally, the NRLA's key recommendations include:
 - The replacement grounds for Section 21 for possession must be robust, comprehensive and workable to ensure they have the confidence of landlords.
 - Planned court reforms should not just be enacted but seen to be working before the Government transfers to the new system of tenancies without Section 21.
 - The Government should implement in full the recommendations of the Victims Commissioner's report concerning anti-social behaviour.

Local authorities and the police should be required to check the planned landlord portal when taking action to address anti-social behaviour. Where any of the requirements for using the new mandatory anti-social behaviour ground are met, the relevant enforcement authority must inform the landlord. They must also support them with appropriate action to remove the offender from the property to protect neighbours and potential fellow tenants.

- Anti-social behaviour hearings should be prioritised by the courts with possession orders enforced swiftly afterwards.

- Whilst retaining the Government's preferred periodic tenancy model, tenants should only be allowed to serve the required two months' notice to vacate a property when they have been living in it for a minimum of four months. Tenants though, should have the right to serve notice before four months in cases where the landlord has failed to meet their obligations in the tenancy agreement.
- Fixed term tenancies of a year should be allowed where a landlord is renting to students as evidenced by them being registered with a suitable educational institution. In order to demonstrate their status as student landlords, letting homes occupied solely by students, their accredited status could be registered by university accommodation offices creating parity with providers of PBSA.
- The Decent Homes Standard for the PRS must reflect the differences between the private rented sector and social rented sector and be tailored to the sector.
- All local authorities must conduct an assessment of the ability of relevant departments to enforce the wide range of powers already available to them to tackle criminal landlords.
- Given that the proposed National Landlord Portal will be accessible by local authorities, and given the development of a national decent homes standard for the private rented sector, the Government must scrap selective licensing.
- To enable landlords to have confidence that rent will be paid by tenants, the Government needs to unfreeze the Local Housing Allowance so it mirrors market rents, end the five week wait for the first payment of Universal Credit and enable tenants, from the very start of a claim for Universal Credit, to choose to have the housing element paid directly to their landlord.

3.0 Landlords' Impressions of PRS Reforms

3.1 The NRLA has conducted a survey of more than 3,000 landlords, letting agents and other letting professionals on the reforms proposed by the Government to the private rented sector. Of note, the survey shows that landlords are generally sceptical of the proposals from government and that additional measures and support are needed to ensure that the Government has the confidence of responsible landlords.

3.2 Our survey found that:

- Nearly two thirds of landlords at 63% are concerned about the end of fixed term tenancy contracts. 36% are extremely concerned, 14% are moderately concerned and 19% are somewhat concerned.
- Over 60% of landlords could envisage operating in the PRS without Section 21, but only if other proposals in the White Paper such as court reforms and reformed grounds for possession give landlords the confidence needed to continue their business. 17% of landlords reported that they would be unable to continue operating in the PRS without Section 21.
- Two thirds of landlords were sceptical that proposals on court reform would make the rules and process clearer for landlords on issues such as anti-social behaviour and arrears. Over 40% reported that they did not think the proposed reforms would make the process clearer and a further 26% reported that they would definitely not make the process clearer.
- Over 60% of landlords felt that the national property portal would cost responsible landlords money but would have limited impact on tackling criminal landlords.
- 49% of landlords strongly disagreed that the proposed reforms for taking possession provided sufficient balance to the loss of Section 21 and the ending of fixed-term assured tenancies.
- 76% of landlords reported that the White Paper proposals would make them more selective in their tenant choices.

- The majority of landlords do not believe that the changes in the White Paper would allow them to effectively address anti-social behaviour. Less than one in four landlords surveyed felt that the proposals would be moderately or slightly effective. Only 1% of respondents felt that the proposals would be very or extremely effective.

