

UNISON BRIEFING



GOVERNMENT CONSULTATION: OVERCOMING THE BARRIERS TO LONGER TENANCIES IN THE PRIVATE RENTED SECTOR - ENGLAND

JULY 2018

INTRODUCTION

The Westminster Government is looking at options to provide private tenants with greater tenure security, as well as provide landlords with greater flexibility to recover their properties, if they need to or when their circumstances change.

It has published a consultation paper inviting views on how to overcome the barriers that prevents private landlords from offering longer tenancies to tenants.

The Government is also asking for views on proposals to make tenancies longer, for a minimum of three years, and on whether to implement a new tenancy framework by legislation, by introducing financial incentives to encourage landlords to adopt it or through education to raise awareness and bring about behavioural change.

Housing is devolved in the United Kingdom and this consultation applies to England. The deadline for responding to the [consultation](#) is 26 August 2018.

Details of the consultation and ways to respond can be found here:

<https://www.gov.uk/government/consultations/overcoming-the-barriers-to-longer-tenancies-in-the-private-rented-sector>

UNISON will be submitting a full national response to the consultation. We are also encouraging our members who are private renters to respond to the consultation to influence housing policy.

This briefing outlines and examines the key proposals on improving tenure security in private renting.

THE CURRENT LAW

Currently, private tenants are entitled to a minimum short, fixed-term contract of six months known as assured shorthold tenancy. A longer term contract, typically a fixed term contract of twelve months, can also be negotiated between the landlord and tenant. Private tenants have protections under the law which prevents them from being evicted during the fixed term, unless their landlord can prove certain grounds, such as rent arrears, in accordance with Schedule 2 of the Housing Act 1988. However, after the fixed term ends, private landlords can evict the tenant without reason by giving only two months notice.

The current tenancy regime means that renters have no security of tenure beyond short term rental accommodation. This leaves tenants at risk of eviction at short notice without their landlord having to give any reason when their tenancy ends. Tenants can also be forced out of their homes if their landlord puts up the rent and they cannot afford the new rent. Research by Shelter shows that private tenants are often subjected to repetitive moves. This causes upheaval in their lives, with many families having to change schools for their children. The cost of moving frequently also impacts on the finances of renters and increases their risk of facing poverty and homelessness.

PROPOSALS FOR A NEW LONGER TENANCY FRAMEWORK

The Government recognises that the current tenancy regime leaves many tenants, especially families, at risk of eviction at short notice. It also recognises that the majority of tenants want longer term tenancies to provide them with greater stability and security in private renting.

James Brokenshire, the Secretary of State for Housing, Communities and Local Government, said: *“It is deeply unfair when renters are forced to uproot their lives or find new schools for their children at short notice due to the terms of their rental contract.*

“Being able to call your rental property your home is vital to putting down roots and building stronger communities. That is why I am determined to act, bringing in longer tenancies which will bring benefits to tenants and landlords alike”.

The consultation paper asks for views on a number of options to make tenancies longer. The main proposal is a longer three year tenancy with a six month break clause with the following rules:

Proposed 3 Year Tenancy Agreement

- A minimum term of three years for a new private residential tenancy
- The inclusion of a break clause to allow either party – the landlord or tenant – to terminate the tenancy contract if unhappy after the initial six months. If both the landlord and tenant are happy, the tenancy would continue for a further two and a half years
- After the initial six months, the tenant can leave at any time provided that they give at least two months notice in writing to the landlord without giving any reason
- During the fixed term the landlord can recover their property at any time by giving two months notice (Section 8 of Housing Act 1988) in accordance with existing grounds (Schedule 2 of the Housing Act 1988), which includes rent arrears and anti-social behaviour
- In addition landlords will have the grounds to recover their property if they wish to sell or move back in their property during the fixed term by giving at least two months notice in writing to the tenant
- Rents can only increase once per year at whatever rate the landlord and tenant agree at the start of the tenancy
- Exemptions can be put in place for tenancies which could not realistically last for three years, for example, accommodation let to students or holiday lets

The Government says the new tenancy framework will provide tenants with greater security and rent certainty, and give them the flexibility to end the tenancy when their circumstances

change, while providing landlords with certainty over rental income and the flexibility to recover their property, if needed.

