



DEBATE PACK

Number CDP-0258, 3 December 2018

The use of section 21 evictions in the private rented sector

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Summary

On 6 December 2018, at 1:30pm, there will be a Westminster Hall debate on the use of section 21 evictions in the private rented sector. The Member sponsoring this debate is Karen Buck MP.

Section 21 of the *Housing Act 1988* (which applies in England and Wales) enables private landlords to repossess their properties without having to establish fault on the part of an assured shorthold tenant (AST). It is sometimes referred to as the 'no fault' ground for eviction. Critics of section 21 argue that it facilitates and encourages poor management practice; for example, tenants may be reluctant to report disrepair for fear of facing retaliatory eviction. Numerous bodies, including Generation Rent, are calling for the abolition of section 21. The Scottish Government legislated to remove no fault evictions from new PRS tenancies created after 1 December 2017.

Landlord bodies argue that most ASTs are ended by tenants and not landlords. The reliance on section 21 is attributed to problems landlords face when seeking to evict tenants using section 8 of the 1988 Act. The Residential Landlords Association and the National Landlords Association support reforms to section 8 and the development of a dedicated Housing Court.

This debate pack explains section 21 of the *Housing Act 1988* and summarises stakeholder commentary on its use and impact. This pack also brings together a selection of relevant news articles and parliamentary material.

The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

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1. Background

The key aim of Part 1 of the *Housing Act 1988* was to deregulate private sector tenancies. Assured and assured shorthold tenancies (ASTs) created by the Act are not subject to rent control akin to that which applies under the *Rent Act 1977* and section 21, as outlined below, has made it relatively straightforward for landlords of ASTs to regain possession of their properties.

This compares with tenancies governed by the *Rent Act 1977*, under which tenants have substantial security of tenure. A landlord seeking to evict a regulated tenant must satisfy the court that one of the specified grounds for eviction is made out, i.e. a reason for seeking eviction must be given.

1.1 What does section 21 do?

Part 1 of the *Housing Act 1988* came into force on 15 January 1989. After this date, with some limited exceptions, new private sector tenancies entered into in England and Wales are either assured or assured shorthold tenancies (ASTs).

Subsequently, the *Housing Act 1996* amended the 1988 Act to make ASTs the **default tenancy** in the private rented sector with effect from 28 February 1997. ASTs are the most common form of private sector tenancy in England and Wales.

Section 21 enables private landlords to repossess their properties without having to establish fault on the part of the tenant. It is sometimes referred to as the 'no fault' ground for eviction. Landlords must serve notice on the tenant giving a minimum two months' notice of intention to seek possession. If the tenant does not move out on expiry of the notice the landlord must seek a court order for possession. The court will grant an order if the correct procedures have been followed and there is no defence (see below). Landlords have the option of applying for an [accelerated possession order](#) – where used this negates the need for a court hearing. If a tenant does not move out on the date specified in the court order, the landlord may apply for a warrant for possession to arrange for bailiffs to evict the tenants.

There are restrictions on when section 21 can be used to evict tenants with an AST. These restrictions have been added to over time, some only apply to ASTs entered into after 1 October 2015 following changes made by the *Deregulation Act 2015*. **A section 21 notice may be invalid and may enable the tenant to defend an action for eviction in the following circumstances:**

- A section 21 notice cannot expire before the expiry of the fixed-term of an AST.
- The landlord cannot use section 21 to end a tenancy within the first six months of an AST.
- A section 21 notice will be invalid if the landlord has not protected the tenant's deposit in an approved scheme.

- The landlord failed to start court action within 6 months of the expiry of the section 21 notice.
- The section 21 notice was served during the first 4 months of the original contract.
- The property is an HMO or subject to a local authority licensing scheme and the landlord has not obtained a licence.
- A section 21 notice may be invalid if served **after** a tenant makes a written complaint to the landlord about conditions in their home followed by a complaint to the council and the council serves an improvement or emergency works notice on the landlord.
- A section 21 notice will be invalid if the AST began on or after 1 October 2015 and has not been renewed since and:
 - the landlord has not issued the tenant with a [How to Rent](#) booklet;
 - the landlord has not issued the tenant with an Energy Performance Certificate;
 - the landlord has not given the tenant a gas safety certificate dated in last 12 months; and
 - the landlord has not used [Form 6A](#).

Some, but not all, of these restrictions also apply in Wales; for example, the requirement on the landlord to have protected the tenant's deposit. In addition, a section 21 notice served in Wales after 23 November 2016 is invalid if the landlord or agent is not registered or properly licensed with [Rent Smart Wales](#).

Most tenants in the private rented sector in Northern Ireland have either a fixed-term tenancy, a default six-month tenancy or a periodic tenancy. A small number of tenants whose private tenancy began before 1 April 2007 may have protected tenancies with rent control and substantial security of tenure. Tenancies created after 1 April 2007 are generally 'non-protected'. If a landlord wishes to end a non-protected tenancy on a 'no-fault' basis, the length of the notice they must give depends on how long the tenant has lived in the property. These periods were extended in 2011 when the *Private Tenancies (Northern Ireland) Order 2006* was amended. The notice periods are:

- If the tenant has been in the property for less than five years, they must get at least four weeks' notice.
- If the tenant has lived in the property for more than five years but less than 10, they must get at least eight weeks' notice.
- If they have lived in the property for over 10 years, they are entitled to 12 weeks' notice.

The alternative: section 8 notice

A landlord can seek to evict an AST tenant **at any point of the tenancy**, including within a fixed-term, by serving a section 8 notice of intention to seek possession. The notice must set out the ground under which possession is being sought. The possible grounds for possession are listed in Schedule 2 to the 1988 Act. There are mandatory grounds

(grounds on which the court must order possession) and discretionary grounds (grounds where the court must be satisfied that it is reasonable to make a possession order). The length of the notice period depends on the ground under which an order is being sought. The court will grant an order for possession only if the relevant ground is 'made out'. Tenants may seek to defend an application for possession.

The Residential Landlords Association (RLA) **has identified several reasons why landlords prefer to use section 21 over section 8 when seeking to terminate ASTs and evict tenants:**

- Rent arrears – A Section 8 notice can be sought when a tenant reaches 2 months of rent arrears. If the tenant has paid the arrears off by the time the case goes to court the application by the landlord becomes invalid and can often be followed by the tenant again building arrears and again paying them off at the last minute.
- Anti-Social Behaviour – To obtain a Section 8 notice in the face of a tenant committing antisocial behaviour the bar for securing the necessary evidence to prove this is relatively high. In itself it can be a long and difficult process, resulting in neighbours suffering as a result of a problem tenant.
- Section 8 notices usually involves the case going to court. The MOJ has revealed that the average time taken for a landlord to repossess a property through the courts was 22 weeks in 2017. In London the figure was 25 weeks. Being left in legal limbo for such a long period of time is not helpful for either the tenant or the landlord.
- Court hearings- Unlike the Section 21 process which can be carried out largely on paper, a Section 8 notice possession case always requires a hearing. Landlords find this intimidating and incur greater costs due to court representation.¹

The RLA's preferred position is that section 8 should be reviewed and reformed to encourage landlords not to rely on section 21.

The following changes are suggested:

- High levels of rent arrears should allow for possession using a paper-based process similar to that used for section 21.
- Reviewing the level of proof needed to use a Section 8 notices in instances of anti-social behaviour.
- Further grounds need to be added. This includes instances where a landlord simply wants to sell their property or wants to repossess it to undertake refurbishment and renovation work that might require the property to be empty.²

1.2 Statistics on possession claims

Statistics are available on the use of possession claims, orders, warrants and repossession. Two series are available: on standard procedure claims by private landlords for section 21 and section 8 combined, and

¹ [RLA Briefing for Westminster Hall debate on 6 December 2018](#)

² Ibid.

on accelerated procedure claims by all landlords (including social rented sector landlords). The charts overleaf show trends in both.