4.0 Ensuring Reforms Have the Confidence of Responsible Landlords

- 4.1 **Whilst we recognise that the Government’s primary objective in the White Paper is to improve the experience of renters, the final legislation needs to have the confidence of responsible landlords to meet the ever-growing demand for rental housing.**
- 4.2 The NRLA has been mapping tenant demand against the proportion of landlords planning to increase or decrease the number of properties they let over the past 5 years. Results show that there has been a large gap between demand and the net increase in landlords planning to boost supply. In every quarter over the last 5 years except one, more landlords reported intending to sell than intending to buy.¹
- 4.3 The Government’s own data shows that the number of landlords planning to sell some or all of their properties is twice as high as the number planning to purchase properties. According to the 2021 English Private Landlord Survey, 11% of landlords, representing 15% of tenancies, planned to increase the size of their portfolio. In contrast, 22%, representing 29% of tenancies, plan to sell some or all of their portfolio¹.
- 4.4 In addition:
- The Royal Institution of Chartered Surveyors has warned of rent rises as a result of the “*ongoing mismatch between rising demand and restricted supply*”².
 - In Zoopla’s rental market report for Q1 2022, its Head of Research noted: “*High levels of demand amid constrained supply is still putting upward pressure on rents.*”³
 - Rightmove’s most recent rental index for Q2 2022 has noted that whilst rental demand is up 6% compared with last year, the number of available properties is down 26%⁴.
 - Research by the District Councils Network has found that 76% of councils surveyed have seen an increase in private landlords selling up properties causing a rise in housing waiting lists, and making it harder to find permanent accommodation for those in need. 48% of these councils said they were now experiencing a significant pressure on housing services due to this. In particular, councils raised concerns about the drift of private landlords from the longer-term rental market to short-term holiday let accommodation⁵.
- 4.5 The danger is that the Government’s plans, if not executed properly, will exacerbate the rental supply crisis tenants are already facing. Qualitative research conducted for the Nationwide Foundation into experiences in Scotland which has had open ended tenancies in place since 2017 has noted that: “*Broadly equal numbers of landlords participating in this research said they were staying or leaving the PRS market over the next 2-5 years. Importantly, new landlords are not joining the market in the same volume as experienced a decade or so ago.*”⁶
- 4.6 If reflective of landlords in Scotland, this will mean half of landlords leaving the sector over the next 2-5 years with insufficient new landlords entering the market to replace them. This will lead to severe shortages of private rented housing in England.

¹ DLUHC, *English Private Landlord Survey 2021 - Main report*, May 2022, Page 8, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1078643/EPLS_Headline_Report_2021.pdf

² RICS, *UK Residential Market Survey*, June, available at: <https://www.rics.org/globalassets/rics-website/media/knowledge/research/market-surveys/uk-residential-market-surveys/june-2022-rics-uk-residential-market-survey.pdf>

³ Zoopla, *UK Rental Market Report – Q1 2022*, May 2022, available at: <https://advantage.zpg.co.uk/wp-content/uploads/2022/05/UK-rental-market-Q1Final-2.pdf>

⁴ Rightmove, *Rents grow at fastest annual rate in 16 years*, Q2 2022, available at: <https://www.rightmove.co.uk/news/rental-price-tracker/>

⁵ District Councils Network, *Councils warn of rise in housing waiting lists as landlords sell up*, December 2021, available at:

<https://districtcouncils.info/press-releases/councils-warn-of-rise-in-housing-waiting-lists-as-landlords-sell-up/>

⁶ Indigio House, *Rent Better: Wave 2 – Final Report*, April 2022, Page i, available at: <http://rentbetter.indigohousegroup.com/wp-content/uploads/sites/3/2022/05/Wave-2-Final-Report-AE030522-for-publication.pdf>

