

Written evidence submitted by Generation Rent [RRS 230]

Please find below Generation Rent's submission to The Levelling Up, Housing and Communities (LUHC) Committee inquiry into 'Reforming the Private Rented Sector'.

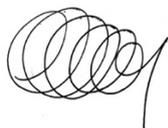
Generation Rent is the national campaign body for private renters. We work to ensure that the voices of private renters are heard- by landlords, policymakers and politicians. We are fighting to ensure that every private renter lives in a decent, secure and affordable home.

Our response to this inquiry is informed by the renters that we support. We are led by their experience and aim to represent their concerns in this response. In recent months we have conducted surveys, roundtables and interviews with renters to better understand how this proposed legislation will impact their lives and experience of renting.

This inquiry response has also been developed through our work with other organisations in the sector. Generation Rent is a member of and manages the Renters' Reform Coalition which is a coalition of 20 members, including organisations such as Crisis, Shelter and Citizens Advice. Together we have discussed the White Paper and its policy implications.

We, alongside the Coalition, welcomed the White Paper and look forward to the Bill becoming legislation. However, there are several changes required to re-balance the Bill to ensure that it results in a fairer private rented sector for both landlords and renters. These necessary and achievable changes are outlined in our inquiry response below.

Yours faithfully,



Alicia Kennedy

Director, Generation Rent

Generation Rent: Submission to the Levelling Up, Housing and Communities Committee inquiry into Reforming the Private Rented Sector

In accordance with the members code of conduct, we need to let you know that our Director, Alicia Kennedy is a member of the House of Lords.

1. Will the Government's White Paper proposals result in a fairer private rented sector (PRS)?

The Government's White Paper proposals will only result in a fair private rented sector (PRS) if the legislation ensures that renters are better protected against unscrupulous landlords who may abuse the reformed possession grounds.

There are several changes required to re-balance the Bill to ensure that it results in a fairer private rented sector for both landlords and renters.

These changes are:

- **Extend the protected period from eviction using no-fault grounds from the current and proposed 6 months to 24 months.**

Currently, a renter can be evicted every 6 months. The proposals in the White Paper do not change this. A no-fault eviction ground can be served after 4 months, followed by an 8 week notice period. This provides just 6 months total protection from a no-fault eviction. There is little in the proposed reforms to stop renters from experiencing an eviction twice in one year. Therefore, these proposals fail to deliver the central tenet of this legislation: security of tenure.

To give a renter only 6 months of protection from eviction is not long enough to make them feel secure in their home or put down roots in their community. While it is positive that Section 21 is being removed, without lengthening this protected period to 2 years, there will not be real security for renters.

- **Notice periods**

For no-fault eviction grounds, renters should be given more than 8 weeks to find a new home.

A Generation Rent survey of 1,071 renters, conducted between 29/6/22 and 18/7/22, found that 92% of respondents wanted renters to be provided with more than 2 months' notice if their landlord wants to sell the property. Of these, 65% thought that at least 4 months' notice is appropriate.

A notice period of 4 months will give renters adequate time to find a new home within their budget, manage their work and caring responsibilities, as well as save or find the money for the unexpected and unwanted move. It will also mean families with children are not forced to move during term time.

- **Avoiding misuse of no-fault possession grounds**

With the end of Section 21, the legislation needs to ensure no-fault possession grounds cannot be abused by unscrupulous landlords.

Landlords should be mandated to provide unequivocal evidence to prove that they will be selling, moving into or moving their close family members into their property. This should include an affidavit and a letter from a solicitor or estate agent, similar to the Scottish System.

The 3 months no-relet period (after a no-fault ground) is proffered as a solution to deter abuse. It will not. It is too short a time, which can be easily exploited by landlords looking to abuse the system.

According to [Generation Rent research](#), in Scotland, out of 74 cases where the landlord was awarded possession between 2018 and 2020 based on their intention to sell, 21 properties (28%) had still not been sold by early 2022. Ten of those (14% of the total) were still on the landlord register, indicating that the landlord may have abused this ground to wrongfully evict the tenant. We think that no-relet period should be increased to 12 months and any abuse made a criminal offence.