In 2017 there were 21,439 possession claims by private landlords using the standard procedure (section 8 and section 21). Possession claims peaked in 2013, when there were 23,195 claims. There were 6,260 repossessions under this procedure in 2017, close to the 2014 peak of 6,321 possessions.

Statistics on the accelerated procedure include both private and social-sector landlords.³ Use of the accelerated procedure increased sharply from 2011 onwards, peaking at 38,402 claims and 16,620 repossessions in 2015. There were 29,601 claims and 12,953 possessions in 2017.

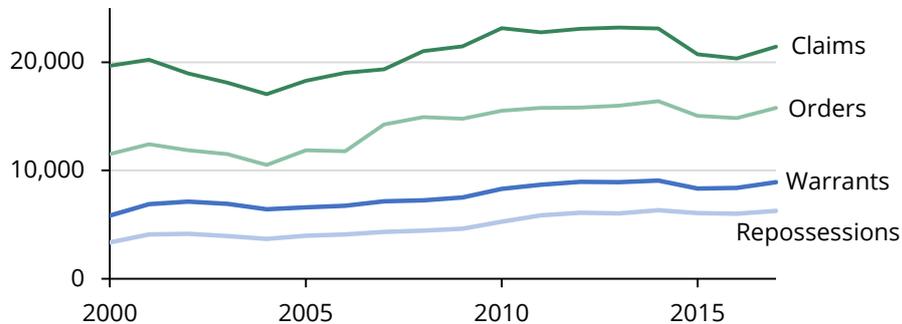
The court statistics also include information about the time it takes to move through the process. For standard procedure claims by private landlords, there is an average⁴ of 6.9 weeks between a claim being made and an order being issued, and an average of 9.9 weeks between a claim being made and a warrant issued. For accelerated procedure claims, there is an average of 5.1 weeks between a claim being made and an order being issued and 9.7 weeks between a claim being made and a warrant being issued.

³ Housing associations/registered providers of social housing may use an AST in limited circumstances. Most housing association tenants have an assured tenancy.

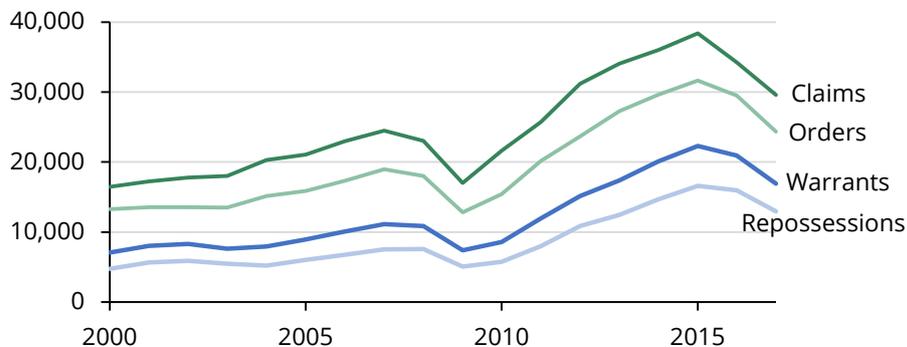
⁴ These figures use the median, a type of average designed to be less affected by extremely high values than the mean. The median is the point at which half of all cases take longer and half are slower.

LANDLORD POSSESSION ACTIVITY IN THE COUNTY COURTS, ENGLAND & WALES

Private landlords, standard procedure (section 8 and section 21)



All landlords, accelerated procedure (section 21)



Source: Ministry of Justice, [Mortgage and landlord possession statistics: July to September 2018](#), Tables 8 and 9

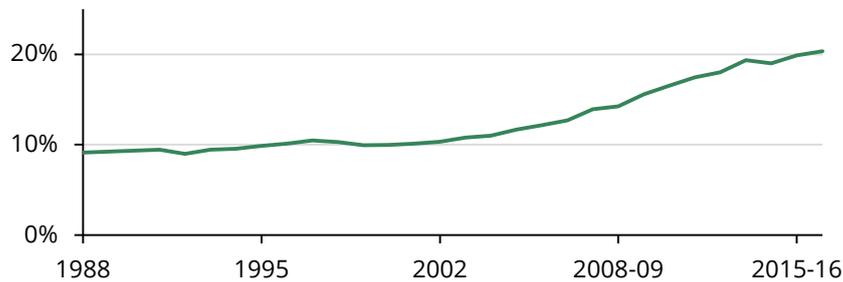
1.3 Evidence on the impact of section 21 Growth of the private rented sector (PRS)

Deregulation of the PRS has coincided with substantial growth of the sector. The ability of landlords to regain possession of their properties on a 'no fault' basis, coupled with the lack of rent control, has undoubtedly increased potential landlords' willingness to invest in the PRS. However, other factors attributed with the sector's growth include:

- The availability of buy-to-let mortgages from 1996 onwards.
- Restricted growth and access to the social rented sector over the period.
- Difficulties in accessing affordable home ownership, e.g. since the 2008 financial crash lenders have applied much more stringent requirements for mortgage eligibility.

In England in 1988, around 9% of households were private renters. The proportion began to rise substantially in the mid-2000s, and by 2016-17 had risen to 20% (see chart, below).

THE PROPORTION OF HOUSEHOLDS RENTING PRIVATELY HAS RISEN IN ENGLAND



Source: [English Housing Survey Headline Report 2016-17](#), Annex Table 1.1

The number of households renting privately has also risen: around 4.7 million households were renting privately in 2016-17, an increase of 4% on the year before and more than twice as many as the 1.7 million renting privately in 1988.

The demographics of private renters are also changing. In 2016-17, around 38% of private renting households were families with children (around 1.7 million households) – up from 29% in 2003-04 (0.5 million households).⁵

The latest English Housing Survey (EHS) report on the PRS also notes that the sector experiences more churn than any other:

In total, 860,000 households moved within the tenure (i.e. from one privately rented home to another) and 149,000 new households were created. There were 179,000 moves into the sector, of which 80%, (143,000) were from owner occupation. There were 266,000 moves out of the sector, with 68% (182,000) of these moving to owner occupied accommodation.

Churn within the private rented sector (i.e. moves within the sector) has increased over the last 20 years, from 465,000 households in 1996-97 to 860,000 in 2016-17, and churn accounts for a larger proportion of private rented sector moves than 20 years ago (72%, compared with 57% in 1996-97).

However, churn is lower than it has been in previous years (e.g. in 2014-15, there were 1.0 million moves within the private rented sector).⁶

The EHS also asks private renters who have moved in the last three years about their reasons for moving. **Overall, 10% said that they had moved because of being given notice by their landlord.** Other reasons given included job-related reasons (16%), wanting a larger home (13%) or wanting to move to a better neighbourhood (11%).

A higher proportion of households in older age groups that had moved, did so due to being given notice (e.g. 30% of households led by a 65-74 year-old who moved gave this reason).⁷ However, the number of older households who had moved was also considerably smaller than younger movers. It is likely that this trend exists because other reasons

⁵ [English Housing Survey Headline Report 2016-17](#), Annex Table 1.8

⁶ [English Housing Survey 2016 to 2017: private rented sector](#), p.4

⁷ [English Housing Survey 2016 to 2017: private rented sector](#), Annex Tables 3.3 and 3.4

(such as moving for work or a growing family) are less likely to apply to older households.

