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The end of 'no fault' section 21 evictions (England)



Summary

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Summary

What's the problem with section 21 of the Housing Act 1988?

Section 21 enables private landlords to repossess their properties from assured shorthold tenants without having to establish fault on the part of the tenant. Hence it is sometimes referred to as the 'no-fault' ground for eviction.

Private tenants, their representative bodies, and others working in the sector argue the ability of landlords to terminate an assured shorthold tenancy at short notice has a detrimental effect on tenants' wellbeing.

Research has found evidence of tenants who are reluctant to exercise their rights to secure repairs and/or challenge rent increases due to the ease with which landlords can evict them. Respondents to a 2018 consultation on, [overcoming the barriers to longer tenancies in the private rented sector](#), said they felt unable to plan due to housing insecurity, with knock-on effects on children's education and residents' mental health.

Consultation on abolishing section 21 (2019)

On 15 April 2019, the then-Government announced: "[Private landlords will no longer be able to evict tenants from their homes at short notice and without good reason](#)." This was followed by a [consultation](#) which ran between July and October 2019. The consultation paper proposed the abolition of section 21 of the Housing Act 1988.

The Renters Reform Bill and private rented sector white paper

The [Conservative Manifesto 2019](#) promised "a better deal for renters" which included abolishing 'no-fault' evictions. A Renters Reform Bill was included in the [Queen's Speech December 2019](#) but was not introduced in the 2019-21 parliamentary session.

[The Queen's Speech 2021](#) said the Government's response to the 2019 consultation would be published, followed by a private rented sector reform package in a white paper in autumn 2021.

The white paper, [A fairer private rented sector](#), was published on 16 June 2022. It sets out a 12-point action plan to deliver "a fairer, more secure, higher quality private rented sector." The [Queens Speech 2022](#) confirmed a Renters

Reform Bill would be introduced in the 2022-23 parliamentary session (but see below).

The white paper outlines proposals to abolish section 21 evictions and introduce a simpler, more secure tenancy structure. A tenancy will only end if the tenant ends it or if the landlord has a valid ground for possession.

The grounds for possession will be reformed to ensure landlords have effective means to gain possession of their properties when necessary. New grounds will be created to allow landlords to sell or move close family members into the property. Grounds concerning persistent rent arrears and anti-social behaviour will be strengthened.

Alongside the white paper the Government published:

- its [response to the 2019 consultation on 'A new deal for renting'](#) which provides more detail on the tenancy reforms; and
- its [response to the 'Considering the case for a Housing court: call for evidence'](#) which outlines reforms intended to improve the efficiency and speed of court processes for possession cases.

While Liz Truss was Prime Minister there was a suggestion that tenancy reforms would not be taken forward. Matthew Pennycook, Shadow Housing and Planning Minister, [asked about the Government's intentions during oral questions on 17 October 2022](#). Simon Clarke, Secretary of State at DLUHC said "I can confirm that we will introduce the rental reform Bill in the course of this Parliament." This may mark a shift from introducing the Bill in the 2022-23 parliamentary session.

Reactions to the proposed abolition of section 21

There's a divide in opinion between organisations advocating on behalf of tenants and those advocating on behalf of private landlords.

Polly Neate, chief executive of Shelter, described the white paper as "a game-changer" for private renters. Generation Rent welcome the abolition of section 21 but called for: greater protections for tenants to ensure landlords do not abuse the strengthened section 8 grounds for possession; and longer notice periods when tenants are evicted through no fault of their own. Local government has emphasised the need for strong enforcement powers and resources to ensure tenancy reform is successful.

The National Residential Landlords Association (NRLA) argues a reformed and improved court system which has bedded-in, together with improvements to the grounds for possession, should be introduced before section 21 is amended or abolished. Landlord organisations contend there is a risk of landlords leaving the sector, which could reduce access to housing for those who cannot afford to buy and who cannot access social rented housing.

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 1988 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 tenant¹ must satisfy the court that one of the specified grounds for possession² is made out, ie a reason for seeking eviction must be established.

1.1 What does section 21 do?

Part 1 of the Housing Act 1988 came into force on 15 January 1989. Since this date, with some limited exceptions, new private sector tenancies created 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.³

Section 21 of the Housing Act 1988 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.⁴ 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

¹ Tenancies created under the 1977 Act are regulated tenancies and are also referred to as protected tenancies.

² The grounds are set out in Schedule 15 to the Rent Act 1977.

³ Nb Changes to the tenancy regime in Wales are scheduled to come into effect on 1 December 2022. See section 5.1 for further information on Wales.

⁴ During the Covid-19 pandemic the Government extended the section 21 notice period to six months for notices served on or after 29 August 2020 up to 31 May 2021. Section 21 notices issued between 1 June 2021 and 30 September 2021 had to give at least four months' notice (with some exceptions). On 1 October 2021, notice periods reverted to their pre-pandemic levels.

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.⁵

There are restrictions on when section 21 can be used to evict tenants with an AST. These restrictions have been extended over time; some only apply to ASTs created after 1 October 2015 following changes made by the Deregulation Act 2015. Tenants can defend an action for possession against a section 21 notice in the following circumstances:

- A section 21 notice cannot expire before the expiry of the fixed-term of an AST.⁶
- 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.⁷
- 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](#) (PDF) 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](#).
- There are outstanding prohibited payments, or a refundable holding deposit owed to the tenant under the Tenant Fees Act 2019.⁸

⁵ During the Covid-19 pandemic the Government temporarily introduced restrictions on the enforcement of bailiff warrants.

⁶ A tenancy will be for a fixed-term if it runs for a specific period, eg the tenancy is for six or 12 months.

⁷ During the Covid-19 pandemic the Government temporarily extended this period.

⁸ The 2019 Act's provisions have applied to all ASTs irrespective of when they were entered into from 1 June 2020.

Some, but not all, of these restrictions also apply in Wales; for example, the requirement on the landlord to protect the tenant's deposit. In addition, a section 21 notice served in Wales after 23 November 2016 is invalid if the landlord is not registered with [Rent Smart Wales](#) and where an unregistered landlord has appointed an agent that is not licensed under the Rent Smart Wales scheme.⁹ The Senedd has legislated to abolish the equivalent of section 21 evictions (see section 5.1).

1.2

The alternative: establishing a Ground for eviction (section 8)

A landlord can seek to evict an AST tenant at any point of the tenancy, including within a fixed-term, by serving a notice of intention to seek possession under section 8 of the Housing Act 1988. The notice must set out the ground under which possession is sought. The possible grounds for possession are listed in Schedule 2 to the 1988 Act. The mandatory grounds are those on which the court must order possession if the ground is proven. For the discretionary grounds the court must be satisfied that it is reasonable to grant a possession order where the ground is proven. The length of the notice period depends on the ground under which an order is being sought. Tenants may seek to defend an application for possession.

The Residential Landlords Association¹⁰ (RLA) 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 involve 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.

⁹ Section 44 of the Housing (Wales) Act 2014

¹⁰ Now merged with the National Landlords Association to form the National Residential Landlords Association (NRLA).

- 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.¹¹

Note that a section 8 notice is not “obtained” nor “sought” as this extract suggests - the notice tells the tenant that the landlord will seek an order for possession on one of the specified grounds for eviction if the tenant does not vacate on expiry of the notice.

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

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.¹²

Rugg and Rhodes concluded:

...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.¹³

1.3

Statistics on possession claims

The Government publishes statistics on evictions pursued through the courts in England and Wales. The courts aren’t involved in all evictions – some tenants may move out once a notice is served. Likewise, not all court proceedings end in the tenant’s eviction. Action taken through the courts has several stages:

- Landlords must first enter a **claim** for possession.

¹¹ RLA Press Release, 5 December 2018 [link no longer works]

¹² Rugg J; Rhodes D: Centre for Housing Policy University of York, [The Evolving Private Rented Sector: Its Contribution and Potential](#), 2018, p112

¹³ As above.

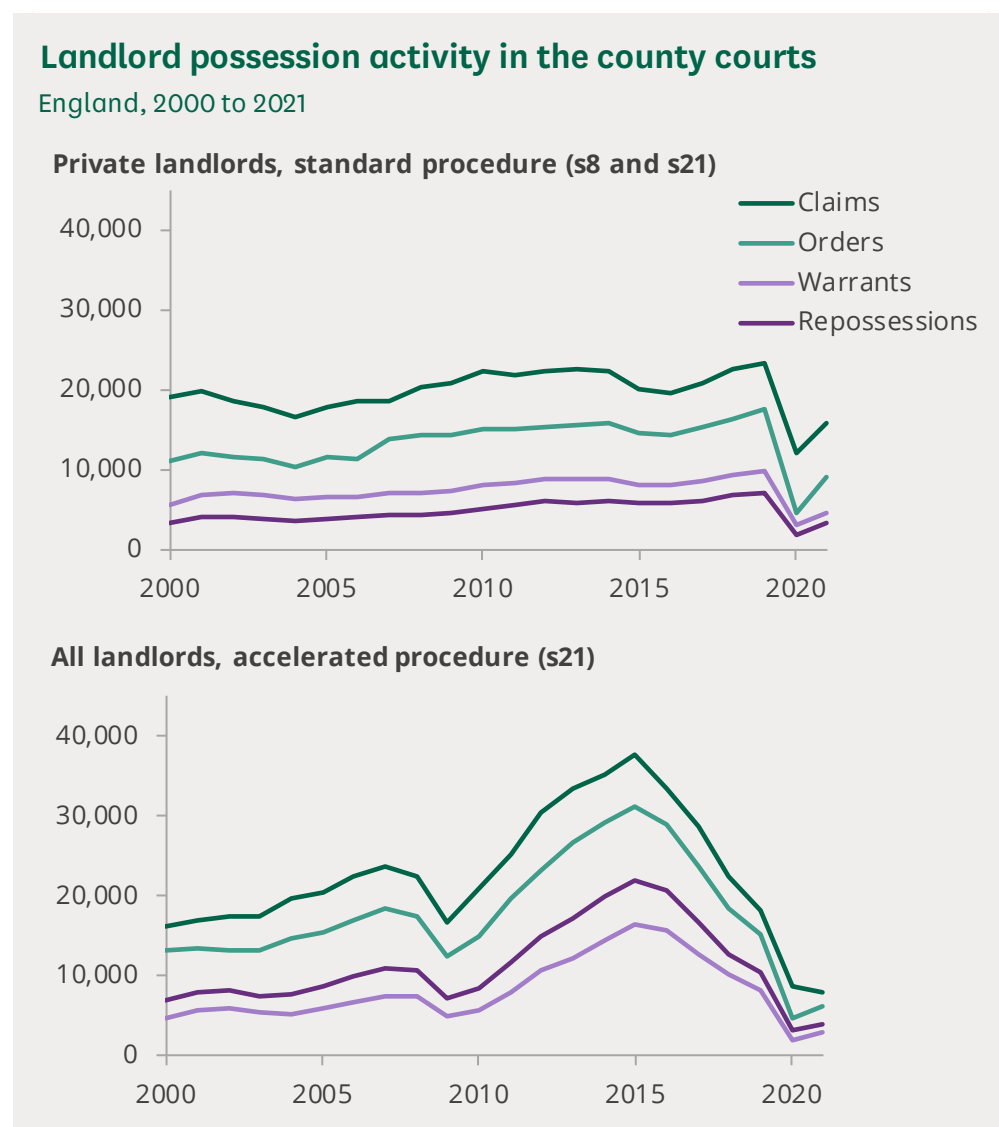
- The court may then grant a possession **order**. Some possession orders are suspended (meaning the tenant can stay in the property if they meet certain conditions, such as making rent payments). Other possession orders specify a date on which the tenant must leave.
- If the tenant doesn't leave the property by the date specified, the court can issue a **warrant** for possession.
- The warrant enables a **repossession** to be carried out by court bailiffs.

