

UNISON BRIEFING

SEPTEMBER 2019



GOVERNMENT CONSULTATION:

“A NEW DEAL FOR RENTING: RESETTLING THE BALANCE OF RIGHTS AND RESPONSIBILITIES BETWEEN LANDLORDS AND TENANTS” (ENGLAND)

INTRODUCTION

In April 2019 the government announced that it will consult over plans [to abolish Section 21, also known as “no-fault” evictions, in England.](#)

The government has published the consultation [“A new Deal for Renting: Resettling the balance of rights and responsibilities between landlords and tenants”](#). This sets out proposals to reform the tenancy regime in England. They include plans to abolish Section 21 no-fault evictions and measures to strengthen the Section 8 eviction process to “enable landlords to regain their property if they wish to sell it or move into it themselves”.

The government is seeking views to the consultation which closes on **12 October 2019.**

Housing is devolved in the United Kingdom and this consultation applies to England.

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

<https://www.gov.uk/government/consultations/a-new-deal-for-renting-resettling-the-balance-of-rights-and-responsibilities-between-landlords-and-tenants>

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

This briefing sets out the key proposals; what they will mean for renting if implemented and what our members can do to influence changes to the proposed new tenancy regime in England.

BACKGROUND

The Housing Act 1988 abolished the system of Fair Rents and created Assured and Assured Shorthold Tenancies (ASTs) in renting, which became the default tenancy framework.

Under Section 21 of the Act, tenants with Assured Shorthold Tenancies (of typically between six- and 12-months security) can be evicted from their home by their landlord at short notice, through no fault of their own, after the fixed term of their tenancy has ended, effectively guaranteeing no security of tenure for tenants with ASTs.

UNISON has consistently opposed Section 21 and the concept of no-fault evictions. With 80% of homelessness being caused by insecure tenancies and termination of a tenancy, there is an urgent need to overhaul the tenancy regime in England to ensure that renters are protected from unwanted moves and homelessness.

THE PROPOSED NEW TENANCY FRAMEWORK

The government's [consultation](#) proposes a new tenancy framework, which aims to repeal Section 21 no-fault evictions, end the Assured Shorthold Tenancy regime and no-fault evictions. The government says that under the new framework "*tenants cannot be evicted from their home without good reason*".

It says that the new framework "*will provide tenants with more stability, protecting them from having to make frequent moves at short notice, and enabling them to put down roots and plan for the future*".

The consultation also sets out plans to strengthen the Section 8 eviction process to enable "*landlords to regain their property if they wish to sell it or move into it themselves*" as well as plans to speed up the court system and give landlords the confidence and flexibility to manage rental property.

KEY PROPOSALS

Abolition of Section 21 no-fault evictions

The proposals, if implemented, will abolish Section 21 no-fault evictions and remove Assured Shorthold Tenancies from the Housing Act 1988. However, the assured tenancy regime would remain with some modifications (see proposed new rules below).

The government had initially favoured open-ended (indefinite) tenancies based on the Scottish model. The proposals have moved away from that initial proposition, and as presented will now not end fixed-term tenancies. This means that "all future tenancies will be assured; either as fixed-term assured tenancies or contractual periodic assured tenancies (that rolls over on a cycle of time, usually monthly) - see 2.8; 2.15 of consultation.

An **Assured Tenancy** can be ended by either the landlord or tenant giving notice when it expires; if there is a break clause which allows the tenancy to be ended earlier by either party; when the tenant has breached the terms of the contract; or during a periodic (week-to-week) tenancy by giving notice - subject to the rules set out in the Housing Act 1988.

A **Fixed Term Tenancy** (under the assured tenancy regime) that ended could be renewed to a new contract or roll into an assured periodic tenancy – subject to the agreement of the landlord and tenant.

The proposed removal of Section 21 will mean that landlords will have to demonstrate and evidence grounds for removing or evicting a tenant from their home, subject to rules set out in Section 8 and Schedule 2 of the Housing Act 1988.

The consultation seeks views on whether Fixed Term Tenancies should have a minimum length, or term, as well as a break clause to allow either the landlord or tenant to end the tenancy early.