Constituency data on private renting

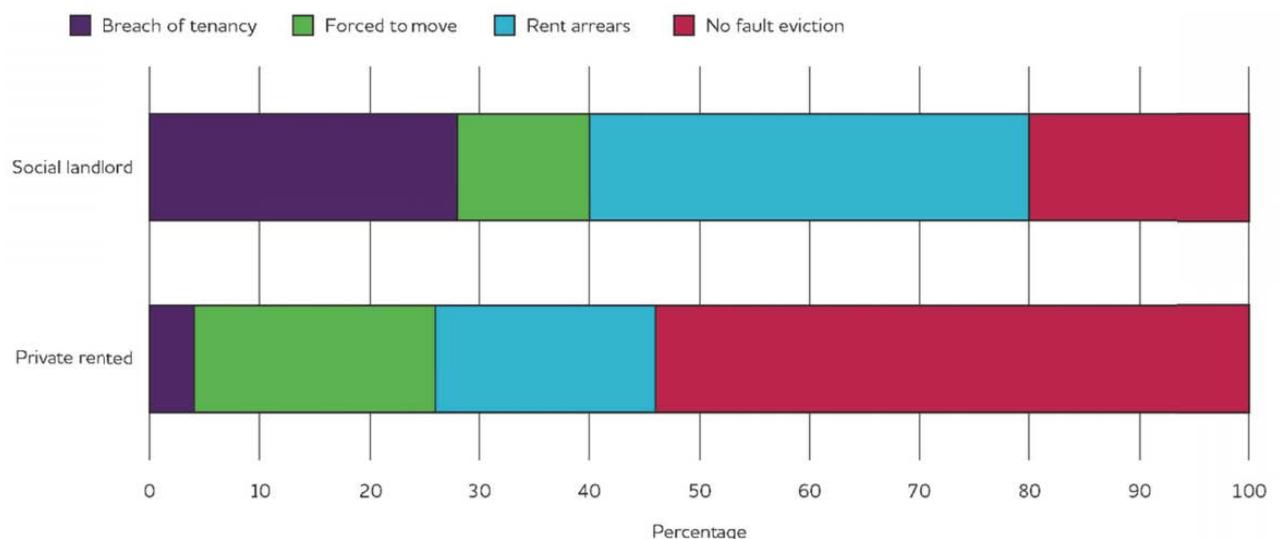
Local-level data on private renting was last collected at the 2011 Census. While the private rented sector has grown since then, the data still provides an indicator of areas that have high levels of private renting. The Library has published a [constituency dashboard](#) showing the number and proportion of households renting privately in 2011, available on the Library website.

A cause of homelessness?

Local authorities in England have a duty to secure housing for households that are homeless and in a priority need category. When carrying out this duty, the local authority records the reason that the household became homeless.

There has been a substantial increase in recorded homelessness due to the end of an AST.⁸ In 2010/11, this was given as a reason in 6,630 cases (15% of the total), rising to a peak of 18,270 cases (31% of the total) in 2016/17. In 2017/18, there were 15,490 cases (27% of the total). In London, 31% of homeless acceptances in 2017/18 were due to the end of an assured shorthold tenancy.⁹

In 2017 the Joseph Rowntree Foundation (JRF) published a report on [Poverty, evictions and forced moves](#). Based on quantitative data and interviews with 145 participants, the organisation also found that section 21 no-fault evictions were most frequently used to end a private sector tenancy, whereas rent arrears was the most common reason in social housing:



⁸ Consultation Para 19

⁹ Source: [MHCLG, Statutory homelessness live table 774, 29 June 2018](#)

Source: [Poverty, evictions and forced moves](#), Joseph Rowntree Foundation, 2017

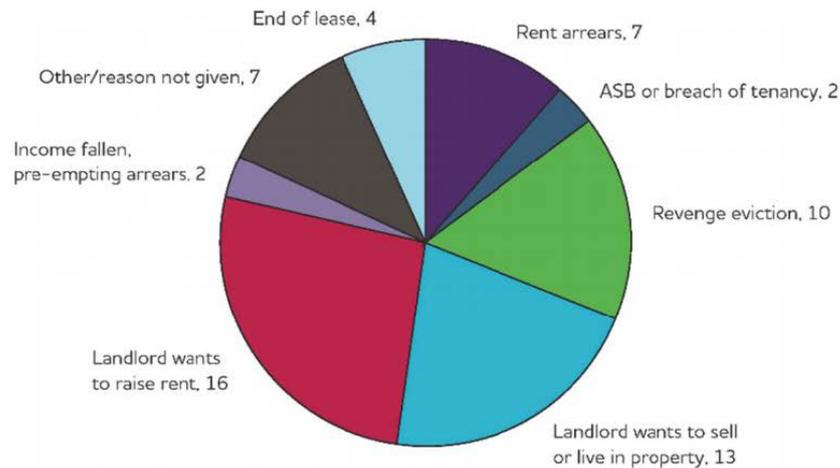
Forced moves include illegal evictions, landlord intimidation, poor conditions, and neighbour disputes.

The JRF also found:

Four out of every five (81%) of all repossessions using Section 21 are in London, the East and the South East, and nearly two-thirds (62%) are in London alone, although London only has one-fifth (21%) of the private rented housing stock. Even within London, repossessions using Section 21 are highly concentrated, with a third occurring in only five boroughs.¹⁰

When asked what they thought were the reasons behind no-fault evictions, tenants responding to JRF gave a range of possible reasons:

Figure 16: Factors tenants believe to be the cause of no fault evictions



Source: [Poverty, evictions and forced moves](#), Joseph Rowntree Foundation, 2017, p27

Research conducted on behalf of the Residential Landlords Association (RLA) **argues that section 21 is not a cause of homelessness**. In [Homelessness and the Private Rented Sector](#) (November 2018), Dr Chris O’Leary et al suggest that landlords use section 21 where there *are* grounds for evicting tenants, such as rent arrears and anti-social behaviour. Section 21 simply provides a straightforward mechanism through which a landlord can be sure of recovering possession and which avoids the lengthy processes associated with section 8 – the report also points to evidence that in most cases **tenants are responsible for ending ASTs**:

The RLA disputes the charge that section 21 is a cause of homelessness.

Some in the sector assume that landlords use these provisions to end tenancies on a regular basis, though the costs involved, and evidence of risk-avoiding behaviour by landlords, data that suggest that ninety per cent of tenancies are ended by tenants, and increasing duration of tenancies, raises questions about this assumption. There is a significant gap in our knowledge around why landlords use Section 21 notices, a gap which our research

¹⁰ JRF, [Poverty, evictions and forced moves](#), 2017, p1

has sought to address. But more research is needed on why Section 21 notices are used, and about the potential effect of making changes to this aspect of tenure security.¹¹

The RLA has published several pieces of research to demonstrate that the rise in homelessness from the PRS is linked more closely to rent arrears caused by welfare reform, such as restrictions in the Local Housing Allowance and the rollout of Universal Credit.¹² For example, [Homelessness and the Private Rented Sector](#) (November 2018)

identifies the following causes of homelessness from the PRS:

There is now a body of evidence, from this research and from a number of other sources, that the operation of the Local Housing Allowance in its current form is driving increasing homelessness from the private rented sector. This research has found that this increase in homelessness is associated with the introduction of the Local Housing Allowance (the method used to determine how much Housing Benefit will be paid to eligible households) in 2008. However, changes made to the rates payable under the Local Housing Allowance since 2011 have significantly impacted on levels of homelessness.