- **Relocation payments for no-fault grounds**

With any no-fault eviction grounds, renters should be provided with a relocation payment equivalent to two months' rent. This would mitigate the disruption and financial harm caused by an unwanted move. [Research](#) shows it costs an average of £1,709 for each unwanted move. Social landlords are liable for this when they redevelop a property and private landlords should have the same obligation to their tenants.

- **Selling with sitting tenants**

In the Government's response to the 2019 consultation, DLUHC stated that it encourages landlords to sell with sitting tenants. This implies it will make it easier for landlords to buy homes with sitting tenants.

There should be measures to incentivise sitting tenant sales, including a condition on the sale ground that the property is advertised for sale with a sitting tenant for six months, before an eviction notice can be served.

- **The cost of renting**

The White Paper does not go far enough to address affordability.

We support legislation that prevents landlords from increasing the rent more than once a year and the removal of rent review clauses. However, reforms to the tribunal system do not go far enough. Currently, there is no limit on how much a landlord can increase the rent by.

The Generation Rent's survey found for renters who had lived in their homes for over a year:

- 44% were asked for a higher rent in the past year, and of those 80% were now paying what the landlord had requested.
- 22% experienced an increase of £51-100 extra per month
- 20% experienced an increase of £100+.
- Despite these huge increases, only 1% challenged their rent increase via tribunal.

- Only 6% negotiated a new rent
- 3% were forced to leave their property.

(This is explained in more depth with question 5 on rent increases)

- **Eviction and rent increases after property improvements**

There is fear among renters that if their landlord makes any property improvements the rent will be increased. This is particularly concerning where means-tested grants for retrofitting homes could result in any savings on utility bills being wiped out by a rent hike – leaving fuel-poor households no better off. In Wales, there's a protected period from a rent increase post a grant funded improvement. There need to be provisions put in place to protect renters in England too.

- **Possession grounds: rent arrears**

We support the White Paper proposals to increase the notice period for arrears from 2 to 4 weeks.

However, renters may get into arrears for several reasons. Therefore, all grounds for eviction relating to arrears should be made discretionary. The mandatory Section 8, Ground 8 should be removed, leaving landlords to use the existing discretionary Ground 10.

- **Support for Domestic Violence Victims**

Currently with ground 14A, a social housing provider can evict a perpetrator of domestic violence. We recommend that provisions are made to ensure that a victim/ survivor is able to remain in their property, whilst their abuser can be evicted. With ground 7B, we have seen that there is existing precedent to transfer the property to other individual(s).

We, alongside DAHA, recommend that provisions are also made to ensure that a victim/ survivor can leave the property for the purposes of their own safety.

We welcome the end of fixed term Assured Shorthold Tenancies (ASTs). However, we consider that the extension of the notice period that tenants must give from one month (for current periodic tenancies) to two months should be reviewed in cases where the tenant is experiencing domestic abuse and needs to move out of the property quickly for their safety.

Perpetrators should also be restricted from forcing victims/ survivors to become homeless by ending tenancies as a form of abuse. For joint tenancies, we recommend that the Government includes provisions to suspend alleged perpetrators' ability to serve a Notice to Quit through the Domestic Abuse Protection Orders provided for by the Domestic Abuse Act 2021.

- **Anti-Social Behaviour**

We support what is outlined in the White Paper and the 2019 consultation on the anti-social behaviour grounds. However, Ground 14ZA – offence during a riot - should be removed. This ground is unfair and seldom used. A renter can be evicted if the riot occurred at any time after 13 May 2014 anywhere in England. This ground creates a condition whereby a renter and their family could be evicted for an offence that a homeowner would never be.

These pragmatic changes to the White Paper proposals will ensure the Government succeeds in its mission to bring about a fairer private rented sector.

