

## UNISON HOUSING BRIEFING

APRIL 2019

### PRIVATE RENTED SECTOR:



## SECTION 21 “NO-FAULT EVICTIONS” FACE GOVERNMENT BAN

### INTRODUCTION

UNISON has welcomed the government’s announcement to consult over proposals [to abolish Section 21, also known as “no-fault” evictions in England](#).

If the plans go ahead, private landlords will no longer be able to evict tenants from their homes at short notice without giving them a valid reason. The decision to scrap Section 21 “no-fault evictions” will lead to the creation of open-ended or indefinite tenancies. This means that private tenants will be able to stay in their home for as long as they want, unless they breach the terms of their tenancy.

**This is a huge victory for private tenants and UNISON’s housing campaign. However, our campaigning work will not be complete until the proposals to give private tenants greater tenure security become law.**

This briefing outlines what the government’s proposals will mean for private tenants and what UNISON members can do to influence policy changes to the private residential tenancy system in England.

### SECTION 21: THE LEGAL CONTEXT

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 or longer, can also be negotiated between the landlord and tenant. Private tenants have protections under the law which prevent 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 (Section 21 “no-fault evictions” Housing Act 1988).

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 or when they complain about poor housing conditions.

Research by Shelter also 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.

### THE PROPOSED NEW LEGAL FRAMEWORK

The government plans to repeal Section 21 “no-fault evictions” of the Housing Act 1988. This is the process by which a landlord in the Private Rented Sector (PRS) can reposes a property on a shorthold tenancy by giving as little as eight weeks notice without proving a reason for the repossession. The move will in effect put an end to unfair evictions. It will

also abolish fixed term tenancies by making open-ended or indefinite tenancies the legal default.

Communities Secretary Rt Hon James Brokenshire MP said: *“Private landlords will no longer be able to evict tenants from their homes at short notice and without good reason, in the biggest change to the private rental sector for a generation”*.

Private landlords will still be able to remove tenants who breach the terms of their tenancy agreement in accordance with prescribed grounds for eviction under Section 8 of the Housing Act 1988. This allows evictions in cases where a tenant is in rent arrears, has behaved criminally, has been involved in anti-social behaviour or has breached the terms of their tenancy agreement. However, unlike Section 21, Section 8 evictions can be challenged in court.

With 80% of homelessness being caused by insecure tenancies and termination of a private tenancy, the government’s proposals are steps in the right direction which will help tackle this and give protections to ordinary citizens and hardworking UNISON members.

## **GOVERNMENT CONSULTATION: PROPOSED CHANGES**

The government will launch a new consultation over the proposed changes to the private residential tenancy system, but is yet to give a date for this.

It has published a response to an earlier consultation, [‘Overcoming the barriers to longer tenancies in the private rented sector’](#), which ran from July to August 2018, to which [UNISON made a submission](#). Responses to the consultation reveals that most tenants want longer tenancies, though this is strongly opposed by private landlords.

The government’s response proposes to do the following:

- Repeal Section 21 of the Housing Act (1988), putting an end ‘no-fault’ evictions.
- Amend the Section 8 eviction process, so landlords are able to regain their property should they wish to sell it or move into it themselves. According to the government this will “ensure that responsible landlords can get their property back where they have a proper reason to do so”.
- Reform the court process for housing cases, so that landlords are able to swiftly and smoothly regain their property where they have a legitimate reason – meaning landlords have the security of knowing disputes will be resolved more quickly.

The government has not given any indication as to when the changes will be made. However, it is likely to take up to a year before the proposals are implemented because they will need to be debated in parliament and passed in law.

## **WHAT THE PROPOSALS WILL MEAN FOR PRIVATE TENANTS**

If the proposals to abolish Section 21 “no-fault” evictions become law, it will stop private landlords from being able to remove tenants at short notice without a valid reason. The move will strengthen tenants’ rights by giving them greater tenure security without them having to fear or worry that they can be evicted from their home with as little as eight weeks notice even when they have not done anything wrong.

Private tenants will in future have access to open-ended or indefinite tenancies, as enjoyed by their counterparts in [Scotland](#) and other European countries. This means that tenants will have the assurance that they can stay in their home for the long term or for as long as they want, unless they breach the terms of their tenancy. The proposals will ensure that private tenants are protected from frequent and short notice moves, and are emboldened them to complain about poor housing conditions without the fear of retaliatory evictions.