The Local Housing Allowance acts as a strong system of rent control, and acts to the detriment of tenants (Rugg and Rhodes, 2018). Current Local Housing Allowance rates have a double whammy effect – both increasing the likelihood that tenancies will be ended, and reducing the chances of affected households finding suitable, affordable, alternative accommodation. It is this ‘double whammy’ effect that is driving homelessness from the private rented sector. Evidence suggests that ninety per cent of working age households with children face a gap between their LHA rates and the rent they are paying; this is a group increasingly dependent on the private rented sector for accommodation. It is also the case that working, low income households are being affected.

The gap between Local Housing Allowance rates and market rents is significant, and is growing, suggesting that the problem will only get worse. Evidence from this and wider research suggests that landlords who currently rent to Housing Benefit tenants are concerned about the effects on planned tax and benefit changes and are looking to move out of this sector. Of particular concerns is the roll out of Universal Credit, both because of the frequency and direct payment arrangements, but also because of the delays being experienced in dealing with claims.¹³

The Government has committed to conducting research into links between benefits and homelessness:

To further our understanding on the causes of homelessness and rough sleeping we have committed to conduct a feasibility study - led by MHCLG, and co-funded by the Department for Work and

¹¹ RLA and Dr Chris O’Leary et al. [Homelessness and the Private Rented Sector](#), Residential Landlords Association, November 2018, p40

¹² See Simcock, T.J., (2017). [State Intervention into Renting: Making sense of the impact of policy changes](#). Manchester: UK. Residential Landlords Association, p.47; Simcock, T.J., (2018). [Investigating the effect of Welfare Reform on Private Renting](#). Manchester: UK. Residential Landlords Association; and Dr Chris O’Leary et al. [Homelessness and the Private Rented Sector](#), Residential Landlords Association, November 2018

¹³ RLA and Dr Chris O’Leary et al. [Homelessness and the Private Rented Sector](#), Residential Landlords Association, November 2018, pp38-39

Pensions. The long-term ambition for this research is to develop a quantitative, predictive model (or models) of homelessness and rough sleeping, which can be applied to various policy scenarios, to help assess the impacts of government intervention on levels of homelessness.

This will be supported by an evidence review on the broad range of factors that might influence levels of homelessness, from the housing market to welfare systems, as well as individual factors.

Also, the new Homelessness Case Level Information Collection (H-CLIC) which is a household level data collection will include more information on the people in a homeless household, more detailed information on people's reasons for becoming homeless and their support needs.¹⁴

Impact on households

Insecurity

Irrespective of whether a landlord uses section 21 to evict a tenant, the fact that it *could* be used at any point after the expiry of a fixed-term tenancy is thought to have a considerable impact on tenants' wellbeing. Generation Rent has said:

...section 21 can mean constant anxiety and insecurity – particularly for the 1.8 million renter households with children or the growing numbers of older people renting privately.¹⁵

Generation Rent goes on to say that fear of eviction stops households from establishing roots in local communities.¹⁶

Research published by the London School of Economics (LSE) in June 2018 [The Future Size and Composition of the Private Rented Sector](#), forecasts growth in the number of older households and families with children in the PRS:

While historically young single people and multi-adult households have dominated the growth of the private renting sector, future trends suggest more adults aged 35 plus and families with children will be renting privately. This is the case in the next decade for both the 'weak' and 'balanced' scenarios, not just in London, but across the country.¹⁷

Concerns have been raised about the suitability of insecure tenancies for older people and those with young families, who may have to find new schools for children if forced to move.

Landlords' representative bodies often point out that many tenants *want* the flexibility of shorter tenancies and can be reluctant to commit to longer terms. This is acknowledged in the Government's July 2018 consultation paper [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector](#):

Some tenants appreciate the flexibility of shorter contracts, although evidence regarding how many tenants is mixed. In some

¹⁴ [Written Question 169324, 6 September 2018](#)

¹⁵ [What is section 21 and why does it need to be scrapped?](#) Generation Rent, 25 May 2018

¹⁶ Ibid.

¹⁷ LSE, [The Future Size and Composition of the Private Rented Sector](#), 20 June 2018

cases, shorter tenancies are necessary: for example students or those on a visa cannot commit to a longer contract. Other evidence suggests that tenants can be reluctant to sign up for a longer tenancy because they are unaware of the benefits, fear being 'locked in' to an agreement, and are not aware of ways to end a contract early (i.e. break clauses or negotiation with the landlord).¹⁸

Reference is also made to lenders' requirements for short-term tenancies:

Mortgage conditions can sometimes stipulate that landlords can only offer short tenancies, but this is so only in a minority of cases. Furthermore, several major lenders do allow longer tenancies.¹⁹

The Council of Mortgage Lenders (CML) has said:

We are not opposed to longer tenancy agreements and, although it is for individual firms to determine their own lending policies, an increasing number of lenders are now willing to offer mortgages to landlords who want to provide extended tenancies.²⁰

The cost of frequent moves

In [Overcoming the barriers to longer tenancies in the private rented sector](#) (July 2018), the Government acknowledged that being forced to move by a landlord for no reason can cause emotional and financial harm to tenants:

Such tenants bear the financial costs of moving more frequently and there is also an impact on health and wellbeing caused by living in uncertainty. This particularly impacts households with children who are forced to move school and lower income households that are just about managing to afford their rental costs.

A recent report by Shelter suggested that 'many families worry that they are going to lose their current home – 43% of renting families with children say this applies to them.'

Additionally, the report claims more than a third of tenants in the Private Rented Sector went into debt to finance their last move. This can have significant health and wellbeing consequences.²¹

Difficult to secure repairs/improvements (retaliatory eviction)

Retaliatory eviction describes the use of section 21 by landlords in direct response to a tenant's request for repairs. Surveys commissioned by Shelter in 2014 led the organisation to conclude that around 200,000 private tenants had been evicted after asking for repairs to be carried out, or after complaining to a local authority's environmental health department about conditions in their homes.²² Around one in twelve private tenants in Shelter's survey reported that they were too scared of losing their home to report a problem and/or request improved conditions.²³ Shelter's survey findings were challenged by landlord

¹⁸ MHCLG, [Overcoming the barriers to longer tenancies in the private rented sector](#), July 2018

¹⁹ Ibid.

²⁰ CML [Fact check: do lenders really oppose longer tenancies](#), 19 January 2017

²¹ MHCLG, [Overcoming the barriers to longer tenancies in the private rented sector](#), July 2018

²² *Inside Housing*, "[More than 200,000 PRS tenants unfairly evicted](#)", 12 March 2014

²³ Ibid.

organisations. The RLA produced its own survey evidence which, it said, countered claims around the prevalence of retaliatory eviction:

According to the survey of more than 1,760 landlords, some 56 per cent had had to evict tenants from their properties. Almost 90% reported that they had carried out evictions for rent arrears, with another 43% for anti-social behaviour, nearly 40% for damage to the property and 20% for drug-related activity.

Just under 30% wanted to regain possession of the property, for example because they needed to sell it for personal reasons.

The RLA says its survey demonstrates that the vast majority of landlords only seek to evict when they really need to.²⁴

The Government introduced some protection from retaliatory eviction through amendments to the Deregulation Bill as it progressed through Parliament. The *Deregulation Act 2015* provides that, if certain conditions are met, a landlord cannot serve a section 21 notice on tenants who have requested repairs for a period of six months. For more information see: [Guidance note: Retaliatory Eviction and the Deregulation Act 2015](#) (MHCLG) and Library paper: [Retaliatory eviction in the private rented sector](#).