5.0 Ending Section 21

- 5.1 Notwithstanding the recent increase in possession cases brought about as a result of Covid related restrictions, the Government's plans to end Section 21 repossessions follow a number of years during which the number of court cases resulting from the issuing of such a notice, were falling. The number of possessions resulting from a Section 21 claim fell by more than 50 per cent between 2015 and 2019⁷
- 5.2 Ministry of Justice data⁸ shows that between 2019 and 2021, the number of possession claims brought to the county courts in England under the accelerated (Section 21) procedure fell by 56% from 18,319 in 2019 to 8,054 in 2021. This was a trend that was seen even prior to the pandemic and the moratorium on repossessions. Between 2015 and 2019 the number of claims brought under the accelerated procedure fell by 51% from 37,692 in 2015 to 18,319 in 2019.
- 5.3 Whilst many have dubbed Section 21 repossessions 'no fault' evictions, the reality is that for many landlords Section 21 is a tool that is only used because the alternative, Section 8 process, is too long and cumbersome. **Provided that the replacement grounds for possession are robust, comprehensive, and workable, especially in tackling anti-social behaviour, landlords will be able to have confidence in the system.**

6.0 New Grounds for Repossession Will Make Tackling Anti-Social Behaviour More Difficult

- 6.1 On the whole, the NRLA remains relatively content with the Government's planned grounds for repossession under the new system with the exception of plans to tackle anti-social behaviour.
- 6.2 Government data from 2021 shows that where landlords and agents reported that they had chosen to end a tenancy in the last two years, 32% had done so because the tenant had engaged in anti-social behaviour⁹.
- 6.3 Anti-social behaviour by tenants causes misery and blights the lives of fellow tenants, neighbours, and communities more broadly. It is vital that those committing such behaviour can be dealt with swiftly and efficiently. At present, the Government's planned ground to tackle such behaviour is not sufficient.
- 6.4 Whilst we recognise that the Government has committed to reducing the notice period for the most serious cases of anti-social behaviour to 2 weeks, this does not address the main problems of needing to secure the evidence to trigger the grounds, and the lack of support from enforcement authorities.
- 6.5 The Government's current grounds for anti-social behaviour simply mirror the current Ground 7A using the Section 8 procedure.
- 6.6 The mandatory ground, as proposed, continues to rely heavily on the police and/or local authority taking action to resolve the anti-social behaviour. Our concern is that there is currently no oversight on how effectively these enforcement powers are used.¹⁰ The evidence that is available shows that the police and local authorities are failing to tackle anti-social behaviour in most communities.
- 6.7 In 2019, the Victims Commissioner noted that too often the police and local authorities are simply failing to prioritise tackling behaviour which causes misery for neighbours and fellow tenants. The Commissioner noted that: *"The nature of ASB is such that it may require many agencies to be involved in investigating and resolving it. Responsibility may lie with the police, local authority, housing association or private landlord. There is often confusion about who holds responsibility and many victims tell us they get passed from one agency to another when reporting or trying to resolve ASB."*¹¹

⁷ HoC Library, *The end of 'no fault' section 21 evictions (England)*, <https://researchbriefings.files.parliament.uk/documents/CBP-8658/CBP-8658.pdf>

⁸ Ministry of Justice, *Mortgage and Landlord Possession statistics: January to March 2022*, May 2022, Table 8, available at: <https://www.gov.uk/government/statistics/mortgage-and-landlord-possession-statistics-january-to-march-2022/mortgage-and-landlord-possession-statistics-january-to-march-2022>.

⁹ DLUHC, *English Private Landlord Survey 2021 - Main report*, May 2022, Page 28, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1078643/EPLS_Headline_Report_2021.pdf.

¹⁰ HC266077, 18 June 2019 indicates that the Home Office does not currently record or monitor use of powers relating to anti-social behaviour.

