

MINISTRY OF HOUSING COMMUNITIES AND LOCAL GOVERNMENT

A New Deal for Renting

Resettling the balance of rights and responsibilities
between landlords and tenants:

A consultation

UNISON RESPONSE

OCTOBER 2019

List of Questions

About you

Questions for all respondents

In which region do you live?

- ☐ East
- ☐ East Midlands
- ☒ London
- ☐ North East
- ☐ North West
- ☐ South East
- ☐ South West
- ☐ West Midlands
- ☐ Yorkshire and the Humber
- ☐ Prefer not to say

In which capacity are you completing these questions?

- ☐ Landlord operation as an individual
- ☐ Landlord operation on behalf of an organisation
- ☐ Tenant
- ☐ Letting/property agent
- ☒ Other – organisation
- ☐ Other – individual
- ☐ Prefer not to say

Questions for landlords – N/A

Questions for landlords and letting/property agents – N/A

Questions for tenants – N/A

Questions for other organisations

If you are replying on behalf of an organisation, which of the following best describes you?

- ☐ Sector representative body
- ☐ Charity that deals with housing issues
- ☐ Local government sector
- ☐ Religious organisation
- ☐ Legal sector
- ☐ Academic/research institution
- ☐ Prefer not to say
- ☒ None of the above (please specify below)

UNISON is the UK's largest public service trade union with 1.3 million members.

Our members include frontline staff and managers working full or part-time in public services and for private contractors providing public services. They provide a range of essential public services working in local authorities, the NHS, colleges and schools, the police service, the utilities (electricity, gas and water industries), transport and the community and voluntary sector.

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Questions for other individuals – N/A

The end of Section 21 Evictions

Assured shorthold tenancies

Question 1: Do you agree that the abolition of the assured shorthold regime (including the use of Section 21 notices) should extend to all users of the Housing Act 1988?

- ☒ Yes
- ☐ No
- ☐ Don't know

If not, which users of the Housing Act 1988 should continue to be able to offer assured shorthold tenancies? (tick all that apply) **N/A**

- ☐ Housing associations
- ☐ Local Authority Housing Companies
- ☐ Local authorities discharging their duties under the Housing Act 1996
- ☐ Providers so of Supported Housing
- ☐ Providers of rent-to-buy products
- ☐ Don't know
- ☐ Other (please specify)

Question 2: Do you think that fixed terms should have a minimum length?

- ☐ Yes
- ☒ No
- ☐ Don't know

If yes, how long should this be?

- ☐ 6 months
- ☐ 12 months
- ☐ 2 years

Question 3: Would you support retaining the ability to include a break clause within a fixed-term tenancy?

- ☒ Yes
- ☐ No
- ☐ Don't know

Bringing tenancies to an end

Moving into the property, widening the scope of ground 1

Question 4: Do you agree that a landlord should be able to gain possession if their family member wishes to use the property as their own home?

- ☐ Yes
- ☒ No
- ☐ Don't know

If not, why not?

UNISON believes that widening this ground to include family members could be exploited by rogue landlords, who may use this ground as a reason to evict tenants without an actual valid reason. This could lead to a less stable rental market and more evictions and homelessness. Further, any possession ground involving family members should be discretionary to enable the courts to decide whether issuing a possession order is reasonable. This will deter rogue landlords from abusing the system.

Question 5: Should there be a requirement for a landlord or family member to have previously lived at the property to serve a Section 8 notice under ground 1?

- ☒ Yes
- ☐ No
- ☐ Don't know

If you think there should be a requirement, explain why?

The requirement should remain; its removal could lead to some landlords exploiting the regime.

Landlords should be in the business of providing stable homes for people and should not be seeking new ways to evict them. Landlords should be able to make alternative arrangements to find a home for themselves or their family member.

Question 6: Currently, a landlord has to give a tenant prior notice (that is, at the beginning of the tenancy) that they may seek possession under ground 1, in order to use it. Should this requirement to give prior notice remain?