The Housing, Communities and Local Government Committee's inquiry into the [Private rented sector](#) (April 2018) investigated retaliatory evictions. The Committee heard from some stakeholders that the *Deregulation Act 2015*, while a welcome improvement, did not offer enough protection against retaliatory eviction. The Committee concluded:

We recommend that the Government seek to rebalance the tenant-landlord relationship by providing additional protections from retaliatory eviction and rent increases. The Government should conduct a review of how the protections within the Deregulation Act 2015 are being used in practice and whether they need to be enhanced. We believe the Act should be strengthened to protect tenants from a no-fault Section 21 eviction for longer than the current six-month period. Protections should also be extended to prohibit retaliatory rent increases for a period after making a complaint. We heard concerns that there were several scenarios where tenants might be left without protection under the Act; the Government should ensure tenants are fully protected as soon as they make a complaint to their landlord, letting agent or local authority, not from the point an improvement notice is issued.²⁵

The Government rejected the Committee's recommendations in this area but said they would "keep the issue under review."²⁶ There is an intention to link the effectiveness of retaliatory eviction provisions to work being carried out to improve redress and security across the PRS. On the recommendation to extend protection from retaliatory eviction for longer than six months, the Government said: "We believe the current legislation strikes the right balance between the interests of

²⁴ [Landlords do not evict tenants without reason – says new research](#), RLA, 15 August 2014

²⁵ HC 440, [Private rented sector](#), April 2018, para 28

²⁶ [Cm 9639, July 2018, paras 22-27](#)

landlords and tenants and we have no plans to change the legislation in this way.”²⁷

Citizens Advice published [Touch and Go](#) in August 2018, the charity estimated that retaliatory eviction “has affected about 141,000 tenants since laws attempting to ban revenge evictions were introduced in 2015.” Commenting on the report, Gillian Guy, chief executive of Citizens Advice, said:

Our report shows that well-intentioned laws created to put an end to revenge evictions have not worked, and a new fix is needed.

There are serious question marks over the existence of a power that allows landlords to unilaterally evict tenants without reason - known as section 21.

While Government plans for minimum 3-year tenancies is a step in the right direction, these changes must be strong enough to genuinely prevent revenge evictions once and for all.²⁸

In their detailed report, [The Evolving Private Rented Sector: Its Contribution and Potential](#), (2018) Rugg & Rhodes refer to the lack of an evaluation of the measures introduced in 2015:

It might be expected that the value of the regulations would become evident in a marked reduction in the overall number of evictions taking place as retaliatory evictions, and increased tenant confidence to make complaints. At present, there has been little impetus even to consider evaluation, given widespread dissatisfaction with the measure. Indeed, it has been argued that the law might even exacerbate tenant insecurity, in giving the impression that tenants will be ‘safe’ from eviction from the point at which the initial complaint is made.²⁹

In response to the Citizens Advice report, the RLA issued [Banning Section 21 is not the answer](#) which emphasises that the majority of ASTs are not ended by landlords.

Challenging rent increases

AST tenants have a very limited right to challenge rent increases where the landlord uses a section 13 notice to increase the rent where the tenancy agreement does not contain a rent review clause or if the rent review clause no longer applies.

As with the reporting of repairs, it is argued that section 21 results in tenants being unlikely to use this right. Tenant’s Voice has said that for a minority of landlords: “Section 21 is a tool that can be used for legal blackmail and coercion to accept terms that are only favourable for the landlord”.³⁰

²⁷ Ibid.

²⁸ Citizens Advice, [Touch and Go](#), 24 August 2018

²⁹ Centre for Housing Policy, [The Evolving Private Rented Sector: Its Contribution and Potential](#), 2018, p106

³⁰ [Section 21 – An Uphill Battle For Tenants?](#) Tenants’ Voice, 2017

1.4 The Government response

The Government has not committed to the reform or abolition of section 21.

One response to concerns about homelessness applications arising from the termination of an AST has been to place duties on local authorities in England to work to prevent and relieve homelessness for all eligible applicants. Similar legislation is in force in Wales. The *Homelessness Reduction Act 2017* has also amended Part 7 of the *Housing Act 1996* to limit the circumstances in which a local authority can require an assured shorthold tenant to remain in situ when served with a section 21 notice to which they have no defence. This issue is covered in a Library paper: [Applying as homeless from an assured shorthold tenancy \(England\)](#).

Encouraging longer tenancies: a model agreement for an AST

In 2014, the Government published a [Model Agreement for an Assured Shorthold Tenancy](#). Last updated in 2016, it encourages landlords to sign up to a longer tenancy agreement of up to three years.

In this model agreement, if the tenancy is for **two years or less**, the Government recommends that the agreement should **fix the rent for the duration of the contract** and should **contain no break clauses**.

For **longer tenancies (typically three years)**, the agreement template has sections in which a tenant and landlord **agree on annual rent increases**. The model agreement also puts in place a **one-off six-month break clause** which the landlord can trigger to end the contract with two months' notice.

Where the longer tenancy agreement departs significantly from the norm is the insertion of a **rolling three-month break clause**, which would **allow the tenant to end a tenancy early at any time** if they give three months' notice.

The accompanying guidance states that the three-month rolling break clause is designed to encourage both tenant and landlord to sign up to a longer agreement:

This break clause reflects that the circumstances of a tenant might change unexpectedly, for example, because he or she has to move out of the area for employment reasons and that it would in such circumstances be inappropriate to compel them to be locked into the agreement for the full term. The three months' notice requirement gives the landlord sufficient time to find a replacement tenant, whilst at the same time ensuring he continues to receive a rental income.³¹

This model agreement also **allows the landlord to end a tenancy early to sell their property**.

Use of the model agreement is discretionary for landlords.

³¹ [Model Agreement for an Assured Shorthold Tenancy and Accompanying Guidance](#), Department for Communities and Local Government, 2016

In all versions of the model tenancy agreement, the landlord can still seek possession of their property if a tenant has broken the terms of their contract by using section 8 of the *Housing Act 1988*.

Consultation on an amended model agreement

In July 2018, the Government launched a consultation on [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector](#).

Recognising the benefits of longer tenancies for both tenants and landlords, the Government sought views on a new model tenancy agreement to encourage or prescribe longer agreements, starting at a minimum of three years. The consultation is closed; the Government is analysing feedback.

The Parliamentary Under-Secretary of State at MHCLG, Heather Wheeler, responded to a debate on the PRS on 29 November 2018:

The consultation on longer tenancies closed at the end of August—not that long ago—and stakeholder events were held in September. We are analysing the responses and we will respond shortly. We had a large number of responses—more than 8,000—and it is important to consider them fully, and align them with the workload of our experience in the courts. Considering the volume of responses is no small feat. We are working to provide the Government response to the consultation in due course.³²

The consultation paper suggested the following changes to the model agreement:

- A minimum of three years, with a six-month break clause in which both parties can end the tenancy.
- Changing the rolling break clause for the tenant so that they only need to give two months' notice.
- Setting the notice period for possession if a landlord is selling the property at a minimum of two months.

The consultation sought views on how such reforms might be implemented. **Legislation could either impose the changes or make it a default model.** The Government highlighted that legislative changes would improve security of tenure for tenants and “introduce consistency to the market”, although some exceptions would be required. The Government noted that legislation might make the process of repossessing properties more of a burden for landlords and acknowledged that “steps would be needed to mitigate this.”³³

The consultation also suggested that a financial incentive for landlords to use the model agreement might be sufficient. This would be quicker to implement than legislation, but might pose administrative challenges, measures would need to be in place to ensure the system is not abused.³⁴

³² [HC Deb 29 December 2018, c221WH](#)

³³ MHCLG, [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector](#), July 2018, para 78

³⁴ MHCLG, [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector](#), July 2018, para 80

Opinions were also sought on alternative strategies such as:

- Improved education and awareness for landlords to build understanding of the value of longer-term tenancies.
- Using “a kitemark on property portals and adverts to indicate properties where the landlord is keen to consider a longer-term tenancy”.³⁵

The RLA surveyed over 4,500 landlords about their opinions on the proposed three-year tenancy model and found:

43% of landlords think that the three-year tenancy agreement with a 6-month break clause was workable. However, only 40% of landlords reported that they would be willing to offer the proposed Government model as it stands.³⁶

Landlords expressed a wide variety of opinions on elements of the proposed model, full details can be found in the RLA’s report on [Longer Term Tenancies in the Private Rented Sector](#) (August 2018).