The changes will impact on all landlords in the private and social rented sectors who currently use Assured Shorthold Tenancies. The proposals will therefore apply equally to private landlords, Private Registered Providers of social housing (housing associations), and Local Authority Housing Companies.

BRINGING TENANCIES TO AN END: REFORMING GROUNDS FOR EVICTION

The consultation sets out proposals to amend and strengthen the tenancy framework to make it easier for landlords to repossess their property when they need to (see 3.5 of consultation):

Evictions – “no-fault” grounds

This includes plans to:

- Add a new ground when the landlord wishes to sell the property (see 3.19)
- Amend the ground to allow not just the landlord, their spouse or partner to move in but also to include their children and family members (see 3.8)
- Remove the requirement for a landlord/family member to have previously lived at the property which will make it easier to serve a Section 8 notice for repossession (see 3.9)
- Require a landlord to continue to give a tenant prior notice that they intend to gain possession of their home to sell or move in - to prevent abuses by landlords (see 3.12)
- Allow private landlords to seek possession of their property before the fixed term ends if they or a family member wishes to move into it (see 3.15). The consultation recognises that this could be open to abuse and sets out proposals for tenants to be protected for the first two years of signing a tenancy agreement

The consultation also asks for views on the length of notice period that landlords are required to provide to tenants when they ask them to move out (this is currently two months).

Evictions – “Tenant fault”

The consultation contains proposals to strengthen the grounds for eviction when a tenant breaches the terms of their tenancy (or is at fault). They include plans to:

- Amend mandatory Ground 8 for possession of a property where a tenant has accrued rent arrears. This would enable landlords to “serve a two-week notice if the tenant has accrued two months of rent arrears”; “the court to grant an eviction order if the tenant still has over one months’ arrears” or if the “landlord can prove a pattern of accumulated arrears being paid down on three occasions” (see 3.26-3.31)
- Reform the grounds around evicting perpetrators of anti-social behaviour – and seeks suggestions for doing this (see 3.32-3.40)

- Reform the ground on domestic violence to ensure perpetrators of domestic abuse are evicted to protect victims (see 3.41-3.47)
- Reform Ground 13 to make it easier to evict tenants who obstruct their landlord from gaining access to the property to carry out safety-related works (see 3.48-3.52)

Evictions – Court processes

The consultation sets out plans to make the court process for possession cases simpler, swifter and more efficient to make it easier and quicker for landlords to gain possession of their property.

It seeks views on reforming the court system to allow the use of the “accelerated possession procedure” in deciding cases “for some or all of the mandatory grounds within Schedule 2 of the Housing Act 1988” that allow landlords to repossess their home. This procedure allows cases to be decided based on only written applications, without a court hearing. This can be challenged by the tenant (see 3.53-3.56).

Evictions – “Specialist provisions”

The consultation seeks views on whether certain types of short-term tenancies should be exempt from the Assured Tenancy regime. They include student, agricultural, religious and other types of housing (See 3.57-3.75).

Rents

Rent increases year on year will still feature as part of the proposed new tenancy regime, agreed at the start of a new tenancy agreement (see 2.27) or if the landlord uses Section 13 to adjust the rent once a year. This can be challenged by a tenant (see 2.24). In reality, such challenges are often unsuccessful, meaning that tenants have no protection from rent increases that they cannot afford, forcing them out of their home.

The government aims to prevent landlords from increasing the rent before the end of a Fixed Term Tenancy and says that it will *“legislate to prevent tenancy agreements containing any clause which would change the contract after the fixed term has ended”* (see 2.27). The consultation **does not propose** protecting private tenants from excessive rent increases through rent capping, a measure UNISON has consistently called for.

WHAT THE PROPOSALS MEAN FOR RENTING

The proposals will affect the private and social rented sectors.