- 6.8 Polling by the Tony Blair Institute for Global Change reports that of those who experienced anti-social behaviour in the last year, 26% reported it to the police or local authorities and just 41% were satisfied with the response they received¹².
- 6.9 The NRLA’s survey on renter’s reform found that landlords who had sought possession because of anti-social behaviour received little support from either the police and local authorities. Three in four landlords had never been assisted with an anti-social tenant by their local authority. Similarly, 84% received no assistance from the police. Just 4% of landlords reported that the local authority always assisted them in dealing with anti-social behaviour.
- 6.10 This lack of support from enforcement authorities is compounded by the difficulties private landlords face in gathering witness statements and evidence of anti-social behaviour. More than two thirds of landlords surveyed reported difficulties in gathering evidence of anti-social behaviour. When asked why, landlords commented that victims of anti-social behaviour were rarely willing to provide evidence due to fear of reprisal by the anti-social tenant. In these cases, Section 21 notices are often the only route to effectively addressing the anti-social behaviour.
- 6.11 We note that the Government has committed to working to establish “*the principles required for a strong and effective partnership response to anti-social behaviour*” but this provide no certainty whatsoever that anti-social behaviour in rented housing will be tackled by the authorities any more effectively than it is at the moment¹³. Nor will the commitment to “*produce guidance for landlords on identifying ASB, working with other agencies such as local authorities and the police, how this interacts with licensing schemes and evidencing ASB in court.*” The sector needs something far more concrete than assurances about ‘guidance’ and ‘principles’. Instead, it needs a wide ranging set of reforms that captures all of the complexities of anti-social behaviour and provides certainty and clarity for the victims of ASB.
- 6.12 To ensure that possession grounds concerning anti-social behaviour can be used with confidence, we propose:
- **Implementing the recommendations of the Victims Commissioner report concerning anti-social behaviour in full** and requiring local authorities and/or the police to report annually on their work in addressing statutory nuisance and anti-social behaviour.
 - **Allowing mediators to issue Acceptable Behaviour Contracts (ABC) for persistent antisocial behaviour as part of a mediated solution.** These civil contracts are commonplace in social housing and there is some evidence they reduce anti-social behaviour by individuals¹⁴. Evidence of failure to comply with an ABC should be one of the matters that the courts must consider seriously under their structured discretion¹⁵.
 - **Local authorities and the police should be required to check the planned landlord portal when taking action to address anti-social behaviour.** They must then notify the landlord where they have taken such action. Where the tenant is served with a Community Protection Notice or Abatement Notice, the landlord should be informed at each step of the process. Service of these notices should be considered strong evidence that possession is justified.

¹¹ Victims Commissioner for England and Wales, *Anti-Social Behaviour: Living a Nightmare*, April 2019, Page 22, available at: <https://s3-eu-west-2.amazonaws.com/jotwpublic-prod-storage-1cxa1dnrmkg14/uploads/sites/6/2021/12/ASB-report.pdf>.

¹² Tony Blair Institute for Global Change, *Rebuilding Communities: Why It’s Time to Put Anti-Social Behaviour Back on the Agenda*, April 2022, Page 6, available at: <https://institute.global/sites/default/files/articles/Rebuilding-Communities-Why-It-s-Time-to-Put-Anti-Social-Behaviour-Back-on-the-Agenda.pdf>.

¹³ DLUHC, *A new deal for renting: government response*, 16th June 2022, available at: <https://www.gov.uk/government/consultations/a-new-deal-for-renting-resetting-the-balance-of-rights-and-responsibilities-between-landlords-and-tenants/outcome/a-new-deal-for-renting-government-response>.

¹⁴ Bullock and Jones, *Acceptable Behaviour Contracts addressing anti-social behaviour in the London Borough of Islington*, Home Office Report 02/04, 2004

¹⁵ Currently the matters to be considered under structured discretion are set out in the Anti-social Behaviour Act 2003 but will need to be replaced when assured shorthold tenancies are removed.