Build to Rent

The 2017 White Paper [Fixing our broken housing market](#), said that the Government wanted to encourage “more family friendly tenancies in new build private rented sector schemes”, including investments made by housing associations and institutional investors. This measure was consulted upon in the Green Paper, [Planning and affordable housing for Build to Rent](#) which looked at whether those organisations who gain planning permission for Build to Rent developments should be expected to offer longer ‘family friendly’ tenancies where tenants want this.

This has been taken forward; the Government believes “most tenants in the build to rent sector are now being offered a minimum [tenancy] of three years.”³⁷

A Housing Court

On 13 November 2018, the Government launched a call for evidence “to help the government to better understand and improve the experience of people using courts and tribunal services in property cases, including considering the case for a specialist Housing Court.”³⁸ Responses are invited up to 22 January 2019. Views are sought on:

- private landlord possession action process in the county court
- user experience in both the county courts and the First-tier Tribunal for property cases
- case for a new Housing Court

³⁵ MHCLG, [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector](#), July 2018, para 82

³⁶ Dr Tom Simcock, [Longer Term Tenancies in the Private Rented Sector](#), Residential Landlords Association, August 2018

³⁷ [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector](#), Ministry of Housing, Communities and Local Government, July 2018

³⁸ MHCLG, [Considering the case for a Housing Court: call for evidence](#), 13 November 2018

- case for other structural changes such as an extension of the remit of the property tribunal³⁹

Alongside the call for evidence, the Government published a [report](#) “outlining the findings of a qualitative research study that was undertaken in order to understand tenants’ and landlords’ experience of the county courts and First Tier Tribunal (Property Chamber) and to identify issues that may be deterring them from exercising their rights effectively.”⁴⁰

Giles Peaker, Partner at Antony Gold solicitors and editor of the Nearly Legal Housing Law website, [commented](#) on the qualitative research findings – an extract from his article is reproduced below:

It highlights a lack of knowledge of both landlords and tenants on legal requirements and legal process, and this is increasingly important as more and more tenants, and indeed landlords are or will be in person in proceedings.

It also highlights a gap between the perceptions (and understandings) of legal professionals and landlords (in particular) on timescales for proceedings...While lawyers (and judges) think that, say, 5 weeks from issue to a possession order (including as it does time for service, and a fortnight for any defence) is pretty damn quick, landlords thought things would be even quicker.

[...]

What the whole research report means for a 'housing court' is unclear. Most (though not all) of the landlords' issues are to do with legal requirements for a possession claim, not the actual procedure - which is merely the implementation of those requirements. There are some practical suggestions (online applications or better ones, sorting out enforcement), and an acknowledgment of the general perception of the impact of funding cuts, under resourcing and over-burdened courts on the administration of proceedings. But these are not 'specialist court' specific.⁴¹

Both the RLA and National Landlords Association support the establishment of a dedicated Housing Court in addition to reforms to section 8 of the 1988 Act:

To support the above reforms, a fully-fledged and properly funded housing court, currently being consulted on, is needed to speed up and improve access to justice for tenants and landlords where disputes arise.⁴²

1.5 The debate over abolition

Numerous organisations are calling for the abolition of section 21, including Generation Rent, a campaigning organisation for private renters. **Many of the criticisms of the impact of section 21 are set out in section 1.3 of this note.** Further detail is available on the

³⁹ Ibid.

⁴⁰ [MHCLG Press Release](#), 13 November 2018

⁴¹ [Nearly Legal Housing Law News and Comment](#), 18 November 2018

⁴² [RLA Briefing for Westminster Hall debate on 6 December 2018](#)

Generation Rent website [What is section 21 and why does it need to be scrapped?](#)

Generation Rent is working alongside other private tenant organisations such as [ACORN](#) and the [London Renters Union](#). The [website](#) also lists the think-tanks, political parties, charities and newspapers that support the abolition of section 21.⁴³ The list includes the Green Party, the London Assembly and the Labour Party. **In December 2017 the Labour Party announced that its next manifesto will contain a commitment to remove no-fault evictions.**⁴⁴ The think-tank Civitas, argues that international evidence shows that indefinite tenancies “are not antithetical to a well-functioning private rented sector, along as investors – and mortgage lenders – recognise the need to take a long-term approach to their business.”⁴⁵

Landlord bodies, as previously noted in this paper, oppose the abolition of section 21. The RLA argues that since the decline of the PRS to 10% of households in 1996 (from a high of 76% in 1915), the deregulation of rents and security of tenure has given more landlords confidence to invest in the sector, resulting in the growth of the PRS.⁴⁶

Surveys carried out by the RLA indicate that 57% of landlords would consider providing longer tenancies if there were “more efficient processes to remove a bad tenant or recover their property if needed”. The responses suggested that 46% of landlords had experienced difficulties regaining possession of their properties. 23% of landlords suggested that financial incentives would also encourage them to offer longer tenancies.⁴⁷

Simon Gordon, Policy Adviser at the RLA, described section 21 as “sacrosanct” and the “Holy Grail” for landlords when addressing a Westminster Policy Forum on 22 November 2018. He suggested that landlords would leave the sector if section 21 is removed without amendments to section 8.⁴⁸

The National Landlords Association is also calling for reforms to section 8 procedures, stating that the length of time it takes to obtain an eviction this way is the reason behind the overuse of section 21.⁴⁹

In [The Evolving Private Rented Sector: Its Contribution and Potential \(2018\)](#) Rugg and Rhodes refer to difficulties in using section 8 to evict AST tenants:

⁴³ [End Unfair Evictions](#), Generation Rent website, accessed 28 November 2018

⁴⁴ [Jeremy Corbyn pledges to scrap 'no fault' evictions to tip housing rules back in favour of renters](#), Independent, 27 December 2017

⁴⁵ Daniel Bentley, [The Future of Private Renting Shaping a fairer market for tenants and taxpayers](#), Civitas, p40

⁴⁶ Dr Tom Simcock, [Longer Term Tenancies in the Private Rented Sector](#), Residential Landlords Association, August 2018

⁴⁷ Dr Tom Simcock, [Longer Term Tenancies in the Private Rented Sector](#), Residential Landlords Association, August 2018

⁴⁸ Policy Forum for London Seminar: The future for housing and planning in London, 22 November 2018

⁴⁹ [Labour Party calls for scrapping of section 21 and renters' unions](#), National Landlords Association, 24 September 2018

In part, the increasing use of 'no fault' eviction reflects problems in securing evictions using S.8 for rent arrears, which requires the production of evidence to legal, court standard. Further, evicting a tenant under S.8 for rent arrears requires the tenant to be two months in arrears, and there is anecdotal evidence of some tenants making sufficient rental payment, prior to any court case, to take them slightly above that limit. Landlords argue that tenants are routinely advised by local authorities to remain in a property and actively frustrate the repossession process: both as a means of extending the period during which local authorities will have no obligation to re-house, and to obviate any risk that the tenant can be regarded as intentionally homeless. Notwithstanding a great deal of confusion regarding practice in deploying S.21 notices, it is clear that 'banning' S.21 does not remove any of the reasons that provoke a landlord to use it.⁵⁰

Rugg and Rhodes conclude that:

...landlord groups still remain strongly wedded to the S.21 notice, and the strength of this feeling is an indicator of dissatisfaction with ending tenancies using the S.8 route, with its attendant delays and court costs.⁵¹

1.6 Scotland

On 1 December 2017, a new type of tenancy was introduced in Scotland. The private residential tenancy has replaced the assured and short assured tenancy regime for all new PRS tenancies created since that date. The key features of the new tenancy are:

- It is open-ended, which means a landlord will no longer be able to ask a tenant to leave simply because the fixed term has ended.
- It provides more predictable rents and protection for tenants against excessive rent increases.
- It includes the ability to introduce local rent caps for rent pressure areas.
- It provides comprehensive and robust grounds for repossession that will allow landlords to regain possession in 18 specified circumstances.⁵²

The Scottish short assured tenancy was very similar to the English and Welsh AST - section 33 of the *Housing (Scotland) Act 1988* gave landlords a route to 'no fault' eviction akin to that of section 21. This does not exist under the new private residential tenancy regime.