- ☒ Yes
- ☐ No
- ☐ Don't know

Question 7: Should a landlord be able to gain possession of their property before the fixed term period expires, if they or a family member want to move into it?

- ☐ Yes
- ☒ No
- ☐ Don't know

Question 8: Should a landlord be able to gain possession of their property within the first two years of the first agreement being signed, if they or a family member want to move in?

- ☐ Yes
- ☒ No
- ☐ Don't know

Question 9: Should the courts be able to decide whether it is reasonable to lift the two year restriction on a landlord taking back a property, if they or a family member want to move in?

- ☐ Yes
- ☒ No
- ☐ Don't know

A new ground – selling the property

Question 10: This ground currently requires the landlord to provide the tenant with two months' notice to move out of the property. Is this an appropriate amount of time?

- ☐ Yes
- ☒ No
- ☐ Don't know

Question 11: If you answered No to Question 10, should the amount of notice required be less or more than two months?

- ☐ Less than two months' notice
- ☒ More than two months' notice
- ☐ Flexible notice period
- ☐ Don't know

Question 12: We proposed that a landlord should have to provide their tenant with prior notice they may seek possession to sell, in order to use this new ground. Do you agree?

- ☒ Yes
- ☐ No
- ☐ Don't know

Question 13: Should the court be required to grant a possession order if the landlord can prove they intend to sell the property (therefore making the new ground 'mandatory')?

- ☐ Yes
- ☒ No
- ☐ Don't know

If not, why not? (please specify)

The government's intention to make this ground mandatory will remove the discretion of the courts to decide if an eviction is indeed reasonable. Such a move would make renting less secure and uncertain for tenants.

The proposals need to be balanced with greater protections for tenants who are faced with the stress and expense of unwanted, unnecessary moves. We would therefore welcome measures which would require landlords to pay for the relocation costs of tenants, which is already a requirement in Ground 6 for landlords wishing to evict to carry out refurbishment or reconstruction works. Regard should be given to properties being sold as tenanted in any guidance. Landlords should only be able to terminate a tenancy once sale contracts have been exchanged to minimise disruption to sitting tenants.

Question 14: Should a landlord be able to apply to the court should they wish to use this new ground to sell their property before two years from when the first agreement was signed?

- ☐ Yes
- ☒ No
- ☐ Don't know

Question 15: Is two months an appropriate amount of notice for a landlord to give a tenant, if they intend to use the new ground to sell their property?

- ☐ Yes
- ☒ No
- ☐ Don't know

Question 16: If you answered 'no' to question 15, should the amount of notice required be less or more than two months?

- ☐ Less than two months' notice
- ☒ More than two months' notice
- ☐ Flexible notice period
- ☐ Don't know

Rent-arrears

Question 17: Should the ground under Schedule 2 concerned with rent arrears be revised so:

-The landlord can serve a two week notice seeking possession once the tenant has accrued two months' rent arrears

- ☐ Yes
- ☒ No
- ☐ Don't know

If no, please explain.

This proposed change will cause undue hardship for struggling tenants, especially those receiving housing benefit or the housing benefit element of Universal Credit (UC).

Furthermore, the difficulties people face in paying their rent are made worse by the fact that the maximum assistance with their housing costs that people in the Private Rented Sector can receive through either Housing Benefit or UC no longer meets the rents charged in the bottom 30% of the local housing market. These problems are made worse by the 'benefit cap', the five-week wait in receiving UC payments and other delays in making initial UC payments. As such an increasing number of housing benefit claimants are in rent arrears and are at the risk of eviction and homelessness; they should **NOT** be penalised because of problems with the benefit system.

There should be an expectation of forbearance on the part of a landlord and a realistic minimum set by the landlord regarding the notice period and the level of arrears it relates to. We would not support two weeks' notice as this length of time does not accurately reflect the difficulty and upheaval related to moving house. For example, in the case of families in receipt of Housing Benefit and are restricted by other government policy or other household requirements that may not be met immediately by a typically dysfunctional private sector housing market. We recommend the government retaining **as a minimum** the current two month notice period.