Statistics are published on standard procedure claims by private landlords using section 21 and section 8 notices (as a combined total) and use of the accelerated procedure by all landlords (including social landlords). The accelerated procedure can only be used when preceded by a section 21 notice. The charts overleaf show trends in both since 2000.

Government measures in response to the Covid-19 pandemic had a substantial impact on repossession activity. In 2019, there were around 23,220 possession claims by private landlords using the standard procedure (section 8 or section 21). This was the highest number of claims in the series. In 2020, this fell by almost half to around 12,150 claims – with the bulk of these claims taking place in the first and last quarters of 2020. Claims remained low in 2021, totalling 15,760. Trends in repossessions in 2020 and 2021 are discussed in more detail below.

Use of the accelerated procedure for section 21 evictions¹⁴ increased sharply after 2011, peaking at around 37,690 claims and 16,440 repossessions in 2015. Activity was declining before the pandemic, with 18,320 claims and 8,100 possessions in 2019. This fell to 8,740 claims and 1,830 repossessions in 2020, again with the bulk taking place in the first quarter of 2020 before the Covid-19 outbreak. There were around 8,060 claims and 2,880 possessions in 2021.

¹⁴ Statistics on the accelerated procedure include both private landlords and social housing providers. Housing associations/registered providers of social housing may use an AST in limited circumstances. Most housing association tenants have an assured tenancy.



Source: Ministry of Justice, [Mortgage and landlord possession statistics: January to March 2022](#), Table 8

Source: Ministry of Justice, [Mortgage and landlord possession statistics: October to December 2020](#), Table 8

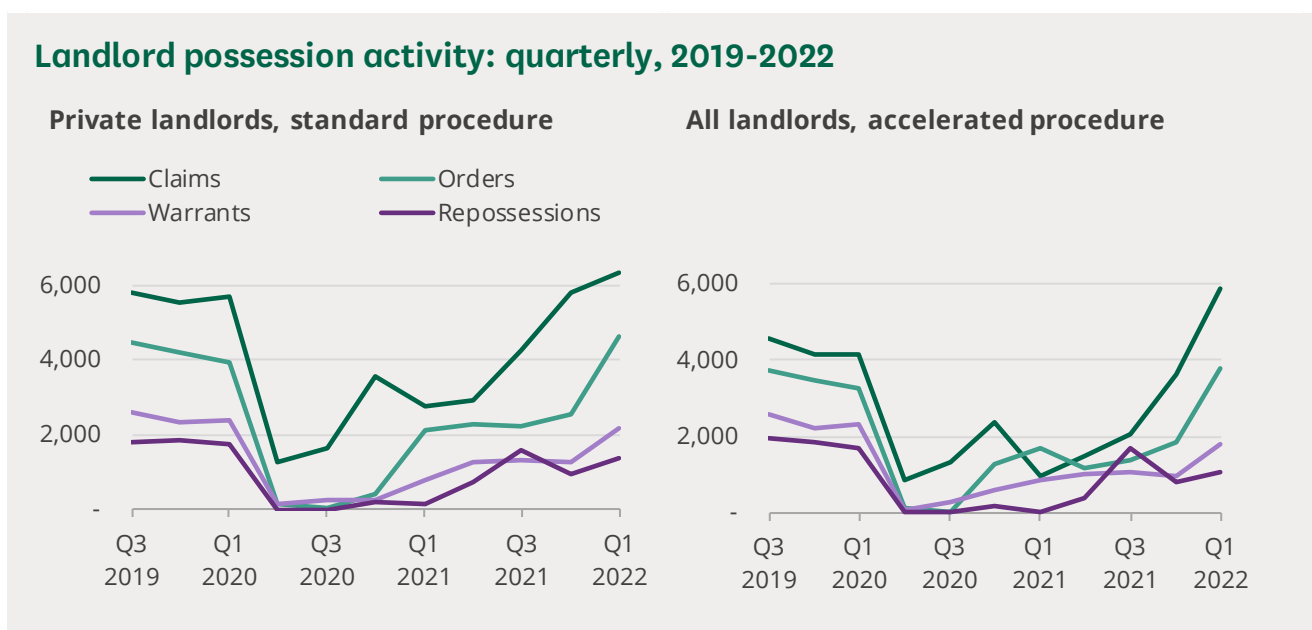
The chart below shows how trends in possession activity changed in 2020 and 2021 in more detail. A number of measures were introduced to prevent people losing their homes during the Covid-19 pandemic, described in the Library briefing [Coronavirus: support for landlords and tenants](#).

No repossessions were carried out by the courts between April and September 2020. Other activity also dropped substantially. In the second quarter of 2020, private landlords' claims under the standard procedure were at a level around one-fifth of what they were a year previously, as were claims for all landlords under the accelerated procedure.

Claims and other activity started to rise later in 2020 and rose across 2021. In the first quarter of 2022, claims and orders in private landlords' possession

cases had returned to a similar level to 2019. However, warrants issued were 12% lower than the same period in 2019, and possessions carried out were 23% lower.

Claims under the accelerated procedure showed a similar trend: while the number of claims made in the first quarter of 2022 was 25% higher than in the first quarter of 2019, the number of orders, warrants, and possessions remained below pre-pandemic levels.



Source: Ministry of Justice, [Mortgage and landlord possession statistics: January to March 2022](#), Table 8

The court statistics include information about the time it takes for a possession claim to progress through the courts. For private landlords using the standard procedure in 2019, there was an average¹⁵ of 7.1 weeks between a claim being made and an order being issued, and an average of 17 weeks between a claim being made and a repossession being carried out. For landlords using the accelerated procedure in 2019, there was an average of 6.4 weeks between a claim being made and an order being issued, and an average of 18.7 weeks between a claim being made and a repossession being carried out.¹⁶

Average reported wait times rose considerably during the pandemic. The average wait between a claim being made and an order being issued for a landlord using the standard procedure was 13.9 weeks in the first quarter of 2022, while the average time between a claim and a possession was

¹⁵ 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.

¹⁶ Ministry of Justice, [Mortgage and landlord possession statistical tables: January to March 2022](#), Table 6

27 weeks.¹⁷ The Ministry of Justice report notes that these figures include delays to cases caused by the restrictions on repossessions put in place during 2020 and 2021, and suggests this may not be indicative of a long-term change in timeliness.¹⁸

¹⁷ As above.

¹⁸ Ministry of Justice, [Mortgage and landlord possession statistical tables: January to March 2022](#), Section 6

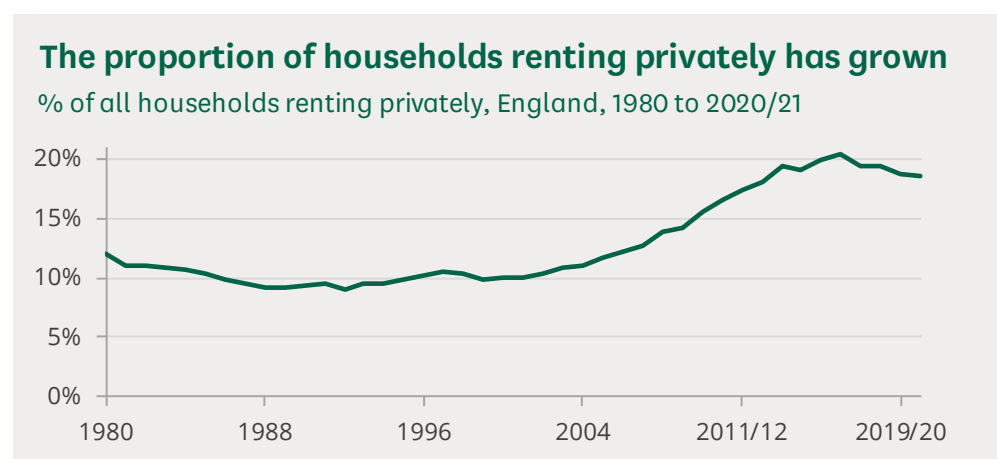
2 The impact of section 21

2.1 Growth of the private rented sector (PRS)

Deregulation of the PRS coincided with substantial growth of the sector. The ability of landlords to regain possession of their properties on a no-fault basis, coupled with an absence of rent control, 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, eg since the 2008 financial crash lenders have applied much more stringent requirements for mortgage eligibility.

Around 9% of English households were private renters in 1988. The proportion began to rise substantially in the mid-2000s and has been between 18% and 20% since 2012/13.



Source: DLUHC, [English Housing Survey Headline Report, 2020 to 2021](#), Annex Table 1.1

The number of households renting privately has also risen. Around 4.4 million households were renting privately in 2020/21, more than twice as many as the 1.7 million renting privately in 1988.

In 2020/21, around 29% of private renting households were families with children (around 1.3 million households).¹⁹

While still a sector dominated by younger residents, the proportion of older people living in the PRS increased over the past decade. In 2003/04, 4% of households with a Household Reference Person aged 55 or over were privately renting.²⁰ By 2020/21, this had increased to 8%. The number of 55+ year old households privately renting more than doubled in this period, rising from 366,000 to 867,000.²¹

The English Housing Survey (EHS) has also found that the private rented sector experiences more churn than any other sector. In 2020/21, 611,000 households moved within the private rented sector, while 193,000 households moved into the sector and 201,000 households moved out of the sector.²²

In 2020/21, the EHS asked private renters who had moved in the past year why their previous private rental tenancy had ended. Overall, 8% said they had been asked to move by their landlords, and in the majority of these cases (65%) this was because the landlord wanted to sell or use the property. Nearly three-quarters (73%) of tenants said they moved because they wanted to.²³

2.2

A cause of homelessness?

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

The 2010s saw a substantial increase in recorded homelessness due to the end of an AST. In 2010/11, the end of an AST was given as a reason in 15% of cases where the local authority had a duty to secure housing for a household, rising to a peak of 31% in 2016/17. In 2017/18, the figure was 27%.²⁴

The system for reporting homelessness statistics changed when the Homelessness Reduction Act 2017 came into force in April 2018, requiring local authorities to prevent or relieve homelessness for all eligible households.