The Scottish Government website explains why changes to the tenancy regime in the PRS were felt to be necessary:

[A place to stay, a place to call home: a strategy for the private rented sector in Scotland](#) contained an action to review the current tenancy regime to ensure it was fit for purpose and meet the growing demand for private rented housing from a range of different household types, including families. In September 2013 a stakeholder-led group was established to review private tenancies.

⁵⁰ Centre for Housing Policy, [The Evolving Private Rented Sector: Its Contribution and Potential](#), 2018, p112

⁵¹ Ibid.

⁵² [Scottish Government: Private Renting website](#) – accessed on 3 December 2018

The group made one main recommendation, namely that the current assured tenancy regime be replaced by a new one for all future private sector lets. The group also agreed that the new tenancy should provide clarity, simplicity, ease of use and flexibility.

Ministers accepted the recommendation and consulted with tenants, tenants representative organisations, landlords, landlord representative organisations, letting agents, investors and local authorities during the development of the new tenancy.

Further information is available on the [tenancy review section of the gov.scot archive](#).⁵³

No evaluation of the impact of the Scottish changes has been published at this time. *The Herald* carried an article on the reforms by Professor Ken Gibb on 30 November 2018, in which he refers to a lack of information on the impact of the reforms:

What do we know after a year of the reforms? Not too much, to be honest. Prior to the reforms, average tenancy lengths were already rising. And there is also long-term evidence that poor families with children are increasing in the PRS. Despite this, the anecdotal evidence seems to be positive, but it will take at least a year of the new tenancies before data can be used to make the case to establish RPZs. It may well turn out to be difficult in most parts of Scotland to do so convincingly or have access to sufficient data. Unfortunately, we need more time and better access to data like landlord registers held by councils, as well as tribunal determinations in order to make sense of what is happening on the ground. There are welcome plans to research detailed tenant and landlord experiences of the new tenancy but these will need to be properly evaluated.⁵⁴

It is worth noting that Andy Wightman (Member of the Scottish Parliament) raised the fact that landlords in Scotland might still evict tenants with relative ease during a debate on homelessness on 29 November 2018:

Constituents have contacted me after being served with a notice to quit because the landlord wanted to operate short-term lets. **Again, one might think that the new private residential tenancy regime would protect a tenant against eviction, but it will not.** Under the sixth ground in schedule 3 to the 2016 act, tenants can continue to be evicted when the landlord wishes to use the property for a purpose other than providing someone with a home. That is why our amendment asks that the statutory grounds for repossession be reviewed.⁵⁵

The Scottish Parliament Information Centre published a [briefing](#) in November 2018 which looks at the data required to evaluate some of the PRS legislation in Scotland, including the new tenancy arrangements.⁵⁶

⁵³ Ibid.

⁵⁴ *The Herald*, "[Running the rule over private rental sector reforms](#)," 30 November 2018

⁵⁵ [Scottish Parliament, Official Report, 29 November 2018, c50](#)

⁵⁶ SPICe, [Private renting reforms: how to evidence the impact of legislation](#), 14 November 2018

Rugg and Rhodes have recommended that any changes in England should await an assessment of the Scottish changes:

Further recommendations around security of tenure should only follow when there has been a thorough evaluation of the impacts on landlord and tenant behaviour of the changes to tenancy law in Scotland. Current proposals around the possible introduction of a three year tenancy do not address the entirety of difficulties relating to security of tenure.⁵⁷

⁵⁷ Centre for Housing Policy, [The Evolving Private Rented Sector: Its Contribution and Potential](#), 2018, p112

2. News articles

[30 years of unfair evictions](#), London Renters Union, 15 November 2018

[Happy 30th birthday to Section 21 of the Housing Act! Please die soon](#), CityMetric, 15 November 2018

[First council commits to abolition of Section 21](#), 24 Housing, 9 October 2018

[Is Section 21 change the start of tenants being offered increased protections?](#) Todays Conveyancer, 27 September 2018

[Nearly half of tenants who make a complaint face 'revenge eviction'](#), Guardian, 24 August 2018

[End unfair evictions campaign to deliver petition to Ministry of Housing](#), Landlord News, 22 August 2018

[No-fault evictions making hundreds of families homeless each week](#), Observer, 18 August 2018

[No-fault evictions drive up homelessness](#), Generation Rent, 18 August 2018

[End unfair evictions so children in private renting families can benefit from secure homes](#), Children England, 16 August 2018

[Stop landlords evicting tenants without reason](#), London Assembly, 5 July 2018

[Four early victories for the end unfair evictions campaign](#), Generation Rent, 13 July 2018

[Landlords at risk from attempt to end 'no-fault evictions'](#), Telegraph, 25 June 2018

[BBC Panorama says Section 21 evictions 'mean no security and no place to call home' for millions of tenants](#), Property Industry Eye, 22 February 2018

[Landlords Union slams BBC Panorama report](#), Property 118, 22 February 2018

['No-fault evictions' – the facts](#), Residential Landlords Association, 21 February 2018

[Corbyn calls for the end of Section 21 evictions](#), Residential Landlords Association, 28 December 2017

[Landlords are turfing people out of their homes without reason - and it's completely legal](#), Guardian, 25 July 2017

3. Parliamentary material

Written Parliamentary Questions

[PQ 162583 \[Shorthold Tenancies: Evictions\]](#) 16 July 2018

Kate Hollern MP: To ask the Secretary of State for Housing, Communities and Local Government, if he will take steps to provide additional protection to tenants facing eviction as a result of the end of an assured shorthold tenancy.

Heather Wheeler MP: Under the Assured Shorthold Tenancy regime, which is now the most common form of tenancy in the private rented sector, tenants have a minimum of 6 months security of tenure. According to the English Housing Survey, 10 per cent of tenants moved because they were asked to leave or were given notice by their landlord. A landlord can only seek possession within the fixed term tenancy period by applying to the court for a possession in accordance with section 8 of the Housing Act 1988 on one or more of the grounds contained in schedule 2.

Outside of the fixed term period, a landlord can evict a tenant using a Section 21 notice but only where the landlord has complied with certain legal obligations. These include protecting their tenants' deposit in a Tenancy Deposit Protection scheme, providing Gas Safety Certificates, and also providing a copy of the Government's 'How to Rent' guide.

The Government is committed to making renting more secure. On 2 July, we launched a consultation on overcoming the barriers to longer tenancies in the private rented sector. We are seeking views on a three year longer tenancy model with a six month break clause to allow tenants and landlords to exit the agreement early if needed. The Government will consider the responses to the consultation and set out next steps later in the year. The consultation document is available at <https://www.gov.uk/government/consultations/overcoming-the-barriers-to-longer-tenancies-in-the-private-rented-sector>.