While the proposed changes will provide extra security for private tenants, they will still not solve the problem of rising rents and poor quality housing in the PRS.

John Healey, shadow housing minister, said: *“Any promise of new help for renters is good news, but this latest pledge won’t work if landlords can still force tenants out by hiking the rent. Tenants need new rights and protections across the board to end costly rent increases and substandard homes, as well as to stop unfair evictions”*.

## **NEXT STEPS – WHAT UNISON MEMBERS CAN DO**

The government’s decision to scrap Section 21 is a huge victory for England’s 11 million private tenants and UNISON’s housing campaign, as we have campaigned for and suggested this in our response to last year’s consultation on [“Overcoming barriers to longer tenancies in the Private Rented Sector”](#) .

Already, there is mounting opposition against the proposals from [landlord representatives](#) who argue that the changes will make it difficult to remove unruly tenants due to the ineffectiveness of the court process and will likely lead to less investment in homes for private rent. However, the government’s proposals to abolish Section 21 balance this with proposals to reform the court system to make it more efficient and effective.

UNISON’s campaigning work will not be complete until the proposals become law. We will work alongside housing campaigners, including [Generation Rent](#), to ensure that the proposals become law. We will make sure the government follows through on its consultation to end the practice of private landlords evicting tenants at short notice for no reason, and we will **submit a national response when the consultation is published. This will reflect the views of Branches/UNISON members.**

### **UNISON Members can:**

- Publicise the victory on “ending Section 21” on Twitter: <https://twitter.com/unisontweets/status/1120653229652611072>
- Share on Facebook: <http://bit.ly/2GeG4EG>
- Share this briefing with UNISON members
- UNISON is a member of Generation Rents’ campaign to [“End Unfair Evictions”](#), sign up to the campaign to keep abreast of the issues and to receive updates here: [https://www.generationrent.org/sign\\_up](https://www.generationrent.org/sign_up)
- Take part in future campaign activities to influence changes to the private housing system
- Find out more about the government’s plans to overhaul private renting and improve security here: <https://www.gov.uk/government/news/government-announces-end-to-unfair-evictions>
- Read UNISON’s submission to the initial government consultation on “Overcoming the Barriers to Longer Tenancies in the Private Rented Sector” here: <https://www.gov.uk/government/news/government-announces-end-to-unfair-evictions>

## ABOUT UNISON'S HOUSING CAMPAIGN

UNISON has had a long tradition of campaigning for more secure, safe and decent housing, in both the social and private housing systems, which is affordable to our members, their families and the wider public.

UNISON will continue to call for an [overhaul of England's private housing system](#) to improve protections and rights for tenants to make private renting more stable and affordable. Specific demands include reforms to:

- Legislate to make permanent, open-ended, indefinite tenancies the legal default to provide private tenants with security and stability, which will end no-fault evictions and retaliatory evictions
- Legislate to introduce a fair system of rent caps to limit rent increases to prevent landlords from charging private tenants extortionate rents, this will put a stop to tenants being forced out of their homes because of rent hikes that they cannot afford
- Allow all councils to introduce borough wide licensing schemes, setting out minimum standards of landlord accreditation, to ensure that both renters and landlords are aware of their rights and obligations; to deter rogue landlords and to drive up standards

Improve the rights of renters by:

- Establishing an effective complaints/redress system, including a mandatory requirement for private landlords to be members of housing redress schemes, to help empower tenants to raise and resolve issues with their landlords when things go wrong
- Expanding the role of the Housing Ombudsman, enabling the office to deal with both social and private housing
- Establishing a specialist court to handle private housing matters in the PRS (as Scotland has done)
- Strengthening the role of local authorities to intervene on behalf of private tenants experiencing disrepair or harassment by their landlord
- Amend the Landlord and Tenant Act (1985) to ensure that homes (in both the social and private rented sectors) are fit for human habitation, and tenants have the right to take legal action against their landlord if their home is unsafe
- Overhaul housing law to deter rogue landlords from operating in the housing market to drive up standards in private renting and to ensure the health and safety of tenants

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