Around 13% of all households owed a prevention or relief duty in 2020/21 were homeless or at risk of homelessness due to the end of an AST (for any reason,

¹⁹ DLUHC, [English Housing Survey 2020 to 2021: headline report](#), Annex Table 1.5

²⁰ The Household Reference Person is the person who owns the home or is responsible for the tenancy, or the higher earner in joint tenancies.

²¹ DLUHC, [English Housing Survey 2020 to 2021: headline report](#), Annex Table 1.4

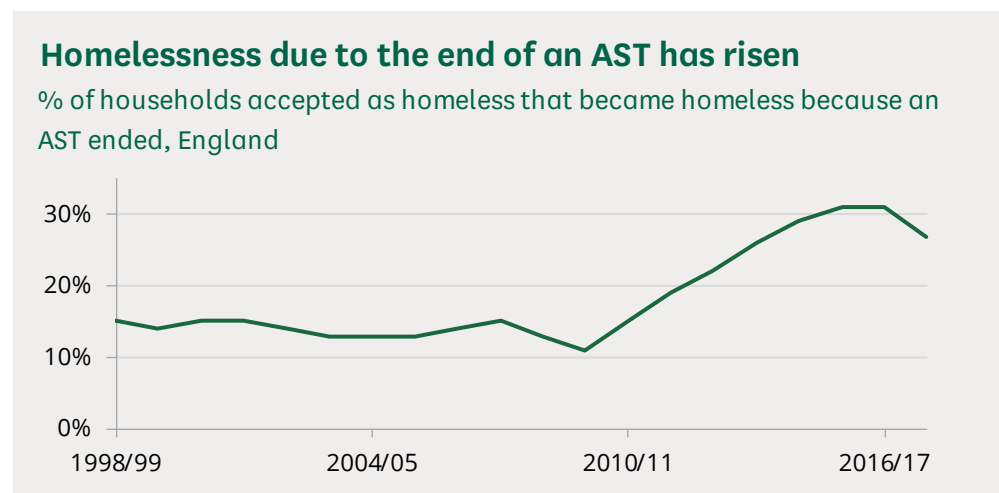
²² DLUHC, [English Housing Survey 2020 to 2021: headline report](#), p.23

²³ DLUHC, [English Housing Survey 2019 to 2020: private rented sector](#), Annex Table 3.7

²⁴ [MHCLG, Statutory homelessness live table 774, December 2018](#)

not just following a section 21 eviction notice). In just under half of these cases (46%), the AST ended because the landlord wished to sell or re-let the property.²⁵

A total of 8,940 households owed a prevention or a relief duty were homeless or at risk of homelessness because a section 21 notice had been served.²⁶



Source: DLUHC, [Acceptances and decisions live tables: January to March 2018](#), Live Table 774

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

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.²⁷

When asked about the reasons for no-fault evictions, tenants responding to JRF gave a range of answers. The most common reasons concerned landlords wanting to increase the rent, wanting to sell or live in the property, 'revenge evictions'²⁸, and rent arrears.²⁹

²⁵ DLUHC, [Statutory homelessness in England: financial year 2020-21](#), Tables A2P and A2R

²⁶ DLUHC, [Statutory homelessness in England: financial year 2020-21](#), Table A1

²⁷ Clarke A et al, [Poverty, evictions and forced moves](#), JRF, 2017, p1

²⁸ Where a landlord seeks to evict a tenant in response to requests for repairs.

²⁹ Clarke A et al, [Poverty, evictions and forced moves](#), JRF, 2017, p27

Research conducted on behalf of the Residential Landlords Association (now the National Residential Landlords Association, NRLA) argued section 21 was not a cause of homelessness. In [Homelessness and the Private Rented Sector](#) (November 2018), Dr Chris O'Leary et al suggested landlords use section 21 where there are grounds for evicting tenants, such as rent arrears and anti-social behaviour. Section 21 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 pointed to evidence suggesting that tenants are responsible for ending ASTs in most cases:

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 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.³⁰

The RLA (now the NRLA) has published several pieces of research to demonstrate the rise in homeless applications from people living in the PRS is linked more closely to rent arrears caused by welfare reform.³¹ For example, [Homelessness and the Private Rented Sector](#) (November 2018) identified 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

³⁰ RLA and Dr Chris O'Leary et al, [Homelessness and the Private Rented Sector](#), Residential Landlords Association, November 2018, p40

³¹ See Simcock, TJ, [How have welfare reforms impacted the private rented sector? A review of our research & policy work \(NRLA\)](#), 2018 and Dr Chris O'Leary et al, [Homelessness and the Private Rented Sector](#), Residential Landlords Association, November 2018

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.³²

On 22 November 2021, the NRLA reported on an analysis showing the number of section 21 cases in the courts “has plummeted over the past two years.”³³ The NRLA says government data on the third quarter of 2021 on section 21 cases in England and Welsh county courts “fell by 55 per cent compared to the same quarter in 2019.”³⁴ The NRLA assessment says “this fall is not merely as a result of the temporary ban on repossessions in response to COVID-19” and goes on:

Even before the pandemic, between 2015 and 2019, the number of repossession cases brought after a landlord had served a Section 21 notice fell by 50 per cent.

It comes as further government data shows that fewer than one in ten tenancies in England are ended because a landlord asks a tenant to leave.³⁵

Ben Beadle, chief executive of the NRLA said:

These figures dispel the myth, peddled by some, that landlords spend much of their time looking for ways to evict tenants for no reason. Whilst we condemn any landlord who abuses the system, it is vital to remember that the vast majority of tenants and landlords enjoy a good relationship. It is in that spirit that the Government should develop its plans for a system to replace Section 21 in its forthcoming White Paper on rental reform.³⁶

³² RLA and Dr Chris O’Leary et al, [Homelessness and the Private Rented Sector](#), Residential Landlords Association, November 2018, pp38-39

³³ NRLA, [Use of 'no explanation' repossessions plummeting says official data](#), 22 November 2021

³⁴ NRLA, [Use of 'no explanation' repossessions plummeting says official data](#), 22 November 2021

³⁵ As above.

³⁶ As above.

2.3 Impact on households

Insecurity

Research commissioned by Shelter in 2022 found a quarter of all private renters had had three or more private rented homes in the previous five years. The figure for renting families with children was one in five.³⁷

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.³⁸

Generation Rent refers to a fear of eviction which stops households from establishing roots in local communities.³⁹

There are concerns about the suitability of insecure tenancies for older people and those with young families. Older people may struggle to secure landlords' agreement to structural adaptations when their mobility reduces; children's education can be disrupted by the need to find new schools when forced to move at short notice. There is evidence that children in insecure housing experience worse educational outcomes, reduced levels of teacher commitment and have more disrupted friendship groups than other children.⁴⁰

Research published by the London School of Economics (LSE) in June 2018, [The Future Size and Composition of the Private Rented Sector](#), forecast 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.⁴¹

³⁷ Shelter, [Every seven minutes a private renter is served a no-fault eviction notice despite government promise to scrap them three years ago](#), 26 April 2022

³⁸ Generation Rent, [What is section 21 and why does it need to be scrapped?](#), 25 May 2018

³⁹ As above.

⁴⁰ DLUHC, [A fairer private rented sector](#), CP 693, 16 June 2022, Executive Summary, p5

⁴¹ Udagaw C et al, [The Future Size and Composition of the Private Rented Sector](#), LSE, 20 June 2018

Landlords' representative bodies often point out that many tenants want the flexibility of shorter tenancies and can be reluctant to commit to longer term contracts. This was acknowledged in the then-Government's July 2018 consultation paper [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector](#).⁴²

Reference is also made to lenders' requirements for short-term tenancies in mortgage conditions.⁴³ The Council of Mortgage Lenders (CML) responded to this point:

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.⁴⁴

The cost of frequent moves

Frequent home moves are expensive for tenants. Analysis by Generation Rent in 2021 found that moving costs were on average £1,709.⁴⁵

In [Overcoming the barriers to longer tenancies in the private rented sector](#) (July 2018), the then-Government acknowledged that being forced to move by a landlord for no reason can cause emotional and financial harm to tenants.⁴⁶

Securing 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.⁴⁷ Around one in twelve private tenants in Shelter's survey said they were too scared of losing their home to report a problem and/or request improved conditions.⁴⁸ Shelter's survey findings were challenged by landlord organisations. The RLA produced its own survey evidence which, it said, countered claims around the prevalence of retaliatory eviction.

⁴² MHCLG, [Overcoming the barriers to longer tenancies in the private rented sector](#), July 2018, paras 32-35

⁴³ As above, para 45

⁴⁴ CML, Fact check: do lenders really oppose longer tenancies?, 19 January 2017

⁴⁵ Generation Rent, [The cost of unwanted moves](#), 28 August 2021

⁴⁶ MHCLG, [Overcoming the barriers to longer tenancies in the private rented sector](#), July 2018, paras 24 & 25

⁴⁷ "[More than 200,000 PRS tenants unfairly evicted](#)", Inside Housing, 12 March 2014 (login required)

⁴⁸ As above.

⁴⁹ RLA, Landlords do not evict tenants without reason – says new research, RLA, 15 August 2014

The Government introduced some protection from retaliatory eviction through amendments to the Deregulation Bill as it progressed through Parliament. The Deregulation Act 2015 provides, 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](#).⁵⁰

The Housing, Communities and Local Government (HCLG) Select Committee's inquiry into the private rented sector (2017-19) investigated retaliatory evictions. The Committee heard from some stakeholders that the Deregulation Act 2015, while a welcome improvement, did not offer sufficient protection against retaliatory eviction. The Committee recommended a rebalancing of the landlord-tenant relationship "by providing additional protections from retaliatory eviction and rent increases."⁵¹

The Government rejected the Committee's recommendations in this area but said they would "keep the issue under review."⁵² There was an intention to link the effectiveness of retaliatory eviction provisions to work on improving redress and security across the PRS. On a 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 landlords and tenants and we have no plans to change the legislation in this way."⁵³

In [The Evolving Private Rented Sector: Its Contribution and Potential](#) (2018) Julie Rugg and David Rhodes referred to a failure to evaluate the 2015 measures:

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.⁵⁴

The Public Accounts Committee's inquiry into the [Regulation of private renting](#) (2022) concluded that the Department for Levelling Up, Housing and Communities (DLUHC) did not collect data on the reasons for evictions, the numbers of improvement notices served by local authorities or the number of

⁵⁰ Department of Levelling Up, Housing and Communities (DLUHC), [Guidance note: Retaliatory Eviction and the Deregulation Act 2015](#), 2015

⁵¹ Housing, Communities and Local Government Committee, [Private rented sector \(PDF\)](#), 19 April 2018, [HC 440 2017-19, para 28](#)

⁵² [Government response to the Housing, Communities and Local Government Select Committee Report: Private rented sector \(PDF\)](#), Cm 9639, July 2018, paras 22-27

⁵³ As above.