-The court must grant a possession order if the landlord can prove the tenant still has one months' rent arrears outstanding by the time of the hearing.

- ☐ Yes
- ☒ No
- ☐ Don't know

If no, please explain.

As stated above, the proposals will cause undue hardship for struggling tenants, especially those who rely on welfare benefit, as well as those on short-term work contracts. These are vulnerable tenants and they will be at risk of homelessness, if the proposals are implemented.

The court may use its discretion as to whether to grant a possession order if the arrears are under one month by this time.

- ☐ Yes
- ☒ No
- ☐ Don't know

If no, please explain

UNISON believes the current "two months" should remain as a minimum.

-The court must grant a possession order if the landlord can prove a pattern of behaviour that shows the tenant has built up arrears and paid these down on three previous occasions.

- ☐ Yes
- ☒ No
- ☐ Don't know

If no, please explain

UNISON believes that the court should exercise discretion by taking into account tenants' financial circumstances that may have arisen, for example, due to late welfare benefit payments; low paid employment or casualised labour; and direct tenants to appropriate financial advisory services to help them address their problems around sustaining their tenancies.

Anti-social behaviour

Question 18 – 23 – N/A

Domestic Abuse

Question 24: Should this new ground apply to all types of rented accommodation including the private rented sector?

- ☒ Yes
- ☐ No
- ☐ Don't know

Question 25: Should a landlord be able to only evict a tenant who has perpetrated domestic abuse, rather than the whole household?

- ☒ Yes
- ☐ No
- ☐ Don't know

If no, please explain

Question 26: In the event of an abusive partner threatening to terminate a tenancy, should additional provisions protect the victim's tenancy rights?

- ☒ Yes
- ☐ No
- ☐ Don't know

If no, please explain

Question 27: Should a victim of domestic abuse be able to end a tenancy without the consent of the abuser or to continue the tenancy without the abuser?

- ☒ Yes
- ☐ No
- ☐ Don't know

[Explanation]

A victim of domestic abuse should be able to continue with the tenancy if they are able to do so safely. However, it is not always safe or financially viable to remain in the same home where the abuse takes place, as perpetrators of domestic abuse often stalk and harass their victims long after the relationship has ended. It is therefore important for victims of domestic abuse to be able to access safe, decent, secure and affordable homes. Many can't because of the acute shortage of low cost social rent homes.

Housing is gendered issue, impacting on women's ability to afford housing due to their lower median earnings compared to men; most cases of domestic abuse are perpetrated against women by men, with the loss of a stable home a significant reason for staying, particularly for women with children.

This is compounded by the acute shortage of genuinely affordable homes that can be accessed by victims of domestic abuse on modest incomes. Housing benefit cuts and high private rents are also impacting negatively on women and affecting their ability to meet housing costs and essential household bills. Universal Credit, for example, is impacting on tens of thousands of single parents, the majority of which are women. The five-week wait period is leaving people in rent arrears and at risk of eviction and homelessness.

Housing has a key role to play in helping to address the challenges faced by people suffering from and fleeing domestic abuse. The government should therefore take urgent action to:

*reverse the decline in social housing stock by investing in a national house-building programme

*introduce measures to repeal welfare reforms – for example, by raising the Local Housing Allowance (housing benefit) to at least the 30th percentile; ending the Benefit Cap; abolishing Bedroom tax; and by repealing the two-child limit to ensure that the system provides an adequate safety net that best meets the needs of vulnerable people;

*address affordability across the housing market, for example by introducing a system of rent control in the private rented sector to cap rent increases to make homes affordable

Property standards

Question 28

Would you support amending ground 13 to allow a landlord to gain possession where a tenant prevents them from maintaining legal safety standards?