- Furthermore, **where any of the requirements of the new mandatory ground have been met, the police or local authority must inform the landlord and support them with appropriate action to remove the offender from the property** to protect neighbours and potential fellow tenants.
- **The courts discretion must become more structured and restricted to provide victims with more certainty. Statutory guidance must be published for the judiciary covering ‘low level’ anti-social behaviour and when it would be reasonable to grant possession in cases involving it.** In particular, anti-social behaviour impacting on other tenants in the property must be treated seriously with the victims adequately protected.
- **Introduce a prescribed clause for the new periodic tenancy agreements that defines anti-social behaviour and explicitly informs the tenant that they must not engage in ASB or the landlord will be able to seek possession.** This clause would provide landlords and tenants with clear information on the nature and consequences of engaging in ASB. Examples of serious breaches of the clause could be included in the statutory guidance as worked examples for the courts.
- Basing the guidance on the experience of current neighbours or tenants is insufficient. The introduction of periodic tenancies is likely to lead to a significant number of victims of such anti-social behaviour leaving houses of multiple occupation to escape it, rather than providing the evidence needed to address it. In such cases the anti-social tenant would remain in the property and continue to cause misery for incoming tenants and neighbours. **Where landlords have evidence that a tenant’s notice was served because of the behaviour of another tenant, this must be taken seriously in the statutory guidance.**
- **Anti-social behaviour hearings should be prioritised by the courts, with resulting possession orders enforced swiftly afterwards.** With that in mind, where a possession order is granted for ASB, landlords should automatically have the option to transfer the case up to the High Court so that possession can be dealt with quickly and effectively.

7.0 Security and Stability in the Private Rented Sector

- 7.1 As the Government progresses with its plans, it is vital that they provide security and stability to both tenants and responsible landlords.
- 7.2 On the whole, the Government’s proposal for periodic tenancies should be workable as long as the grounds for repossession are robust and a reformed court process is in place to speed up hearings where there is a dispute.
- 7.3 However, as currently proposed, landlords would have no certainty that a new tenant would reside in a property any longer than two months. This lack of certainty is likely to cause buy-to-let mortgage providers to be more reticent about lending. In its response to the Government’s consultation on replacing Section 21, UK Finance noted that¹⁶: *“BTL lenders recognise that short-term and longer-term tenancies are fundamentally different business propositions. Most lenders tend to avoid short-term tenancies and often require that their landlord customers impose a minimum six-month initial fixed period on the tenancy. This helps to reduce the risk of missed mortgage payments which are more likely to occur where a landlord offers short tenancies.”*
- 7.4 **To balance the need for certainty for landlords, flexibility for tenants and the concerns of mortgage lenders, we propose that whilst retaining the Government’s preferred periodic tenancy model, tenants should only be allowed to serve the required two months’ notice to vacate a property when they have lived in it for a minimum of four months. Importantly, we propose that tenants would still retain the right to serve notice before four months in cases where the landlord has failed to meet their obligations in the tenancy agreement. This would allow a tenant to leave if the property is not fit for habitation or the landlord has failed to perform their duties. This would mirror the current protections available to tenants which prevent the serving of a Section 21 notice until four months into a tenancy agreement.**

¹⁶ UK Finance, *A New Deal for Renting -UK Finance Response to MHCLG Consultation*, October 2019, available at: <https://www.ukfinance.org.uk/system/files/UK%20Finance%20Response%20to%20MHCLG%20Consultation%20-%20A%20New%20Deal%20for%20Renting.pdf>.

7.5 There are situations, not least in respect of student tenancies, where the provision of periodic tenancies is likely to cause considerable difficulties. The Government will need to think again if it is to have a package of reforms which are workable.

7.6 These are concerns that have been borne out in Scotland. The recent research of the impact of these for the Nationwide Foundation, quoted above, has noted that: *“While the same number of landlords interviewed expected to stay in the market as those that expected to leave, those renting to parts of the market considered to be riskier, in particular student housing and the low income/benefits market, were more likely to be considering leaving.”*¹⁷

7.7 Student Tenancies

7.7.1 According to the Higher Education Statistics Agency, 27% of students in 2020/21 lived in privately rented properties which were not purpose-built¹⁸. This includes Houses of Multiple Occupation (HMO) usually lived in by students after spending their first year in halls of residence or Purpose-Built Student Accommodation.