⁵⁴ Rugg J; Rhodes D: Centre for Housing Policy University of York, [The Evolving Private Rented Sector: Its Contribution and Potential](#), 2018, p106

complaints that lead to eviction, and was therefore unable to evaluate how effective the 2015 legislative change has been in practice.⁵⁵ The Committee recommended: “The Department should develop a coherent data strategy to identify and collect the data it needs to: understand the problems renters are facing; and evaluate the impact of legislative changes.”⁵⁶

Challenging rent increases

AST tenants have a very limited right to challenge rent levels and increases. Section 22 of the Housing Act 1988 gives the tenant of an AST the right to refer the rent to the First-tier Tribunal (Property Chamber) for an assessment as to whether it is 'excessive'. Only one application can be made. For ASTs created on or after 28 February 1997, a referral cannot be made once the tenant has been in the property for more than six months.

If a tenancy agreement does not contain a rent review clause, or if the clause no longer has effect,⁵⁷ a landlord can use a section 13 notice to increase the rent on a periodic AST subject to certain limitations. The tenant can refer the increase to the First-tier Tribunal (Property Chamber) within the notice period. The Tribunal determines a market rent for the property, ie the rent which could reasonably be expected to be obtained in the open market for a similar property let on similar terms.

As with the reporting of repairs, it is argued the threat of receiving a section 21 notice means tenants are unlikely to exercise these rights. The Tenants' Voice has said 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.”⁵⁸

The limited rights of assured shorthold tenants to challenge rent increases and the threat of potential eviction have been highlighted as a particular issue given cost of living challenges.⁵⁹

⁵⁵ House of Commons Committee of Public Accounts Committee, [Regulation of private renting Forty-Ninth Report of Session 2021–22 \(PDF\)](#), HC 996, 13 April 2022, para 22

⁵⁶ As above, conclusions and recommendations, para 5

⁵⁷ This will arise where the fixed term of the tenancy has ended and the tenant remains in occupation as a periodic tenant.

⁵⁸ “[Section 21 – An Uphill Battle For Tenants?](#)”, The Tenants' Voice, 2017

⁵⁹ See Library briefing: [Housing and the cost of living](#).

3 The Government response

3.1 Threatened with homelessness from an AST

One response to concerns about homeless 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 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 the Commons Library briefing on [Applying as homeless from an assured shorthold tenancy \(England\)](#).

3.2 Encouraging longer tenancies: a model agreement for an AST

In 2014, the then-Government published a [Model Agreement for an Assured Shorthold Tenancy](#). Last updated in January 2021, it encourages landlords to offer a tenancy agreement with a term of up to three years.

In the model agreement, if the tenancy is for two years or less, the Government recommends the agreement should fix the rent for the duration of the contract with 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 provides a one-off six-month break clause which the landlord can trigger to end the contract with two months' notice.⁶⁰

Where the longer tenancy agreement departs significantly from the norm is the insertion of a rolling three-month break clause, which allows the tenant to end a tenancy early at any time by giving three months' notice.

⁶⁰ Note that during the Covid-19 pandemic notice periods were amended but reverted to pre-pandemic periods from 1 October 2021.

The accompanying guidance says the three-month rolling break clause is designed to encourage both tenant and landlord to sign up to a longer agreement.⁶¹

The model agreement also allows the landlord to end a tenancy early to sell the property.

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

3.3 Overcoming barriers to longer tenancies (July 2018)

In July 2018, the then-Government launched a consultation on [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector](#). In recognition of the benefits of longer tenancies for both tenants and landlords, views were sought on a new model tenancy agreement to encourage or prescribe longer agreements, starting at a minimum of three years.

The consultation paper suggested changes to the model agreement, including:

- A minimum term 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 it was noted that some exceptions would be required. The Government said legislation might make the process of repossessing properties more of a burden for landlords and acknowledged “steps would be needed to mitigate this.”⁶²

⁶¹ DLUHC, [Model Agreement for an Assured Shorthold Tenancy and Accompanying Guidance](#), updated January 2021

⁶² MHCLG, [Overcoming the Barriers to Longer Tenancies in the Private Rented Sector, July 2018](#), para 78

The consultation also suggested 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.⁶³

Opinions were 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”.⁶⁴

The RLA surveyed over 4,500 landlords 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.⁶⁵

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).

3.4 A call for evidence on a specialist Housing Court (November 2018)

On 13 November 2018, the then-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.”⁶⁶ Responses were invited up to 22 January 2019. Views were 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.
- The case for a new Housing Court.

⁶³ As above, para 80

⁶⁴ As above, para 82

⁶⁵ Dr Tom Simcock, [Longer Term Tenancies in the Private Rented Sector](#), Residential Landlords Association, August 2018

⁶⁶ MHCLG, [Considering the case for a Housing Court: call for evidence](#), 13 November 2018

- The case for other structural changes such as an extension of the remit of the property tribunal.⁶⁷

Alongside the call for evidence, MHCLG published a report⁶⁸ “outlining the findings of a qualitative research study undertaken 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.”⁶⁹

Giles Peaker, partner at Anthony Gold solicitors and editor of the Nearly Legal Housing Law website, [commented](#) on the qualitative research findings.⁷⁰

The NRLA supports the establishment of a dedicated Housing Court in addition to reforms to section 8 of the 1988 Act.

The Government published its [response to the ‘Considering the case for a Housing court: call for evidence’](#) on 16 June 2022 . The specialist housing court is not being taken forward, instead there are proposals to improve court processes (see section 3.8).

3.5

An intention to abolish section 21 evictions (April 2019)

The Government published [Overcoming the barriers to longer tenancies in the private rented sector: summary of responses and government response](#) on 15 April 2019. The accompanying press release said: “Private landlords will no longer be able to evict tenants from their homes at short notice and without good reason.”⁷¹

The press release said changes would be accompanied by amendments to the section 8 eviction process and to court processes to enable landlords to “swiftly and smoothly regain their property in the rare event of tenants falling into arrears or damaging the property”.⁷²

⁶⁷ As above.

⁶⁸ MHCLG, [A qualitative research investigation of the factors influencing the progress, timescales and outcomes of housing cases in county courts](#), 13 November 2018

⁶⁹ [Considering the case for a Housing Court: call for evidence](#), MHCLG, 13 November 2018

⁷⁰ [Challenging service charges that aren't yours, and views on housing in the courts - Nearly Legal: Housing Law News and Comment](#), 18 November 2018

⁷¹ MHCLG, [Government announces end to unfair evictions](#), 15 April 2019

⁷² MHCLG, [Government announces end to unfair evictions](#), 15 April 2019

3.6

Consultation on a new deal for renting (July 2019)

A [consultation process](#) was opened on 21 July 2019 with submissions invited up to 12 October 2019.⁷³

The consultation paper proposed the removal of section 21. Future PRS tenancies would be either be fixed-term or periodic assured tenancies under the 1988 Act. It would only be possible to evict a tenant on one of the grounds set out in Schedule 2 to the 1988 Act, or at a break-point in the tenancy agreement where one had been agreed between the landlord and tenant. The consultation asked whether a minimum fixed-term for an assured tenancy was needed and how this might interact with a break clause.

To prevent landlords from increasing the rent near to the end of a fixed-term, the Government intended to prevent tenancy agreements from containing any clauses that would change the contract after the fixed-term had ended.⁷⁴

The Government would consider how the various protections which limit when a landlord can use a section 21 notice (see section 1.1) might be carried over into the new tenancy regime.

There was an intention to strengthen/extend the existing grounds for possession which are preceded by the service of a section 8 notice, particularly where the property is needed for the landlord's or a family member's use, and where the landlord wishes to sell. The Government's stated aim was for landlords to "retain the ability to regain their property, with an easier journey through the courts when things go wrong or where they need their properties back for other valid reasons."⁷⁵

The consultation also sought views on whether the accelerated possession procedure should be available for the mandatory grounds for possession.

The consultation acknowledged certain groups of tenants and landlords might find it difficult to operate within the new framework. Once such group included lettings to students. An FAQ document published alongside the consultation paper: [A new deal for renting: frequently asked questions for landlords and tenants](#) said:

We know that there are some circumstances that could make it difficult for certain groups of tenants and landlords – such as those who rent to students or those who grant an agricultural tenancy – to operate within the new framework as proposed. It may be necessary for these groups to be placed

⁷³ MHCLG, [A new deal for renting: resetting the balance of rights and responsibilities between landlords and tenants](#), July 2019

⁷⁴ As above, para 2.27

⁷⁵ As above, para 3.1

outside the scope of our new tenancy framework or be provided with specialist provisions. One option could be, for example, providing these groups with specialist new grounds for possession under Schedule 2 of the Housing Act 1988.

We will therefore give consideration as to which groups might require specialist provision, and the form that such provision might take.⁷⁶

In Wales, legislation due to come into force on 1 December 2022 to extend tenants' security of tenure will retain a two month notice period for certain types of student accommodation (see section 5.1).

There was no intention to abolish section 21 retrospectively.⁷⁷

Social landlords also use the assured shorthold tenancy regime. For example, housing associations can use ASTs as probationary or starter tenancies. The different circumstances in which a social landlord may issue an AST are covered in paragraphs 2.9 to 2.14 of the consultation paper. The Government said it was minded to apply the abolition of ASTs to all landlords, but sought views from social landlords.⁷⁸

The consultation closed on 12 October 2019 and 19,697 responses were received from a range of individuals and organisations. The Government published its [response to the consultation on 'A new deal for renting'](#) on 16 June 2022 (see section 3.8).

3.7

A Renters Reform Bill

The [Conservative Party Manifesto 2019](#) included the following commitment:

We will bring in a Better Deal for Renters, including abolishing 'no-fault' evictions and only requiring one 'lifetime' deposit which moves with the tenant. This will create a fairer rental market: if you're a tenant, you will be protected from revenge evictions and rogue landlords, and if you're one of the many good landlords, we will strengthen your rights of possession.⁷⁹

Subsequently, the December 2019 Queen's Speech included a commitment to introduce a Renters Reform Bill. The background notes to the Queen's Speech described the main elements of the Bill, including:

⁷⁶ As above.

⁷⁷ MHCLG, [A new deal for renting: resetting the balance of rights and responsibilities between landlords and tenants](#), July 2019, para 4.2

⁷⁸ As above, para 2.9

⁷⁹ [Conservative Party Manifesto 2019](#), p29

- Abolishing the use of 'no-fault' evictions by removing section 21 of the Housing Act 1988 and reforming the grounds for possession.
- Giving landlords more rights to gain possession of their property through the courts where there is a legitimate need for them to do so by reforming current legislation. In addition to this we will also work to improve the court process for landlords to make it quicker and easier for them to get their property back sooner.⁸⁰

On 3 March 2021 the Housing Minister, then Christopher Pincher, said the Renters Reform Bill would be brought forward “once the urgencies of responding to the pandemic have passed.”⁸¹ The Bill was not brought forward in the 2019-21 parliamentary session.