- ☒ Yes
☐ No
☐ Don't know

If no, please explain

Accelerated possession

Question 29:

Which of the following could be disposed off without a hearing (tick all that apply)

1	Prior notice has been given that the landlord, or a member of his family may wish to take the property as their own home.	<input type="checkbox"/>
2	Prior notice has been given that the mortgage lender may wish to repossess the property.	<input type="checkbox"/>
3	Prior notice has been given the property is occupied as a holiday let for a set period.	<input type="checkbox"/>
4	Prior notice has been given the property belongs to an educational establishment and let for a set period.	<input type="checkbox"/>
5	Prior notice has been given to a resident minister that the property may be required by another minister of religion.	<input type="checkbox"/>
6	Reconstruction, demolition or other works need to be carried out, but cannot go ahead with the tenant in situ.	<input type="checkbox"/>
7	The previous tenant has died, with the tenancy passing on to a new tenant who does not have the right to carry on with the tenancy.	<input type="checkbox"/>
7A	The tenant has been convicted of a serious offence in or around the property, against someone living in or around the property, or against the landlord.	<input type="checkbox"/>
7B	A tenant or occupant has been disqualified from occupying the property due to their immigration status.	<input type="checkbox"/>

8	The tenant has significant rent arrears.	<input type="checkbox"/>
New	<i>The landlord wishes to sell the property</i>	<input type="checkbox"/>
	Don't know	<input type="checkbox"/>

UNISON wants to see a fairer rental system which gives the courts discretion in deciding cases, and tenants the opportunity to challenge eviction grounds to deter rogue landlords from abusing the system.

Specialist provisions

Student accommodation

Question 30:

Should ground 4 be widened to include any landlord who lets to students who attend an educational institution?

- ☐ Yes
☒ No
☐ Don't know

If no, please explain.

All tenants, including students, should be able to enjoy greater security and certainty in their home. Students should not be evicted from their rental accommodation just because their course has ended or it is the end of the academic year. Many students stay over the summer months with some settling in the areas where they study when they finish their course. They should therefore have the flexibility to stay on if they want to and not removed from their home.

Short-term lets

Question 31:

Do you think that lettings below a certain length of time should be exempted from the new tenancy framework?

- ☐ Yes
☒ No
☐ Don't know

[Explanation]

We do not believe that any time limits should apply to tenancies. They should be open-ended to enable tenants to stay for as long as they need to as well as flexible to enable tenants to move out earlier if their circumstances change. For example, if they become un-employed, their relationship ends or they are fleeing domestic abuse. This way tenants will have fewer concerns about affordability and stability because they will know

that they are not locked in, and at the same time have greater security if they wish to stay on longer, as is the case in Scotland.

[Recent research by Shelter indicates](#) that renters on the Private Residential Tenancy (PRT) in Scotland (see also question 45 below) are benefiting from the abolition of Section 21 no-fault evictions and the introduction of open-ended tenancies. It reveals that Scottish renters on the PRT:

“*worry less about becoming homeless;

*worry less about getting locked into inflexible fixed term tenancies

*have more faith that their elected representatives have their interests at heart”.

The positive changes in Scotland mean that renters can stay for as long as they want, and also have the flexibility to leave early if their circumstances change.

Other grounds for seeking possession

Question 36:

Are there any other circumstances where the existing or proposed grounds for possession would not be an appropriate substitute for Section 21?

- ☒ Yes
- ☐ No
- ☐ Don't know

If yes, please explain

Tenants can still be forced to move out of their home due to rent increases which they cannot afford; they have the right to challenge this if they can evidence the increase to be above the market rent by making an application to the Tribunal. However, the Tribunal bases its decision on “what the maximum rent of the property should be on the open market”, without considering the tenant’s personal and financial circumstances. Therefore there is no guarantee that they will be successful in getting an outcome that overturned the landlord’s decision (see also 2.24 of consultation).

Specialist provisions – N/A

Impact and timing of implementing our changes

Wider impact

Question 45: Do you think these proposals will have an impact on homelessness?

- ☒ Yes
- ☐ No
- ☐ Don't know

If yes, please explain

UNISON is concerned that proposals around Section 8 “possession process” will make it easier for landlords to remove tenants during and at the end of their fixed term tenancies. This will make renting even less stable for tenants and lead to increased evictions and homelessness. Since 2010 homelessness levels (driven by austerity, housing and welfare reforms) have increased to unprecedented levels with the increase in the number of homeless women and children [rising over 60%](#). If the proposals are implemented, the situation will become much worse.