7.7.2 Under the current model for such accommodation, landlords agree tenancies for a new student letting year (from one summer to the next, typically for 12 months) in the early spring, well ahead of when it is needed. This gives students time to make sharing arrangements with friends and provides them with early reassurance that their accommodation for the next year is sorted. This happens whilst the current student tenants are in situ. Where a landlord agrees to let the property to a new group of students it is vital that they have confidence that the property will be available from the start of the new letting year. Under the Government’s plans this assurance will not be there.

7.7.3 Under the proposals, landlords will not be able to set a defined period for a tenancy and there will no obligation on the tenants to give due notice that they intend to move out at the end of the academic year. They might give the notice late, potentially too late for the landlord to avoid having a void and being unable to re-let it to students for a new academic year.

7.7.4 For students, there will be no certainty that properties currently occupied by other students will be available at the start of the student letting year. This will be of particular concern for first year students looking to move in their second year from halls of residence to HMO accommodation. It would be a recipe for chaos, confusion and anxiety for students not knowing whether accommodation will be available for them when they start a new year of study.

7.7.5 The Government’s plans also fail to pass the test of reasonableness for responsible landlords in the student market. This is because at any point a student could opt to leave with two months’ notice. This would mean:

- A landlord needing to let a room in a shared house to another student which would be difficult midway through an academic year when students are generally settled in their accommodation.
- A landlord letting a room to a non-student which would mean a property losing its status as being exempt from council tax as a result of being occupied solely by students. In this instance, assuming the HMO is a shared house on one agreement, the tenants would become liable for 75% of the full council tax on the property.

7.7.6 In the, albeit unlikely, event that all the students in a shared house were to leave the property, the landlord would have the following three options to re-let it, none of which will appeal to them:

- Rent to a completely new group of students which is likely to be difficult mid-way through an academic year.
- Rent the property to a family – in this situation, if an Article 4 Direction were in place, the landlord would then later be required to seek, without any assurance of securing it, planning approval to convert the property back for student use.

¹⁷ Indigio House, *Rent Better: Wave 2 – Final Report*, April 2022, Foreword, available at: <http://rentbetter.indigohousegroup.com/wp-content/uploads/sites/3/2022/05/Wave-2-Final-Report-AE030522-for-publication.pdf>.

¹⁸ HESA, *Where do HE students study?*, February 2022, available at: <https://www.hesa.ac.uk/data-and-analysis/students/where-study>.

- Rent to a group of unrelated sharers who are not students. This would inevitably shrink the supply of available homes for students as the tenants would be unlikely to leave in line with the academic year.

7.7.7 In all of the above scenarios, as a result of the Government's plans for all tenancies to be periodic, the landlord would still have no assurances that a property would be available to rent out again to students for the start of the new student letting year. Given this, the only viable option for a landlord would be to keep the property empty, whilst losing rent, or stop letting to students in the future.

7.7.8 In Scotland, concerns have been raised of a "*student housing emergency*" as a result of a shortage of available accommodation¹⁹.

7.7.9 **In view of the above, to avoid damage to the student rental market we propose three options:**

- **Where a landlord is renting to a group of students as evidenced by them being registered with a suitable educational institution, they should have the same exemption from periodic tenancies as that being given to owners of purpose-built student accommodation. Many universities already have a relationship with private landlords and require accreditation, this could be an extension of these arrangements.**
- **Allowing fixed term tenancies of a year where a landlord is renting to a group of students as evidenced by them being registered with a suitable educational institution.**
- **Mirroring the Government's proposals for agricultural tenancies under which a student landlord would be able to repossess a property with 2 months' notice where it is required for use by an incoming student(s). The earliest such a notice could be served would be at the 10th month of a 12-month tenancy agreement.**

8.0 Standards and Enforcement

8.1 No tenant should have to put up with accommodation that is unsafe and not of a decent standard. Landlords providing such housing should be left with only two options – bring them up to scratch swiftly or leave the market.