The Queens Speech 2021 included a commitment to publish a private rented sector white paper later that year (see section 3.8) and to legislate “in due course”.⁸²

The Queens Speech 2022 committed to bring forward a Renters Reform Bill in the 2022-23 parliamentary session. The background notes to the Queen’s Speech described the main elements of the Bill, including:

- Abolishing so-called ‘no fault’ evictions by removing Section 21 of the Housing Act 1988, providing security for tenants in the private rented sector and empowering them to challenge poor practice and unfair rent increases without fear of retaliatory eviction.
- Reforming possession grounds for landlords, introducing new and stronger grounds for repeated incidences of rent arrears and reducing notice periods for anti-social behaviour, ensuring that they can regain their property efficiently when needed.⁸³

While Liz Truss was Prime Minister there was a suggestion that tenancy reforms would not be taken forward. Matthew Pennycook, Shadow Housing and Planning Minister, [asked about the Government’s intentions during oral questions on 17 October 2022](#). Simon Clarke, Secretary of State at the Department for Levelling Up, Housing and Communities (DLUHC) said “I can confirm that we will introduce the rental reform Bill in the course of this Parliament.”⁸⁴ This may mark a shift from introducing the Bill in the 2022-23 parliamentary session.

⁸⁰ [Queen’s Speech December 2019: Background briefing notes](#), 19 December 2019, p46

⁸¹ [PQ 157111 \[Evictions and Homelessness: Coronavirus\] 3 March 2021](#)

⁸² [Queen’s Speech 2021: Background briefing notes](#), 11 May 2021, p113

⁸³ [Queen’s Speech 2022: Background briefing notes](#), 10 May 2022, p67

⁸⁴ [HC Deb 17 October 2022 c355](#)

3.8

Private rented sector white paper (June 2022)

On 16 June 2022, the Government published its white paper - [A fairer private rented sector](#) - setting out a 12-point action plan to deliver “a fairer, more secure, higher quality private rented sector.”⁸⁵

In a [written statement to Parliament](#) on 16 June 2022, then-Minister for Housing and Rough Sleeping, Eddie Hughes, outlined proposals to increase tenancy security and stability:

For too long tenants have felt powerless and unable to challenge poor practice. We want to change this. We will rebalance the law to deliver a radically fairer deal for renters, while making sure that landlords can regain possession of their property when needed. We will achieve this by:

- **Delivering on our manifesto commitment to abolish Section 21 ‘no fault’ evictions and introducing a simpler, more secure tenancy structure.** A tenancy will only end if the tenant ends it or if the landlord has a valid ground for possession, empowering tenants to challenge poor practice and reducing costs associated with unexpected moves.
- **Reforming grounds for possession to make sure that landlords have effective means to gain possession of their properties when necessary.** We will expedite landlords’ ability to evict those who disrupt neighbourhoods through antisocial behaviour and introduce new grounds for persistent arrears and sale of the property.⁸⁶

Other measures in the white paper include:

- all privately rented homes will be required to meet the Decent Homes Standard.
- a new Ombudsman to enable disputes between private renters and landlords to be settled without going to court.
- a new Property Portal to help landlords to understand, and comply with, their responsibilities as well as giving councils and tenants the information they need to tackle rogue landlords.
- stronger enforcement powers for local authorities.

Alongside the white paper the Government published its [response to the 2019 consultation on ‘A new deal for renting’](#) which provides more detailed information on the plans to abolish section 21 of the Housing Act 1988 and reform landlord possession grounds.⁸⁷ An overview is provided below.

⁸⁵ DLUHC, [A fairer private rented sector](#), CP 693, 16 June 2022, Executive Summary

⁸⁶ [HCWS111, 16 June 2022](#)

⁸⁷ DLUHC, [A new deal for renting: government response](#), 16 June 2022

Abolition of section 21 evictions

Section 3.1 of the white paper confirms the intention to abolish section 21 of the Housing Act 1988 and simplify tenancy structures. To achieve this, all tenants who would previously have had an assured or assured shorthold tenancy will be moved onto a single system of periodic tenancies. Tenants will have the right to move whenever they need to, or where the landlord is not fulfilling their basic responsibilities. They will need to provide two months' notice when leaving a tenancy.

It will be mandatory for landlords to provide a written agreement, setting out the basic details of a tenancy and both parties' responsibilities. The Government considers that changes to rents should be predictable and give tenants time to consider their options. It will therefore: extend the notice landlords must provide in relation to rent increases; limit increases to once per year; and strengthen tenants' ability to challenge unreasonable rent rises through the First-tier Tribunal.⁸⁸

The tenancy reforms will apply to all sectors who currently use ASTs, giving all tenants the same rights to security and flexibility. There will be an exemption which will apply only to students living in privately-run purpose-built student accommodation, who will be governed by the same rules as those in university-owned accommodation.⁸⁹ The removal of section 21 evictions from the wider student lettings sector (ie non-purpose built) is controversial.⁹⁰

Reforming section 8 possession grounds

With the abolition of section 21, landlords will only be able to evict a tenant using defined grounds under section 8 of the Housing Act 1988.

Section 3.2 of the white paper sets out plans to reform the grounds for possession so they are "comprehensive, fair, and efficient, striking a balance between protecting tenants' security and landlords' right to manage their property."⁹¹

In summary, the Government intends to:

- Introduce a new mandatory ground for landlords who wish to sell their property and extend the existing moving ground so a landlord can gain possession if a close family member wishes to live in the property. Landlords will not be allowed to use these grounds in the first six months of a new tenancy. This is intended to provide security to tenants while ensuring landlords have flexibility to respond to changes in their

⁸⁸ DLUHC, [A new deal for renting: government response](#), 16 June 2022, para 13

⁸⁹ The exemption will only apply to PBSA providers that have joined government-approved codes of practice.

⁹⁰ See section 4.2, p45 of this paper for the NRLA position.

⁹¹ DLUHC, [A fairer private rented sector](#), CP 693, 16 June 2022, section 3.2

personal circumstances. Landlords will be required to provide two months' notice if using these grounds.

- Increase the notice period for the existing mandatory rent arrears eviction ground to four weeks and retain the threshold at two months' arrears at time of serving notice and court hearing.
- Introduce a new mandatory ground for repeated serious arrears. Eviction will be mandatory where a tenant has been in at least two months' rent arrears three times within the previous three years, regardless of the arrears balance at a court hearing. This is intended to support landlords facing undue financial burdens, while making sure that tenants with longstanding tenancies are not evicted due to one-off financial shocks that occur years apart. Landlords will be required to provide four weeks' notice if using this ground.
- Lower the notice period to two weeks for the existing mandatory eviction ground in cases of criminal behaviour or serious antisocial behaviour.
- Introduce new, specialist grounds for possession to ensure those providing supported and temporary accommodation can effectively deliver their services.
- Introduce a new mandatory ground to allow social landlords to evict tenants who no longer meet the criteria for key worker accommodation.

[Annex A to the Government's response to the 2019 consultation on 'A new deal for renting'](#) sets out all the circumstances in which the Government considers it reasonable for a landlord to seek possession, whether such a ground will be mandatory or discretionary, and the length of notice a landlord will have to provide.

There are restrictions on when section 21 can be used to evict tenants with an assured shorthold tenancy (see section 1.1). The Government does not consider that these restrictions are effective in improving standards. The possession process will be streamlined so that only deposit protection will have to be demonstrated when making a claim for possession. The Government will consider which grounds it is appropriate to restrict for failing to protect a deposit.⁹² Landlords will still be expected to meet their all legal obligations and demonstrate compliance through the new Property Portal.

Improving court processes for possession cases

Alongside the white paper, the Government published its [response to 'Considering the case for a Housing court: call for evidence'](#) which confirmed its decision that “the costs of introducing a new housing court would outweigh the benefits, and that there are more effective and efficient ways to

⁹² DLUHC, [A new deal for renting: government response](#), 16 June 2022, para 80

address the issues experienced by court and tribunal users in housing cases.”⁹³

The Government’s response set out a package of wide-ranging reforms intended to improve the efficiency and speed of housing cases in County Courts and the First-tier Tribunal (Property Chamber), including:

- the introduction of an online process for possession claims through the Courts and Tribunal Service Possession Reform Programme, which is expected to be completed in 2023;
- reviewing bailiff capacity to free up more time for bailiffs to focus on the enforcement of possession orders, and exploring improvements to bailiff recruitment and retention practices;
- reducing the time taken for first hearings to be listed by the courts in cases of serious anti-social behaviour and in temporary and supported accommodation, subject to Judicial agreement;
- providing earlier access to legal advice for tenants through the [results of the recent Ministry of Justice consultation](#) on changes to the Court Desk Duty advice scheme;
- trialling a new system in the First-tier Tribunal (Property Chamber) to streamline how specialist property cases are dealt with;
- reforming the process of proposing and challenging rent increases through the Property Chamber to make the system more transparent and accessible; and
- strengthening mediation services so that fewer cases result in court action, therefore freeing up time for the courts to deal with the most serious cases.⁹⁴

Implementation

The new tenancy system will be implemented in two stages, initially applying to new tenancies and later applying to all existing tenancies:

We will provide at least six months’ notice of our first implementation date, after which all new tenancies will be periodic and governed by the new rules. Specific timing will depend on when Royal Assent is secured. To avoid a two-tier rental sector, and to make sure landlords and tenants are clear on their rights, all existing tenancies will transition to the new system on a second implementation date. After this point, all tenants will be protected from

⁹³ DLUHC, [Call for evidence to consider the case for a Housing Court: government response](#), 16 June 2022, para 11

⁹⁴ DLUHC, [Call for evidence to consider the case for a Housing Court: government response](#), 16 June 2022, para 11

Section 21 eviction. We will allow at least twelve months between the first and second dates.⁹⁵

Enforcement

The Government recognises the importance of effective enforcement and has committed to consider the case for new or strengthened penalties to support existing measures, such as those in the Protections from Eviction Act 1977.

As such, it has said it is minded to:

- allow tenants to pursue compensation through the courts for breaches of the new tenancy system
- include the new tenancy system within the remit of the Ombudsman
- restrict the original landlord marketing and reletting a property for 3 months following the use of the moving and selling grounds
- give local authorities the power to issue fines to landlords who fail to meet requirements of the new tenancy system
- give local authorities the power to issue fines via Civil Penalty Notices (CPNs) to those who illegally evict or harass tenants⁹⁶

⁹⁵ DLUHC, [A fairer private rented sector](#), CP 693, 16 June 2022, p32

⁹⁶ DLUHC, [A new deal for renting: government response](#), 16 June 2022, para 147

4 Reactions to the proposed abolition of section 21

There is a clear divide in opinion between organisations advocating on behalf of tenants and those advocating on behalf of private landlords. Broadly, tenant organisations support the abolition of section 21 while landlord bodies have opposed it. The following sections provide more information on their respective positions.