PROPOSALS FOR NEW TENANCY FRAMEWORK – WHAT IT MEANS FOR RENTERS

UNISON welcomes the proposals which are steps in the right direction. However, they do not go far enough in providing tenants with greater tenure security and stability.

Improved security for private renters?

The proposed tenancy framework includes a break clause to allow either party to terminate the tenancy contract if unhappy after the initial six months. In effect this means that landlords will be able to retain the option of a six month tenancy. Tenants will therefore have no guarantee that they will be able to remain in their home beyond the initial six months.

The proposed framework also provides landlords with greater flexibilities to recover their property during the fixed term if they want to move back in, use it or sell it. This will increase uncertainty for tenants as many could find themselves evicted – and their lives disrupted – if the landlord decides to sell their property during the fixed term period. Currently, evictions arising from the landlord selling or moving back in accounts for 63% of evictions.

The proposals also retain Section 21, no fault evictions; this means that landlords will still be able to evict or remove tenants after their fix term of three years has ended without giving any reason.

The proposed framework will likely lead to very short term tenancies, rather than the longer, more secure tenancies proposed unless it is improved.

Rent certainty?

The Government says that rents can rise once a year, and that the landlord must be clear about how rents will increase when advertising the property. But there is no limit set on how much rents can rise and some landlords may use the flexibility to raise rents beyond what tenants can afford, thereby evicting them by the back door.

The consultation paper highlights the risk of default rent increases: *“A capped rent rise within longer term tenancy agreements may lead to some tenants experiencing rent rises they might not otherwise have had”*.

The Labour Party has criticised the plans saying that: *“the proposals aimed at providing tenants with greater security are [meaningless](#) if landlords can still force tenants out by hiking up the rent and if there are no controls to limit rent increases”*.

Tenant security vs Landlord security

A majority of our members and citizens are trapped in a cycle of insecure, expensive, short-term lets in poor housing and have limited protections and less power to enforce their rights. With no extended security of tenure and no controls over rent price increases in the Private Rented Sector, hard working citizens increasingly struggle to afford high rents, forcing many to live further away from their jobs as well as spend a lot of time and money commuting.

Most tenants want open ended tenancies that allow them to stay in their home for as long as they need to. They want to be able to set up roots, bring up their families, build local networks, find employment and plan for their future. However, the proposed new tenancy framework means that tenants could still be evicted without any reason after the initial six months (due to the inclusion of the break clause) and at the end of the three year tenancy. The proposals will do nothing to ease the anxiety, worry, uncertainty and insecurity that most renters experience, as they will not have the assurance that they will be able to remain in their home for the long term or for as long as they want to.

The proposed tenancy framework will fail to address the power imbalances between landlords and tenants, as it gives landlords greater flexibilities to remove private renters when they want to. Tenants, especially those on housing benefit and those living in poor housing at the lower end of the market, are often reluctant to complain about poor housing conditions because they fear retaliatory eviction, rent hikes or having problems with their landlord. They have lower bargaining power and unless the proposals are improved to protect them from eviction, many renters will be left even more vulnerable with fewer rights and protections. This is why UNISON will be calling for an end to “no fault” and “retaliatory evictions” to ensure that tenants can no longer be evicted without a reason.

GOVERNMENT ACTION NEEDED

The proposals outlined in the consultation paper are steps in the right direction but they do not go far enough in protecting tenants from eviction and they do not commit the Government to introduce a longer three year tenancy by legislation.

UNISON is campaigning for a better housing deal for private tenants. We are calling for a new statutory system of private rented sector regulation, increased security of tenure and increased rights and protections for tenants, including protection from being evicted without reason at short notice.

UNISON will submit a full response to the consultation. In our response we will call on the Government to introduce a new tenancy framework - by legislation - based on the [Scottish Private Residential Tenancy Agreement](#), which is open ended, has ended no-fault evictions by abolishing fixed terms, and provides private tenants with greater security, stability, longer notice periods and protection from frequent rent increases.

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