In addition to the areas that need change, we support the Government’s White Paper proposals on:

- Periodic tenancies, including for students
- Policies that end discriminatory blanket bans
- Introduction of the Decent Homes Standard for the PRS
- Introduction of the property portal, including a register of landlords
- Introduction of an independent property ombudsman that deals with repairs.

2. What do the proposals in the White Paper and other recent reforms indicate about the role the Government envisages the PRS playing in providing housing nationally?

The PRS has swelled, 1 in 5 people in England now rely on the sector for their home. Yet reforms have done little to keep up with this burgeoning market. By addressing security of tenure, the Government is clearly working to assist renters to put down roots in their community, as well as providing them with the opportunity for homeownership.

With the changes we have outlined, plus the proposed introduction of periodic tenancies, followed by the removal of Section 21 and reformed possession grounds, renters should be better protected from expensive unwanted moves. Likewise, the limit to rent increases and the removal of rent review clauses should reduce shock rent increases that ransack renters’ savings.

However, if the Government wishes to assist more renters into homeownership it needs to ensure that renters cannot be hit with unaffordable rent increases and forced out of their homes: what we describe as “economic evictions”.

The Government should introduce a limit on rent increases that are based on wage inflation over the course of four years.

Also, to take pressure off the PRS, the Government should investigate feasibility models around mortgage finance and credit building that assist renters and first-time buyers to build their savings and enter homeownership, while also making sure that housing supply is sufficient to prevent rents and house prices rising further.

Similarly, the Government should invest in building more social and affordable housing for lower income households. This will relieve pressure on the PRS.

3. Have the Government's announcements already led to any changes in behaviour in the PRS?

In the last 12 months we have seen an increase in Section 21 evictions and evictions for rent arrears. Given the pandemic and cost-of-living crisis, it is difficult to discern any changes in behaviour arising directly from the Government announcements.

Given this and the precarious situation that renters are now in, it's essential the Government ends Section 21 now and introduces discretionary grounds for arrears.

4. Do the proposals for reforming tenancies, including the abolition of Section 21, strike the right balance between protecting tenants from unfair eviction and allowing landlords to take possession of their properties in reasonable circumstances?

No.

We support landlords, in exceptional circumstances, who may need to take possession of their property, but the proposals do not go far enough to protect tenants from unfair evictions. These reforms will only result in a fair private rented sector (PRS) if the legislation ensures that renters are better protected against unscrupulous landlords who may abuse the reformed possession grounds.

To strike the right balance the legislation must ensure that:

- There is a protected period from no-fault grounds of at least 24 months
- The notice period for a no-fault eviction is at least 4 months.
- Landlords are required to provide a burden of proof (affidavit, with a letter from a solicitor and or an estate agent) to prove the no-fault ground is valid.
- Landlords should provide relocation payments, amounting to two months' rent.
- After a landlord evicts a tenant using a no-fault ground, they should not be able to re-let the property for at least 12 months.
- There should be resources directed towards ensuring that landlords who abuse eviction grounds are investigated and penalised.
- Landlords should be incentivised to sell with sitting tenants.
- There should be penalties for landlords who abuse the grounds and tenants should be compensated through a wrongful termination order.

5. How easily will tenants be able to challenge unfair rent increases under the proposals?

There are no significant proposals within the White Paper significant enough to encourage renters to use the rent tribunal system. Any new legislation needs to address the following issues.

- **Investment**

Firstly, without investment in the rent tribunal, any improvements will fail.

Resources need to be directed towards informing people about the tribunal and helping people apply. [Generation Rent FOI research](#) found that between January 2019 and August 2021 there were only 341 cases brought forward to the tribunal. Similarly, the Generation Rent survey found that only 1% (7 people) went to the tribunal.

- **Application Process**

Currently, renters are forced to make a tribunal application by post and can wait up to 10 weeks for a decision. New proposals must allow for online applications with a quicker time frame for decisions. (Around 4 weeks).

- **Increased notice period**

To encourage renters to use the tribunal they should be given 4 months' notice of a rent increase so that they can challenge a notice and have time to respond to the tribunal's decision.