4.1 Support for abolition

Numerous organisations have long called for the abolition of section 21. **Generation Rent**, a campaigning organisation for private renters, welcomed the Government's 2019 announcement and said it was seeking the following outcomes for tenants from the reforms:

- minimal unwanted moves
- minimal hardship for tenants who face unwanted moves
- more confidence to complain about disrepair and mistreatment⁹⁷

Shelter described the Government's 2019 announcement as “an outstanding victory”, Polly Neate, chief executive of Shelter said:

Government plans to abolish no-fault evictions represent an outstanding victory for England's 11 million private renters. This change will slam the brakes on unstable short-term tenancies and give tenants everywhere a massive boost in security, for which the government will deserve great credit.

One in four families now privately rent their home, as do hundreds of thousands of older people. And yet, we frequently hear from people with contracts shorter than your average gym membership, who live in constant fear of being thrown out at the drop of a hat. Ending Section 21 evictions will transform these renters' lives – giving them room to breathe and put down roots in a place they can finally call home.

⁹⁷ Generation Rent, [Government consults on ending section 21](#), 22 July 2019

Getting this new legislation through parliament is critical to people being able to stay in their rented home as long as they need, so we look forward to the government passing this law as quickly as possible.⁹⁸

The **Local Government Association (LGA)** expressed support for potential to deliver increased security and stability for households, and thus reduce homeless applications from ASTs.⁹⁹

Jon Sparkes, then chief executive of **Crisis**, also expressed support:

Where so many renters across the country currently live in anxiety of a 'no-fault' eviction, more stable tenancies are especially important to those who have experienced homelessness - helping provide much-needed stability, giving them time to put down roots in their community, find employment and access support services if needed.¹⁰⁰

Campbell Robb, chief executive of the **Joseph Rowntree Foundation (JRF)** said:

It is morally wrong that people are evicted from their homes with no good reason, and it is absolutely right that this should be tackled. Too many people in the UK are pushed into homelessness or having their lives disrupted at short notice because section 21 has been a relatively easy option for private landlords.

A secure and stable home should be the bedrock on which people can build a better life for themselves and the families, whether they are in the private sector or social housing. This is a serious step in improving the lives of tenants – we now need to see the housing and social security systems work together to ensure that people are not swept into poverty due to the shortage of low cost rented homes.¹⁰¹

There is a good deal of cross-Party consensus on the abolition of section 21 in England. The **Labour Party** announced in December 2017 that its next manifesto would contain a commitment to remove no-fault evictions.¹⁰² The Labour Party Manifesto 2019 committed to “give renters the security they need to make their rented housing a home, with new open-ended tenancies to stop unfair, ‘no fault’ evictions.”¹⁰³ The **Liberal Democrats** passed a motion at their 2019 Conference to abolish section 21 evictions through reform of the

⁹⁸ Shelter, [Abolishing no-fault evictions will be ‘outstanding victory’ for 11 million renters](#), 15 April 2019

⁹⁹ LGA, [LGA responds to Government announcement on landlord evictions](#) (accessed on 18 September 2019 – link no longer operational)

¹⁰⁰ Crisis, [Crisis responds to Government plans to end ‘no-fault’ evictions](#), 15 April 2019

¹⁰¹ JRF, [JRF responds to Government promise to ban no-fault evictions](#), 16 April 2019

¹⁰² “[Jeremy Corbyn pledges to scrap ‘no-fault’ evictions to tip housing rules back in favour of renters](#)”, Independent, 27 December 2017

¹⁰³ Labour Party Manifesto 2019, [Tackle Poverty and Inequality: Housing](#)

Housing Act 1988.¹⁰⁴ The **Green Party's** housing webpage refers to the phasing out of ASTs and the abolition of section 21.¹⁰⁵

As previously noted, pressure to introduce the Renters Reform Bill grew throughout the pandemic. The **HCLG Select Committee** supported calls to fast-track the Bill in May 2020 and again in March 2021.^{106 107}

The measures set out in the private rented sector white paper (June 2022) have been widely welcomed.¹⁰⁸

Polly Neate, chief executive of **Shelter**, described the white paper as “a game-changer” for private renters:

Scrapping unfair evictions will level the playing field. For the first time in a long time, tenants will be able to stand up to bad behaviour instead of living in fear.

This white paper promises people safety and security in their home, and it makes clear that landlords need to play by the rules. Gone will be the days of families being uprooted and children forced to move school after being slapped with a Section 21 no-fault eviction for no good reason.

As these plans move through parliament, they've got to keep their teeth to drive up standards and professionalise private renting. For every renter trapped in a never-ending nightmare of moving from one shoddy rental to the next, the Renters' Reform Bill cannot come soon enough.¹⁰⁹

Shelter called on the Government to:

- set a date for the Renters Reform Bill so that the commitments outlined in the White Paper can be made a reality;
- ensure the proposals are adequately funded so that new regulations can be properly enforced by local authorities; and
- provide more detail about how the reforms will work in practice.¹¹⁰

¹⁰⁴ ARLA Property Mark: Lib Dems to scrap section 21 (accessed on 3 May 2021 – link no longer operational)

¹⁰⁵ Green Party: [Housing Policy](#), last updated October 2021

¹⁰⁶ Housing, Communities and Local Government Committee, [Protecting rough sleepers and renters: Interim Report \(PDF\)](#), HC 309 2019-21, 22 May 2020, para 28

¹⁰⁷ Housing, Communities and Local Government Committee, [Impact of COVID-19 \(Coronavirus\) on homelessness and the private rented sector](#), HC 1329 2019-21, 31 March 2021, para 98

¹⁰⁸ See, for example: Chartered Institute of Housing, [CIH welcomes new deal for renters](#), 16 June 2022; Citizens Advice, [Citizens Advice responds to the Fairer Private Rented Sector White Paper](#), 16 June 2022; and “[A game-changer: sector reacts to PRS white paper](#)”, Inside Housing, 17 June 2022 (login required)

¹⁰⁹ “[A game-changer: sector reacts to PRS white paper](#)”, Inside Housing, 17 June 2022 (subscription required)

¹¹⁰ Shelter, [Briefing: A fairer private rented sector \(PDF\)](#), 16 June 2022

Generation Rent welcomed the abolition of section 21, but called for: greater protections for tenants to ensure that landlords do not abuse the strengthened section 8 grounds for possession; and longer notice periods when tenants are evicted through no fault of their own:

This is a huge moment for Generation Rent as we have campaigned for Section 21 abolition for years. These changes should stop landlords from evicting tenants simply to re-let at a higher rent, or to avoid making repairs after a complaint, giving tenants more confidence to report problems and hold their landlord to account. A little bit of power is back.

[...]

However, there is a risk that if it is too easy to use no-fault grounds, unscrupulous landlords could abuse this, creating Section 21 by the back door. Penalties for abuse must be easy to enforce – Scotland has Wrongful Termination Orders which see tenants evicted on false grounds compensated, though this is tricky to prove. Enforcing a three-month void period is an attempt to make this easier but we're not sure it will be enough.

While Section 21 is abused, sale is a very common reason for its use and that will continue. There is acknowledgement that landlords could sell with sitting tenants but no real incentive to do this, and no support for tenants evicted on no-fault grounds to cover their costs of finding a new home and moving. Two months' notice is what we have at present and is not enough, particularly for families with children who face enormous upheaval during term time.

Where landlords are selling or moving family in, we want to see four-month notice periods, a longer period of protection from no-fault eviction, and relocation payments worth 2 months' rent to help tenants move.¹¹¹

The **Local Government Association** expressed support for the abolition of section 21,¹¹² as did Darren Rodwell, executive member for regeneration, housing and planning at **London Councils**, who also highlighted the need for strong enforcement powers and resources for councils:

Boroughs are especially pleased by the inclusion of a ban on no-fault evictions. Too often we've seen Londoners turfed out of their homes for no good reason and made homeless.

With 155,000 homeless Londoners – including 86,000 children – currently living in temporary accommodation arranged by their local borough, we hope this ban will improve stability for tenants and go some way to alleviating homelessness pressures in the capital.

Councils now need strong enforcement powers and resources to help ensure any changes in the law actually succeed in helping tenants and boosting standards in the private rented sector.¹¹³

¹¹¹ Generation Rent, [Renters Reform White Paper - our verdict](#), 16 June 2022

¹¹² LGA, [LGA responds to Fairer Private Rented Sector White Paper announcement](#), 16 June 2022

¹¹³ London Councils, [Proposed reforms for renters could 'improve housing stability and reduce homelessness](#), 16 June 2022

Clive Betts, chair of the Levelling Up, Housing and Communities Select Committee, welcomed the white paper measures to strengthen tenant protections. He called on Government to set out how they will give local authorities the resources to deliver effective enforcement and also powers to levy more substantial fines and take tougher action against landlords. He raised a concern that the measures could see more possession cases being heard in courts, and urged the Government to reconsider the case for a housing court.¹¹⁴

4.2 The landlord and letting agency perspective

Landlord bodies opposed the initial 2019 announcement on the abolition of section 21. The Residential Landlords Association (now the NRLA¹¹⁵) argued the deregulation of rents and security of tenure had given landlords confidence to invest in the sector, resulting in its growth.¹¹⁶

In the immediate aftermath of the Government's announcement the RLA warned of "serious dangers" to the supply of rented housing for vulnerable tenants.¹¹⁷ David Smith, Policy Director for the RLA said:

With the demand for private rented homes continuing to increase, we need the majority of good landlords to have confidence to invest in new homes. This means ensuring they can swiftly repossess properties for legitimate reasons such as rent arrears, tenant anti-social behaviour or wanting to sell them. This needs to happen before any moves are made to end Section 21.

For all the talk of greater security for tenants, that will be nothing if the homes to rent are not there in the first place. We call on the government to act with caution.¹¹⁸

The RLA said a reformed and improved court system which has bedded-in, together with improvements to the grounds for possession, should be introduced before section 21 was amended or abolished. The approach adopted in Scotland was cited as a precedent.¹¹⁹

¹¹⁴ [Chair responds to Private rented sector White Paper](#), 16 June 2022

¹¹⁵ The RLA merged with the National Landlords Association in 2020 to form the National Residential Landlords Association (NRLA).

¹¹⁶ Dr Tom Simcock, [Longer Term Tenancies in the Private Rented Sector](#), National Residential Landlords Association, August 2018

¹¹⁷ RLA, [Section 21 to go – housing reforms risk hurting tenants](#), 15 April 2019

¹¹⁸ As above.