Key impacts

- The reforms will end the Assured Shorthold Tenancy regime – private and social landlords will no longer be able to issue ASTs which typically lasts between six and 12 months (see 2.15-2.19)
- The default will become the Assured Fixed Term or contractual periodic Assured Tenancy

- Tenants will be protected from eviction for the first two years after they sign a new tenancy
- Housing associations will no longer be able to issue starter tenancies, which typically last for a year (see 2.13)
- Local authorities and Housing Associations will no longer be able to use demoted assured tenancies, which typically last a year
- Landlords will no longer be able to evict a tenant from their home without a stated reason
- The proposed tenancy regime will provide landlords with a robust set of grounds under which they will be able to repossess their homes, including new/modified grounds to enable landlords/family members to repossess their home if they wish to sell or move into it themselves both during and at the end of the fixed term or periodic tenancy.

UNISON'S VIEW

People want stability in their lives. They want to be able to plan for themselves and their families and that means knowing that they have security about where they live, that they won't suddenly be forced to move because they can't afford the rent increase or suddenly find that their landlord wants them to leave.

- The proposals are wide-ranging and could be open to abuse by rogue landlords.
- They fall far short of the open-ended (indefinite), flexible tenancies that UNISON has called for and which tenants deserve.
- The proposals do not contain any bold or radical measures to cap or control rent increases, which would protect tenants from extortionate rent increases, nor do they stop private landlords from raising rents as a means of forcing tenants out.

The proposed rules on evictions will make it easier to remove tenants during and at the end of their fixed term. This will make renting even less stable for tenants and lead to increased evictions and homelessness. The proposals run counter to the government's stated ambition to give tenants greater security of tenure and protection from unwanted moves, if tenants can be easily removed out of their home through no fault of their own.

Moving is stressful and expensive. Landlords should be in the business of providing stable homes to people, not seeking ways to evict tenants. The government can and should do more to develop solutions to protect tenants from eviction and the impact this has on their lives, well-being, finances and future prospects.

The Scottish tenancy model

Last year, UNISON responded to the consultation on [“Overcoming barriers to longer tenancies in the Private Rented Sector”](#), in which we recommended that the government should introduce a new tenancy regime based on the **Private Residential Tenancy (PRT) in Scotland**. Under this system, tenancies issued after 1 December 2017 are open-ended and continue until the tenant wishes to leave. This model has abolished fixed term tenancies and gives tenants greater flexibility and security in renting. There is still a comprehensive and robust set of grounds that allow

landlords to gain possession of their property, some of which are mandatory – for example, the landlord intends to live in the property as their principal home – but the remainder are discretionary – that is the landlord has to satisfy the Tribunal which can exercise discretion on whether to issue an eviction order.

Renters on the PRT in Scotland benefit from open-ended tenancies, according to [a study by Shelter](#). Scottish renters “worry less about becoming homeless, worry less about getting locked into inflexible fixed-term tenancies – and have more faith in their elected officials – than those on the old tenancy agreement”.

NEXT STEPS

- UNISON will submit a national response to the government’s [consultation](#). In our response we will call for tenancies to have no time limits and for safeguards to prevent tenants from being evicted from their homes when they are not at fault, as well as to give them greater stability.

End Unfair Evictions Campaign

UNISON works alongside and supports Generation Rent’s Campaign to End Unfair Evictions. This is calling on the government to commit to include the following changes in any reforms to Section 21:

- An end to unfair evictions - landlords should not be able to evict renters unless they can prove they are moving back in or have sold the property
- Support when forced to move - landlords evicting tenants because they are moving back in or have sold the property should pay the tenants’ relocation costs
- Stopping landlords abusing no-fault grounds - landlords who want to evict to move back in must have lived in the property previously
- Encouraging landlords to sell with sitting tenants - landlords who want to evict to sell can only do so once sale contracts have been exchanged
- Preventing retaliatory rent hikes - introduce rent controls and prevent landlords from raising the rent as a way of evicting
- More time to find a new home - there must be a notice period of 6 months or more for tenants

UNISON members can:

- Respond directly to the [consultation](#) by 12 October 2019
- Sign Generation Rent’s [Open Letter](#) calling for the above changes to be included in any reforms to Section 21 and share on social media
- Take part in Generation Rent’s [survey](#). All responses will be sent directly to the Ministry of Housing Communities and Local Government.

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