The proposals also run counter to the government’s stated ambition to give tenants greater security of tenure and protect them from unwanted moves, if they can be easily removed from their home through no fault of their own, given them little time to find alternative, suitable accommodation.

Whilst the proposals aim to create a fairer rental system that benefits both tenants and landlords alike, landlords must have a valid reason to evict or reposess their property. UNISON remains concerned about conditions around landlords’ families and grounds for repossession, which are open to abuse as set out in the consultation, replacing one rogue action for another.

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 model, tenancies issued after 1 December 2017 are open-ended and continue until the tenant wishes to leave. It has abolished fixed term tenancies and gives tenants greater security and flexibility in renting. While there is still a comprehensive set of grounds that allow landlords to gain possession of their property, some of which are mandatory, the majority are discretionary, that is the landlord has to satisfy the Tribunal which can exercise discretion on whether to issue an eviction order.

UNISON is therefore calling for **a new deal for renting** based on the Scottish model, which is already having a positive impact on the Scottish rental market, according to a new [study by Shelter](#) (see also question 31 above). The study concluded that renters in Scotland on the new tenancy regime are benefiting from greater security of tenure. In Scotland private landlords warned that the abolition of Section 21 would “kill the private rented sector”; “that many landlords would leave the sector”; and that “open-ended tenancies would drive homelessness”, but these have not been borne out, according to Shelter. In England private landlords are putting forward the same arguments. But if they look to Scotland, where the size of the private rented sector is comparable to England, they will find that the introduction of the Scottish PRT has not brought about any major changes to the size of the rental market.

Our members want to see robust measures – as highlighted in our response – that will give renters in England stronger rights and protections they deserve, as enjoyed by their

counterparts in Scotland. This will help to secure a more stable rental system, and prevent a further increase in homelessness, which is already on the rise.

Question 46: Do you think these proposals will have an impact on local authority duties to help prevent and relieve homelessness?

- ☒ Yes
- ☐ No
- ☐ Don't know

If yes, please explain

The proposals run counter to the government's intended aim as set out in the Homelessness Reduction Act 2017. This places a legal duty on councils to help anyone who is homeless or at risk of becoming homeless to be helped to keep their existing home or find a new one. While this law is there to protect the vulnerable, the proposals being consulted on would lead to more homelessness, and would therefore burden councils with the huge task of delivering more preventative and relief duties under the Act, at a time when councils are cash-strapped and under-resourced.

According to the National Audit Office (NAO) councils spent more than £1.1bn on homelessness in 2015/16 – and that over three quarters of that spending £845m was on temporary accommodation – this figure is set to rise if the proposals are implemented. Furthermore, in the period since changes to funding the 'development of social and affordable homes' in 2011 - which has led to a decline in the development of new low cost social rent homes - there has been a knock-on effect on affordability and the ratio between average earnings and rents, with rents doubling and taking up a third or more of people's earnings, thereby fuelling poverty and homelessness across England.

Homelessness is a multi-faceted social problem, which has many underlying problems. This includes the under-supply of genuinely affordable housing, high private rents and benefit cuts. The government should be proposing new laws that help tackle homelessness and not those that will make the situation worse. Councils need resources and funding to enable them to exercise their duties – as well as adequate grant (public subsidy) to build more homes at social rent rates to give people, especially the vulnerable, young and those on low income, stable and genuinely affordable homes that would ensure they are protected from extortionate rents, eviction and unwanted moves.

Question 47-49 – N/A

Transition period

Question 50: Do you agree that the new law should be commenced six months after it receives Royal Assent?

- ☐ Yes
- ☒ No
- ☐ Don't know

If you answered 'no' to question 50, what do you think would be an appropriate transition period?

- ☐ No transition period
- ☒ Three months
- ☐ Twelve months
- ☐ Don't know

For further information:

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