8.2 It is important that in addressing standards, the Government does not lose sight of the progress that has been made. English Housing Survey data shows that between 2006 and 2020, in the social rented sector which was covered by the Decent Homes Standard, the proportion of social housing classed as 'non decent' fell by 55.9% (28.8% to 12.7%). This is almost identical to the trend in the private rented sector (PRS) over the same period which was not formally covered by the Decent Homes Standard. Over this period the proportion of dwellings classed as 'non decent' fell by 55% (from 46.7% in 2006 to 21% in 2020)²⁰.

8.3 **We support the principle of establishing a standard that is easily recognised by tenants when they are looking for a property and to hold their landlord accountable when they are in one. It is important, though, to recognise that there are differences in need between the private and social rented sectors and the new standard for the PRS needs to reflect this.** For example, the PRS has a diversity of types of homes and properties not present in the social sector. A third of stock in the private rented sector was built prior to 1919, compared to just 6.5% in the social sector²¹. This does not necessarily imply superiority or inferiority of the quality of the stock but does provide for different characteristics which should be considered when designing the standard for the sector.

¹⁹ BBC News, *Scotland's students face accommodation 'nightmare'*, October 2021, available at: <https://www.bbc.co.uk/news/uk-scotland-glasgow-west-58822372>.

²⁰ DLUHC, *English Housing Survey 2020 to 2021: headline report*, December 2021, Annex Table 2.3, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054775/2020-21_EHS_Headline_Report_Section_2_Stock_Annex_Table_revised.ods.

²¹ DLUHC, *English Housing Survey 2020 to 2021: headline report*, December 2021, Annex Table 2.1, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054775/2020-21_EHS_Headline_Report_Section_2_Stock_Annex_Table_revised.ods.

- 8.4 To this end, we have published proposals as to what a Decent Homes Standard for the private rented sector should look like and how landlords can more easily demonstrate to tenants and prospective tenants' compliance with it.²²
- 8.5 Key to any changes will be enforcement against the minority of landlords who fail to provide the quality of accommodation they should.
- 8.6 We welcome the Government's plans to run pilot schemes with a selection of local councils to trial improvements to the enforcement of existing standards and explore different ways of working with landlords to speed up adoption of the Decent Homes Standard. However, as part of the Government's rental reform plans, landlords and tenants need to be convinced that councils have the capability, resources and staff required to enforce what the Government is proposing. Given this, **the Government should work urgently with all local authorities to conduct an assessment of the ability of relevant departments to enforce the wide range of powers already available to them to tackle criminal landlords.**
- 8.7 More broadly, we note the commitment to develop a Property Portal, especially the opportunity it provides for landlords to demonstrate clearly and easily to tenants and prospective tenants their compliance with their legal obligations.
- 8.8 **Given that the Portal will be accessible by local authorities, and given the development of a national decent homes standard for the private rented sector, the Government should therefore scrap selective licensing. With the details of all landlords and properties already available on a national database, and with standards having already been set, we question what discretionary local licensing schemes would achieve, apart from being an unnecessary duplication of effort and an excuse for income generation by local authorities.**