¹¹⁹ RLA, [Section 21 to go – housing reforms risk hurting tenants](#), 15 April 2019

In July 2019, the RLA's Private Renting Evidence, Analysis & Research Lab (PEARL) published [Possession Reform in the Private Rented Sector: Ensuring Landlord Confidence](#).¹²⁰ This report arose from what the RLA described as:

...the largest ever non-government survey of the PRS in England and Wales to establish what Section 21 means to landlords, agents and those supporting the supply of private rented properties. The report seeks to identify what measures, if any, will give landlords the confidence to continue to provide tenants with homes if Section 21 is removed.¹²¹

The survey confirmed that where landlords act to remove tenants they are five times more likely to serve a section 21 rather than a section 8 notice. Poor tenant behaviour was the most common reason given for service of a section 21 notice.¹²² There was a suggestion that the removal of section 21 would lead to more court delays as all cases would require a hearing. As previously noted in section 1.2, there is wide dissatisfaction with the court system amongst landlords – the survey identified that section 21 is used where a ground for eviction could be established as it delivers certainty and is felt to minimise delays.¹²³

96% of respondents to the survey who let properties to private tenants said section 21 was important to their business:

Over 40% of landlords feel so strongly about it that they cannot envisage supplying homes to tenants if it is removed, regardless of any compensatory reforms.¹²⁴

The removal of section 21 would, the report noted, make 84% of landlords likely to become more selective in their choice of tenants. There was a suggestion this would impact on low income, vulnerable tenants most of all.¹²⁵

The changes landlords identified as necessary to retain confidence in the event of section 21's abolition included:

- Implementation of a new specialist, low cost Housing Court which is properly funded and staffed.
- A privatised bailiff service for the court to provide a faster service for landlords once they have obtained a possession order.
- New and amended Grounds for possession and access to an accelerated procedure. The new and amended Grounds would include:

¹²⁰ Clay, N, [Possession Reform in the Private Rented Sector: Ensuring Landlord Confidence](#), Residential Landlords Association, 2019

¹²¹ As above, executive summary.

¹²² As above, executive summary.

¹²³ As above, executive summary.

¹²⁴ As above, executive summary.

¹²⁵ As above, executive summary.

- A Ground which gives landlords “a reliable way to regain possession from unreliable or disruptive tenants”.
- A new section 8 Ground allowing landlords to regain possession to sell their property.
- Introduction of new fiscal incentives to allow landlords to feel more confident buying and selling properties with tenants in situ. Landlords currently prefer to sell with vacant possession.¹²⁶

The **National Landlords Association (NLA)**¹²⁷ called for reforms to section 8 procedures, saying the length of time it takes to obtain an eviction this way is the reason behind the overuse of section 21.¹²⁸

The NLA’s Q2 2019 survey of landlords found only 29% said their business expectations for the next three months were good or very good, representing the lowest level since the survey began in Q4 2006. The fall in confidence was attributed to the Government’s 2019 section 21 announcement.¹²⁹

The **National Residential Landlords Association (NRLA)** set out its proposals for the private rented sector in “a shadow white paper” - A New Deal for the Private Rented Sector (August 2021):

- **Clear and comprehensive grounds for possession:** There needs to be clear and comprehensive grounds upon which landlords can legitimately regain possession of a property for when there has been a ‘fault’, and where the landlord needs to make business decisions such as selling the property, moving in, or making substantial changes.
- **Improved access to dispute resolution and the development of a new landlord/tenant conciliation service:** to prevent, wherever possible, possession cases ending up in court in the first place. Alongside this, for those cases which do proceed to court, reforms are needed to allow them to be heard more swiftly, including greater use of technology to hear cases and ensuring tenants can access suitable advice and support much earlier than they currently do.
- **A redress scheme for the sector which can improve compliance by linking to the Unique Property Reference Number (UPRN).** Such a scheme would make the need for a separate national register of landlords redundant. A redress scheme should also be accompanied by a full review to establish if certain types of local landlord licensing schemes are still required.
- **A review of enforcement:** The UK Government should work with local authorities to conduct an assessment of the ability of relevant

¹²⁶ Clay, N, [Possession Reform in the Private Rented Sector: Ensuring Landlord Confidence](#). Residential Landlords Association, 2019, executive summary.

¹²⁷ Merged with the RLA in 2020 to form the National Residential Landlords Association (NRLA)

¹²⁸ National Landlords Association, Labour Party calls for scrapping of section 21 and renters’ unions, 24 September 2018

¹²⁹ National Landlords Association, Landlord confidence hits record low, 13 August 2019

departments to enforce the wide range of powers already available to them to tackle criminal landlords. Alongside this, central government needs to provide upfront, multi-year funding to help councils build their capacity to tackle bad practice.

- **Lifetime deposits:** It is vital that the new system in no way discourages landlords from making valid claims for damage to properties. Landlords cannot be expected to give up their right of recourse to a security deposit until such time that they are satisfied there will be no need to make a claim against it.¹³⁰

The Lettings Industry Council Section 21 Working Group commissioned research into the impact of section 21's abolition over 2019/20. The resulting [report](#) identified a risk of landlords withdrawing from the market and the introduction of "intense screening" processes for prospective tenants.¹³¹ The report's conclusions echoed those above in relation to reform of section 8, additional mandatory grounds (specifically concerning rent arrears), bailiff and wider court reforms. The authors set out a preferred sequence for reform:

Implementation of the measures listed above needs to be planned carefully and with sufficient foresight. A transitional period should be considered, as follows:

- Phase 1: Bailiff Process
- Phase 2: Court reform and mediation process
- Phase 3: Abolition of Section 21 and Reviewing of Section 8

While the mediation process and the bailiff process reform can be introduced on relatively short-term planning, court reform needs a long-term planning as it requires more sophisticated and elaborate preparation. Due to the tripling in case load abolishing Section 21 and reviewing Section 8 should be implemented as a last step.

Such step-by-step implementation will not only prevent a short peak increase in serving Section 21 notices but also give all relevant parties enough time to adapt to the change in legislation.¹³²

Propertymark published [The Future of Renting](#) on 13 December 2021 with the aim of influencing the anticipated private rented sector white paper. Amongst a package of recommendations for reform covering affordability within the sector and enhanced consumer protection, there were proposals for landlords' access to justice:

- Consider the case for a Housing Tribunal.

¹³⁰ NRLA, [Rental Reform Campaign](#), 23 August 2021

¹³¹ [BEYOND SECTION 21 Evidencing need and processing a model for change](#), Company Consultancy Project (CCP) on behalf of The Lettings Industry Council Section 21 Working Group [undated]

¹³² As above.

- Improve efficiencies to the existing possession process in the courts, digitise possession claims and enhance dispute resolution.
- Automatic right to a High Court Enforcement Officer and privatise County Court Bailiffs.
- If the UK Government remove Section 21 it should be replaced with a system that makes all grounds mandatory.
- Implement a full pilot of proposals to remove Section 21, mediation and a new possession process before rolling out the new reforms across the country.¹³³

In May 2022, following the Queen's Speech, the **National Residential Landlords Association** (NRLA) said it accepted the decision to remove section 21 and would work with the Government to ensure that the new system is fair to both landlords and tenants. It welcomed the Government's commitment to develop new and stronger grounds for repeated incidences of rent arrears and reduce notice periods for anti-social behaviour. It considered that for these to work:

- Cases of rent arrears will need to be a mandatory ground for repossession. Any move to make such a ground discretionary, at the whim of the courts, would send a dangerous signal that paying rent was an optional extra.
- The level of evidence required to prove tenant anti-social behaviour will be key. The Government needs to ensure the level is not so high that it becomes impossible to take action against anti-social tenants, whilst not being so low that tenants cannot challenge spurious claims by criminal and rogue landlords.¹³⁴

Responding to publication of the private rented sector white paper on 16 June 2022, Ben Beadle, chief executive of the National Residential Landlords Association said:

Whilst headline commitments to strengthening possession grounds, speedier court processes and mediation are helpful, the detail to follow must retain the confidence of responsible landlords, as well as improving tenants' rights.

We will be analysing the government's plans carefully to ensure they meet this test. A failure to do so will exacerbate the housing crisis at a time when renters are struggling to find the homes they need.

The eventual legislation needs to recognise that government actions have led to a shortage of supply in the sector at a time of record demand. It is causing

¹³³ Propertymark, [The Future of Renting](#), 13 December 2021

¹³⁴ NRLA, Queen's Speech Briefing: Renters' Reform Bill, 11 May 2022

landlords to leave the sector and driving up rents when people can least afford it.¹³⁵

Nathan Emerson, chief executive officer of **Propertymark**, echoed these comments and said they would be closely scrutinising the detail of the white paper and “working with Ministers to help them understand how on a practical level it will impact our letting agents members and their landlords.”¹³⁶

Ian Fletcher, director of policy at the **British Property Federation**, said: “good landlords know that reform can be win-win, protecting and enhancing renters’ rights but also encouraging residents to feel at home, increasing the time they stay and ultimately benefiting tenants and investors.” However, he warned the reforms could end up with more disagreements between tenants and investors ending up in court and called on the Government to deliver on its digitalisation of the courts’ agenda ahead of implementing the proposals.¹³⁷

A briefing prepared by the NRLA for a Commons debate on section 21’s abolition scheduled for 25 October 2022, said a survey of over 3,000 private landlords on their response to the Government’s white paper found “70% could envisage operating without Section 21 provided they had confidence in other proposals in the White Paper”.¹³⁸ The other proposals included promised court reforms and reformed grounds for possession with a particular focus on making it easier to evict anti-social tenants.

The briefing also highlights issues with Government plans for the student lettings market:

- Under the Government's proposals, landlords will be reliant on sitting tenants to give two months’ notice before they can re-let a property to new students. This will cause anxiety for students who will have no certainty about homes being available for the start of their academic year.
- The Government has recognised that students are a special case by allowing fixed term tenancies to continue in purpose-built student accommodation. This needs to be extended to students and landlords in the private rented sector.¹³⁹

¹³⁵ [“Government to ban private landlords not letting to those on benefits as part of new PRS White Paper”](#), HQN, 16 June 2022

¹³⁶ [“Property industry reaction to Rental Reform White Paper proposals”](#), Property Industry Eye, 16 June 2022

¹³⁷ [“A game-changer’: sector reacts to PRS white paper”](#), Inside Housing, 17 June 2022 (login required)

¹³⁸ NRLA, Potential merits of ending section 21 evictions: debate briefing for 25 October 2022.

¹³⁹ As above.

4.3 Social landlords

As previously noted, housing associations use ASTs in a variety of circumstances. The National Housing Federation (NHF) published a [briefing paper](#) (PDF) for members on proposals in the 2019 consultation paper.¹⁴⁰ The NHF briefing outlined some issues and suggested some possible responses to the abolition of section 21.