[PQ 177750 \[Homelessness\]](#) 15 October 2018

Jo Stevens MP: To ask the Secretary of State for Housing, Communities and Local Government, what assessment he has made of the proportion of homeless people who are homeless due to an eviction from a private rented property.

Heather Wheeler MP: The Government recognises that the ending of an assured shorthold tenancy is biggest cause of homelessness. The Government is committed to protecting the rights of tenants and giving them more security.

We have published a model tenancy agreement which landlords and tenants can use as the basis for longer, family friendly tenancies, available for free at www.gov.uk/government/publications/model-agreement-for-a-shorthold-assured-tenancy. And the measures announced in the Housing White Paper resulted in many of the largest build to rent operators offering their tenants the option of longer tenancies.

Also, this week we have launched the £20 million Private Rented Sector Access Scheme to support those who are, or at risk of homelessness. This access scheme will help those people sustain tenancies.

[PQ 166109 \[Tenants: Evictions\] 25 October 2017](#)

Andrew Gwynne MP: To ask the Secretary of State for Communities and Local Government, what protections exist for (a) vulnerable tenants and (b) people in receipt of housing benefit from eviction by landlords.

Alok Sharma MP: The circumstances in which a landlord may obtain possession of a property are governed by various legislative provisions including in the Housing Act 1988, the Housing Act 1985, the Protection from Eviction Act 1977 and the Deregulation Act 2015. Under this legislation, vulnerable tenants and people in receipt of housing benefit have the same protections as other tenants, including against retaliatory eviction.

A landlord also cannot evict a tenant using a Section 21 notice where the landlord has not complied with certain legal obligations. This includes protecting their tenants' deposit in a Tenancy Deposit Protection scheme, providing Gas Safety Certificates, and also providing a copy of the Government's 'How to Rent' guide.

[PQ 68106 \[Private Rented Housing\] 23 March 2017](#)

Richard Burden MP: To ask the Secretary of State for Communities and Local Government, what steps his Department is taking to protect tenants in the private rental sector from potential retaliatory evictions.

Gavin Barwell MP: The Deregulation Act 2015 introduced protection for tenants against retaliatory eviction. Where a tenant makes a genuine complaint about the condition of their property that has not been addressed by their landlord, their complaint has been verified by a local authority inspection, and the local authority has served either an improvement notice or a notice of emergency remedial action, the landlord cannot evict that tenant for 6 months using the 'no-fault' eviction procedure under section 21 of the Housing Act 1988. The landlord is also required to ensure that the repairs are completed.

[PQ 68107 \[Private Rented Housing\] 23 March 2017](#)

Richard Burden MP: To ask the Secretary of State for Communities and Local Government, what steps his Department is taking to improve awareness for tenants in the private rental sector of their rights and responsibilities as tenants.

Gavin Barwell MP: The Government has published 'How to Rent: the checklist for renting in England' to help tenants to understand their rights and responsibilities when renting a property in the private rented sector. This can be accessed online at <https://www.gov.uk/government/publications/how-to-rent>. The guide provides detailed information on each stage of the renting process, including how to get help if things go wrong.

The Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015 made it a requirement for landlords to supply a copy of the 'How to Rent Guide' to tenants in relation to an assured shorthold tenancy of a dwelling-house in England granted on or after 1st October 2015. The Department recommends that this document is given at the start of a new tenancy. If this document is not supplied, landlords are not able to evict tenants using a Section 21 notice.

[PQ 64042 \[Private Rented Housing: Evictions\]](#) 22 February 2017

Tulip Siddiq MP: To ask the Secretary of State for Communities and Local Government, what steps the Government is taking to ensure that legislation introduced under the Deregulation Act 2015 on preventing retaliatory and revenge evictions is being enforced.

Gavin Barwell MP: For tenancies that started after 1 October 2015, the Deregulation Act 2015 protects tenants from retaliatory eviction by their landlord in certain circumstances. Where a tenant makes a genuine complaint about the condition of their property and the landlord does not reply or responds by issuing a section 21 eviction notice, the tenant should approach their local authority.

The local authority is responsible for carrying out an inspection to verify the need for repair. If the inspection verifies the tenant's complaint and the local authority serves an Improvement Notice or Notice of Emergency Remedial Action, the landlord cannot evict the tenant for 6 months using the no-fault eviction procedure (a section 21 eviction). A 'no fault' eviction is one where the tenant does not have to have done anything wrong, for example not paying the rent, to be asked to leave.

A landlord also cannot evict a tenant using a Section 21 notice where the landlord has not complied with certain legal obligations including providing Gas Safety and Energy Performance Certificates. The restriction on the service of an eviction notice is lifted as soon as these documents are provided.

Oral Parliamentary Questions

[Homelessness and Rough Sleeping](#), HC Deb 04 December 2017, volume 632, cc.667-672

- A number of questions in this exchange talk about the link between homelessness and the end of private tenancies and what the Government is doing to tackle this issue

Debates

[Private Rented Sector](#)

HC deb 29 November 2018, volume 650, cc.200-222

[Universal Credit: Private Rented Sector](#)

HC deb 09 January 2018, volume 634, cc.1-26WH

[Private Renting: Homeless and Vulnerable People](#)

HC deb 08 February 2017 volume 621, cc.184-200WH

Select Committee Reports

[Homelessness Report](#) – HCLG Select Committee – 3 August 2016
Factors behind an increase in homelessness:

The ending of an Assured Shorthold Tenancy (AST) can be a major cause of homelessness. An AST is the default legal category of residential tenancy in the private rented sector in England. Most tenancies have an initial fixed term of six or twelve months, with the landlord able to choose whether or not they are renewed at the end of the fixed term. Landlords are also able to evict tenants by issuing a Section 21 'no fault' possession notice, which may

require tenants to vacate the property at short notice (two months). DCLG note that “In 2015, 30% of households accepted by local authorities as owed the main homelessness duty reported that the reason for their homelessness was the loss of an AST. This compares to 13% ten years earlier”. In many areas of the country, rents are increasing far faster than tenants’ ability to pay.

Library briefing papers

[Retaliatory eviction in the private rented sector](#) (June 2017)

[Applying as homeless for an assured shorthold tenancy England](#) (June 2017)

[Comparing private rented sector policies in England, Scotland, Wales and Northern Ireland](#) (June 2017)

4. Further reading

[Shelter Submission to MHCLG – Overcoming the barriers to longer tenancies in the private rented sector](#), Shelter, August 2018

[Unison Briefing: Government Consultation: Overcoming the barriers to longer tenancies in the Private Rented Section - England](#), Unison, July 2018

[National Landlords Association – response to Overcoming barriers to longer tenancies](#), NLA, August 2018

[Supporters of the campaign to end section 21](#), Generation Rent

[The Evolving Private Rented Sector: Its Contribution and Potential](#), Rugg & Rhodes, Centre for Housing Policy, University of York, 2018

[Everybody In: How to end homelessness in Great Britain](#), Crisis, 2018, pp316 and 385

[Ready to Move On: Barriers to homeless young people accessing longer-term accommodation](#), Centrepoin, 2018, p5

[“Living in Fear”: Experiences of Older Private-Renters in London](#), London Age UK, September 2017

[The Future of Private Renting Shaping a fairer market for tenants and taxpayers](#), Civitas, January 2015

[Home improvements: action to address the housing challenges faced by young people](#), Resolution Foundation, April 2018

[The regulation of the private rented sector in England using lessons from Ireland](#), Joseph Rowntree Foundation, 2018

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