9.0 Improved Dispute Resolution

- 9.1 The White Paper pledges to "*strengthen and embed mediation services for landlords and renters, preventing avoidable evictions.*"
- 9.2 **The NRLA supports the wider use of mediation to prevent cases having to go to court and sustain tenancies wherever possible. In order to achieve this, it is vital that landlords can see and feel the benefits of such a process.** Given this:
- There needs to be a system in place to ensure that whatever is agreed in a mediated dispute is monitored to ensure adherence by all parties.
 - In the event that a tenant either did not abide by the conclusions of a mediated settlement, or did not, in good faith, engage positively with mediation, a mechanism should be put in place to ensure landlords could then have the case fast tracked through the court.
- 9.3 Given plans for a new Ombudsman for the sector, the Government will need to provide clarity as to how this, if at all, will relate to the proposals to strengthen mediation services for landlords. Would, for example, mediation be embedded within the operation of the planned Ombudsman? If so, there needs to be a mechanism for landlords to raise complaints regarding their tenant's behaviour as well.
- 9.4 In respect of court reform, we welcome the Government's commitment to changes as outlined in the White Paper. It needs to be clear that the objective is to bring down dramatically the time it takes for possession cases to be heard and processed. According to Ministry of Justice data, it currently takes a mean average of more than nine months (37.8 weeks) between a private landlord making a claim to the courts to repossess a property to it actually happening²³. This is far too long when during this period a tenant might be committing anti-social behaviour or failing to pay their rent.

²² NRLA, *Decent Homes and the Private Rented Sector*, May 2022, available at: <https://www.nrla.org.uk/decent-homes-and-the-private-rented-sector>.

²³ Ministry of Justice, *Mortgage and Landlord Possession statistics: January to March 2022*, May 2022, Table 6, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1076422/Mortgage_and_Landlord_Possession_Tables_Q1_Jan_to_Mar_2022.ods.

9.5 In light of this, **it is important that the planned court reforms are not just enacted but seen to be working before the Government transfers to the new system of tenancies without Section 21. Without this, responsible landlords will have little confidence that the new system is likely to work.** At the very least, the court reforms should be in place by the time of the Government's planned six months' notice of its first implementation date, after which all new tenancies will be periodic and governed by the new rules.

10 A Positive Renting Experience

10.1 The NRLA has long had the position that landlords should not discriminate against tenants solely on the basis that they are in receipt of benefits. Each claimant is different, and landlords should treat each individually based on their ability to afford and sustain a tenancy.

10.2 Whilst we therefore have no objection to plans to ban advertising properties as being unavailable for those in receipt of benefits, if references and other checks demonstrate a claimant would be unable or unlikely to sustain a tenancy, the landlord must not be forced to accept them.

10.3 In effect, this plan will make little difference as the more commonplace problem for landlords and tenants is that for over half of private rented households in receipt of Local Housing Allowance, this fails to cover their rent. The most recent figures show that 57% of private rented households in receipt of the Local Housing Allowance have a shortfall between that and the monthly rent they pay²⁴. **To enable landlords to have confidence that the rent will be paid the Government needs to:**

- **Unfreeze the Local Housing Allowance so it mirrors market rents.**
- **End the five weeks wait for the first payment of Universal Credit.**
- **Enable tenants, from the very start of a claim for Universal Credit, to choose, if they so wish, to have the housing element paid directly to their landlord.**

10.4 **We welcome the Government's acceptance of the NRLA's calls for landlords to be allowed to require pet insurance as a condition of tenants bringing their pets with them. In legislating to ensure landlords do not unreasonably withhold consent when a tenant requests to have a pet in their home, the law will need to be applied evenly and be clear about what a reasonable reason for a landlord refusing a pet might be.** For example:

- In a shared house, whose rights would be paramount if one tenant wants to bring a pet and another did not want a pet in the property maybe because of a fear or an allergy?
- What happens if a property is unsuitable for a certain type of pet? For example, a large dog in a small flat without a garden.
- What would happen if a pet causes a nuisance for other tenants or neighbours? Would that be classed as anti-social behaviour on the part of the tenant? Could a landlord insist on the pet being removed?

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²⁴ According to the DWP's Stat Xplore website, as of February 2022, 1,448,521 private rented households in Britain were in receipt of a Universal Credit payment with a housing cost support element to it. Of this group, 822,319 (57%) had a shortfall between their Local Housing Allowance rate and their monthly rents.