On publication of the 2022 white paper, the NHF said the many of the sector's concerns had been taken on board and that they support "the government's aim of protecting the rights of tenants and will continue to work with the government on the further detail of the reforms."¹⁴¹

Fixed-term tenancies: some associations offer new tenants a fixed-term tenancy. The household's circumstances are reviewed at the end of the fixed-term. The tenancy can be terminated at this point using section 21, or a new fixed-term may be issued. The NHF observed:

Such a system, however, currently relies for its effectiveness on the availability of no-fault possession if the tenancy is deemed no longer to be needed.¹⁴²

Probationary tenancies: the NHF reported that 84% of new housing association tenants in general needs housing were offered an initial probationary tenancy which usually lasts around 12 months. If tenants exhibit anti-social behaviour during this period the tenancy can be terminated using the section 21 procedure.

Demoted tenancies: This involves a reduction in security of tenure (conversion to an assured shorthold tenancy) where an assured tenant exhibits anti-social behaviour.

The Government has said:

In future, all tenancies offered by Private Registered Providers will be periodic tenancies and governed by the new rules from the outset. There will not be any new mechanisms facilitating the creation of probationary, demoted and fixed-term tenancies for PRPs.¹⁴³

Associations will be able to use the enhanced grounds for possession, for example for rent arrears and anti-social behaviour to deal with challenging behaviour.

ASTs are also often used for tenancies in temporary and supported housing. The Government has said they will introduce new, specialist grounds for

¹⁴⁰ NHF, [Repeal of section 21 – government consultation \(PDF\)](#), September 2019

¹⁴¹ NHF, [National Housing Federation - Our response to the Renters' Reform White Paper](#), 22 June 2022

¹⁴² NHF, [Repeal of section 21 – government consultation \(PDF\)](#), September 2019, para 3.1

¹⁴³ DLUHC, [A new deal for renting: government response](#), 16 June 2022

possession for supported and temporary accommodation and a new mandatory ground to allow social landlords to evict tenants who no longer meet the criteria for key worker accommodation.¹⁴⁴

¹⁴⁴ As above.

5 Wales, Scotland and Northern Ireland

5.1 Wales

Currently, as in England, most private sector tenancies in Wales are assured shorthold tenancies. The [Renting Homes \(Wales\) Act 2016](#) (the 2016 Act) is introducing a new legal framework for renting in Wales. The Act's provisions are expected to come into force on 1 December 2022.¹⁴⁵ When in force, standard occupation contracts modelled on the assured shorthold tenancy are expected to be the main type of contract in the private rented sector.

On 15 April 2019, the First Minister, Mark Drakeford announced plans to end no-fault evictions at the Welsh Labour conference in Llandudno.¹⁴⁶ Following a consultation exercise, the [Renting Homes \(Wales\) \(Amendment\) Act 2021](#) was introduced and gained Royal Assent on 7 April 2021.

This Act amends the 2016 Act to give tenants with a standard contract additional security of tenure. When in force, landlords will have to give tenants a section 173 notice¹⁴⁷ with a minimum notice period of six months. Landlords will be prevented from issuing this notice until at least six months has expired from the date of occupancy. Further provisions will ensure landlords are unable to issue rolling 'speculative' notices on a 'just in case' basis.¹⁴⁸

There will be limited cases where a two month notice period will still apply, eg on student accommodation provided by a higher education provider¹⁴⁹ and supported housing.¹⁵⁰

5.2 Scotland

On 1 December 2017, a new type of tenancy was introduced in Scotland. The private residential tenancy replaced the assured and short assured tenancy

¹⁴⁵ GOV.Wales, [Housing law is changing: Renting Homes Wales](#) (undated)

¹⁴⁶ [Pledge to end no-fault evictions](#), Welsh Housing Quarterly, 15 April 2019

¹⁴⁷ Equivalent to the section 21 notice under the 1988 Act in England.

¹⁴⁸ Section 174 of the 2016 Act (as amended).

¹⁴⁹ Paragraph 3 of Schedule 8A to the 2016 Act.

¹⁵⁰ Paragraph 4 of Schedule 8A to the 2016 Act.

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.¹⁵¹

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 regime.

The Scottish Government website explains why changes 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.

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](#).¹⁵²

¹⁵¹ [Scottish Government: Private Renting website](#) – accessed on 23 June 2022

¹⁵² As above.

Shelter published an evaluation of the new Scottish tenancy regime in 2019.¹⁵³ 18 months after the introduction of the new regime, the research found “a positive effect” on Scottish renters:

Renters on the new tenancy:

- worry less about becoming homeless,
- feel less locked-in to their tenancy and
- have more faith that their elected representatives have their interests at heart.

Our research suggests that the introduction of open-ended tenancies can be managed smoothly and without significant impacts on the private rented market.¹⁵⁴

Shelter’s research argued some of the “scare” stories in England on the potential impact of section 21’s abolition were misplaced.¹⁵⁵

No marked reduction in the size of the PRS in Scotland was noted.¹⁵⁶

The Nationwide Foundation is funding [RentBetter](#), a three-year research programme to evaluate changes in the Scottish PRS regime, and in particular the impact of the private residential tenancy (PRT) introduced in 2017. Professor Douglas Robertson presented some baseline findings in November 2020:

A further surprise was that landlords voiced little concern (so far) about the changes overall, and the loss of the ‘no-fault ground’ in particular. Most offered a ‘no impact’ assessment of the tenancy change. This may be reflective of the lack of turnover mentioned earlier, as many have yet to directly experience a PRT. While some issues were raised by landlords and letting agents, these tended to be based on perceptions, rather than their actual experience, confirming that it may be too early to tell. The ‘open ended’ tenancy combined with the 28-day notice period is reported to have increased ‘churn’ in some specific markets. Technical issues about the time taken to process eviction for arrears were a concern, as were the legal challenges thrown up by operating joint tenancies under the PRT. But overall, landlords were not experiencing the concerns that were feared at the time of reform.¹⁵⁷

A BetterRent Wave 2 report, published in May 2022, concluded:

¹⁵³ Shelter, [The New Private Rental Tenancies: Evaluating Changes to Rental Agreements in Scotland](#), May 2019

¹⁵⁴ As above.

¹⁵⁵ As above.

¹⁵⁶ Shelter, [The New Private Rental Tenancies: Evaluating Changes to Rental Agreements in Scotland](#), May 2019

¹⁵⁷ “[Douglas Robertson: Tenancy change impacts - You don’t always get what you want \(quickly\)](#)”, Scottish Housing News, 11 November 2020

While the same number of landlords interviewed expected to stay in the market as those that expected to leave, those renting to parts of the market considered to be riskier, in particular student housing and the low income/benefits market, were more likely to be considering leaving. Policymakers across the nations should also consider the implications of stock reduction, which could adversely impact on low-income tenants due to reduced housing options.

While the reforms in Scotland have improved the rights of private renters overall, the RentBetter research demonstrates that improving the rights and experiences of private renters is complex and requires addressing challenges that sit beyond the confines of private renting policy. These challenges include the enforcement and justice system, the benefit system, and social housing supply.¹⁵⁸

A report on the final wave of RentBetter research is anticipated in 2024.

In line with its [Housing to 2040 strategy](#) (March 2021), on 20 December 2021 the Scottish Government launched a [consultation on a new rented sector strategy](#) seeking views on proposals to deliver a 'new deal' for tenants. Amongst other measures, the consultation sought views on: the existing grounds for repossession; changes to pre-action requirements to possession proceedings; potential new restrictions to evictions in winter; and measures to deter landlords from undertaking illegal evictions.¹⁵⁹ The consultation closed on 22 April 2022. The final rented sector strategy is expected to be published by the end of 2022, with elements of the proposals put to the Scottish Parliament in a Housing Bill in 2023.¹⁶⁰

5.3 Northern Ireland

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 depends on how long the tenant has lived in the property.

¹⁵⁸ RentBetter, [Research on the impact of changes to the private rented sector tenancy regime in Scotland: Wave 2 Final Report, Executive Summary](#), May 2022

¹⁵⁹ Scottish Government, [New Deal for Tenants - draft strategy: consultation](#), 20 December 2021, Chapter 3

¹⁶⁰ "[Scottish Government launches consultation on proposals to deliver a 'new deal' for tenants](#)", Rightsnet, 20 December 2021

These periods were extended in 2011¹⁶¹ and again in 2022 (see below) when the Private Tenancies (Northern Ireland) Order 2006 was amended.

The Department for Communities (DfC) consulted in 2017 over a package of private sector reforms including proposals affecting tenants' security of tenure:

- Amend the notice to quit period from four weeks to two months for tenancies lasting longer than 12 months
- Seek to introduce legislation for a Fast Track Eviction Scheme which may include mandatory grounds for possession and provide appropriate safeguards to ensure fairness.¹⁶²

In November 2020, [during a statement to the Assembly](#), the Minister said notice to quit periods would be extended; she wanted to consider if an extension to six months was possible.¹⁶³

The Government response to the 2017 consultation was published in 2021¹⁶⁴ and included reference to a further consultation on notice periods which ran between 1 December 2021 and 25 January 2022.¹⁶⁵ Plans for a Fast Track Eviction Scheme were put on hold.¹⁶⁶

The [Private Tenancies Act \(Northern Ireland\) 2022](#), which received Royal Assent on 27 April 2022, strengthened protections for private renters, including extended notice periods. The [new notice periods](#) for landlords and tenants have applied from 5 May 2022.¹⁶⁷

The notice period a landlord must give a tenant is:

- For tenancies of less than 12 months – no less than four weeks' written notice.
- For tenancies of more than 12 months but less than 10 years - no less than eight weeks' written notice.
- For tenancies of more than 10 years - no less than 12 weeks' written notice.

The notice period a tenant must give a landlord is:

¹⁶¹ For further information see: Chartered Institute of Housing, [Private rented tenancies in Northern Ireland and 'notice to quit' periods \(PDF\)](#), November 2021

¹⁶² DfC, [Private Rented Sector in Northern Ireland - Proposals for Change](#), 2017

¹⁶³ DfC, [Housing Statement from Communities Minister Carál Ní Chuilín](#), 3 November 2020

¹⁶⁴ DfC, [Private Rented Sector in Northern Ireland - Proposals for Change – Departmental response](#), 2021

¹⁶⁵ DfC, [Consultation on Notice to Quit](#), December 2021

¹⁶⁶ DfC, [Private Rented Sector in Northern Ireland - Proposals for Change – Departmental response](#), 2021, p11

¹⁶⁷ DfC, [Private Tenancies Act \(Northern Ireland\) 2022](#) (accessed on 24 June 2022)

- For tenancies of less than 10 years – no less than four weeks' written notice.
- For tenancies of more than 10 years – no less than 12 weeks' written notice.

[Section 11 of the 2022 Act](#) makes provision for longer notice to quit periods to be implemented in due course. These may range from:

- 8 weeks for tenancies of less than 12 months; to
- 7 months for tenancies of more than 8 years.

These longer notice periods will not take effect until further regulations have been made. The regulations are likely to include exceptions, for example in cases involving substantial rent arrears and serious antisocial behaviour.¹⁶⁸

¹⁶⁸ Housing Rights, [New Law Changes Notice to Quit Periods for Private Tenants in Northern Ireland](#), 29 April 2022

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