- **An end to backdated rented payments**

Most importantly, for more renters to use the tribunal service, the rent increase should only take effect after a tribunal decision is made.

- **Referencing**

A rent challenge at a tribunal should not be included in a reference for a new tenancy from a former landlord or agent.

- **Limits on rent increases**

We support the limit on rent increases to once a year, the removal of rent review clauses and assurance that the tribunal won't go above the suggested rent. However, we fear that the unintended consequence will be that landlords will ask for more rent in case it is challenged.

Therefore, there need to be limits on rent increases: Landlords should not be able to raise the rent by more than the average annual wage growth over the past four years as measured by the ONS.

- **Valid Section 13 notice**

A Section 13 notice should only be valid if a landlord has provided: receipt of deposit protection, EPC, gas safety certificate, and written tenancy agreement. In future, these documents can be uploaded as part of registration to the property portal.

- **Extend the right to challenge**

The right to challenge rent at the start of the tenancy (Section 22) should be maintained. Renters should also be able to challenge the rent during the first year of the tenancy and be able to do it once a year thereafter, to prevent negligent landlords from collecting excessive rents for properties they allow to fall into disrepair.

6. Does the PRS need its own ombudsman? If so, what powers should it have?

Yes. We support an independent and well-resourced PRS ombudsman.

There is a large gap in the redress system whereby tenants with a letting agent can complain about consumer rights issues but not tenants renting directly from a landlord. There is also a strong case to widen the redress system, as the Government proposes, to give renters another channel through which to raise complaints about disrepair and hazards in the home.

Renters should have the opportunity to seek redress against their private landlord and letting agent for matters regarding their home and tenancy. They should also be able to access this right to redress for free. To be truly effective and to avoid duplication and buck-passing, the ombudsman should include letting agents, with the scrapping of the competitive two-scheme system.

The ombudsman must be well resourced, so claims are dealt with promptly. Waiting for repairs to be done damages the health and wellbeing of renters. Therefore, no tenant should be waiting months for a claim to be dealt with.

The ombudsman should work in tandem with the property portal and assist local authorities with enforcement. Renters should be eligible to seek a Rent Repayment Order or similar compensation where their landlord's service, or the standard of the property, fails the DHS and where their landlord fails to join the ombudsman or register the property with the portal.

Renters must have a choice and a continued ability to go to court when dealing with claims or disputes against their landlord. In many cases, particularly the most severe (such as eviction), court will be the only appropriate channel to achieve justice. Renters should have the right to appeal any decisions made by the ombudsman.

7. Will the proposals result in more disputes ending up in the courts? If so, will the proposals for speeding up the courts service suffice?

No. If the proposals are implemented properly and security is provided to renters, then fewer disputes will end in court. In terms of sequencing, the end of Section 21 must come before any court reform.

With the removal of Section 21, the legislation must ensure that landlords are provided with clear guidelines on the new possession grounds and the penalties around abuse.

It is essential that when a dispute goes to court, legal aid is available for all who need it. Similarly, courts need additional funding so that disputes can be dealt with in a timely manner.

Court hearings should be encouraged to be in person, to ensure renters can get the support they need and allow equal access to justice for the digitally excluded.

8. What impact, if any, will the reforms have on the supply of students' homes in the general PRS?

We do not think these reforms will have much of an impact on the supply of student homes in the general PRS.

We agree with the White Paper's proposal: that there should not be a "two-tiered" PRS, which discriminates against students, particularly those with jobs and families who do not wish to move home at the end of the academic year. Students should have the same rights as others in the PRS.

9. What impact, if any, will the reforms have on the supply of homes in the PRS?

These reforms should professionalise the sector and attract and retain good landlords. Only unscrupulous and criminal landlords would take issue with these reforms. These landlords can leave the sector but should be facilitated to sell to other landlords with sitting tenants.

If a landlord sells to an owner occupier, this frees up a property for a private renter to buy, leaving the balance of supply and demand in the housing market as a whole unchanged.

Therefore, landlords leaving the market does not in itself lead to higher rents; the failure of the supply of homes as a whole to keep up with demand leads to higher rents.

However, in certain areas of the country this balance is dramatically upset due to the growth in the holiday lets market. This needs monitoring and Government intervention. As things stand, landlords of holiday lets pay less tax and face less oversight than the PRS. Tax and regulation of this sector must be brought into line with the PRS, including withdrawal of mortgage interest relief, which currently makes holiday lets more lucrative.

10. What should be included in the new decent homes standard and how easily could it be enforced?

According to the EHS, 23% of the homes in the PRS are non-decent, more than any other tenure. We, therefore, support the White Paper's focus on introducing a Decent Homes Standard (DHS) for the PRS.

A decent home is free from hazards, disrepair, damp and mould, and is energy efficient.

The Decent Home Standard (DHS) should include instruction on:

- Accessibility for disabled renters
- HHSRS
- Adequate bathroom and kitchen facilities
- Space requirements (i.e. room size)
- Thermal comfort, insulation and energy efficiency C rating
- Noise requirement
- Availability of Wi-Fi and plug sockets
- Damp and mould

With the DHS there needs to be more clarity on what the criteria are for meeting the standard and whether the home has to meet all of the criteria or only some of them.

We believe that the introduction of the property portal will be useful to ensure that landlords are aware of the requirements of the DHS and that local authorities have additional access to information about a landlord's home. Information, held on the property portal, could be used by local authorities for inspections.

In terms of enforcement, the DHS should be easy to enforce as local authorities are aware of what the standard is. It should be illegal to rent out a non-decent home.

Local authorities should have a duty to enforce against non-decent homes, with extended powers to use the relevant notices (such as banning orders and improvement notices).

Letting agents should also face repercussions for letting out non-decent homes. Local authorities should be provided with new burdens funding to reflect these new responsibilities.

Renters should receive compensation if their landlord has "breached their contract", by renting out a non-decent home, in the form of a Rent Repayment Order.

Likewise, there should not be exemptions for landlords when the cost is deemed too high to make the improvements. There should not be a cost threshold like there is with the minimum energy efficiency standards.

11. How enforceable are the proposals to make it illegal for landlords to have blanket bans on letting to people on benefits or with children? What other groups, if any, should be protected from blanket bans?

We support the White Paper's proposals to ban blanket bans on letting to people on benefits or with children.

We support legislation which addresses the wrongful marketing and advertising of a property, restrictions on viewing a property and restrictions on making an offer. As part of this, letting agents should be required to publish data on their bidding processes which would ensure that there is transparency relating to how tenants are chosen and what they are asked to pay.

As it currently stands, the way that LHA is set and the shortfall between the allowance and rents, means that renters who are in receipt of benefits are experiencing exclusion and discrimination on this basis. Therefore, for discrimination to be addressed, LHA should be updated to median rents.

Other groups that should be protected from blanket bans:

- People with a mental or physical disability
- Prison leavers
- Asylum seekers & refugees
- LGBTIQ+ people
- Non-British passport holders
- All ethnicities

In addition to this, "Right to Rent" has created a situation whereby landlords are less likely to rent to individuals who appear to be migrants or from an ethnic minority. This fosters discrimination in the rental market.

In 2018, even before the pre-settled status Brexit regulation came in, the NRLA found that 44% of landlords reported that they were less likely to consider letting to individuals without a British passport. Landlords should not be enforcement agents.

The "Right to Rent" should be removed.

12. Overall, what additional pressures will the proposals place on local councils, and how many of these will require new burdens funding?

These proposals will place new and additional pressures on local councils. Without additional funding for local authorities, these reforms will not bring about a fairer private rented sector.

The following areas will require additional new burdens funding:

- Enforcement of the Ombudsman
- Enforcement of the property portal
- Enforcement of the Decent Homes Standard
- Enforcement of tenancy reforms measures and possession grounds
- Enforcement of blanket bans for No DSS
- Enforcement against illegal eviction

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