

Evidence to the Levelling Up Select Committee on Rental Reform

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Will the Government's White Paper proposals result in a fairer private rented sector (PRS)?

The case for the removal of S21 no fault eviction has been generally agreed by most if not all parties. The objectives are clearly to provide greater security of tenure so that the sector is fairer. It is certainly a necessary starting point and should be applauded but there are real concerns that it may not generate the desired outcomes. The issue of fairness is seen to be mainly in terms of the relative position of landlords and tenants.

First, as compared to most comparable countries, the proposals seem to be only a partial solution. In particular, the proposals with respect to how rents may be increased within the tenancy are minimal, limiting increases to once a year and enabling tenants to challenge unreasonable rent increases through the First Tier Tribunal. This is very much less protection for tenants than in most other countries that operate similar tenancy arrangements. It is more common to enable rent rises in line with a suitable index. This leads to both greater certainty and clarity about what is acceptable and reduces the administrative costs and insecurities associated with legal proceedings. In practice, very few tenants feel able to challenge their rent increase unless it is massively out of line with the market – and in such cases they will probably choose to leave. One advantage of using indices for rent increases is that it helps the market to work by giving sitting tenants knowledge and confidence that increases are similar to market comparables; and gives landlords greater certainty about future rental income flows. This is particularly important when rent increases follow major improvements and repairs undertaken by landlords (see below).

Similar concerns apply to the proposed additional grounds for evictions: the landlord wishes to sell or they or their family wish to occupy the property themselves. These are similar to grounds put in place in Scotland that have proved very difficult to implement effectively where the landlord states they will sell or move in, but actually relets the property.

Under the current system, the great majority of tenancies work well. Research shows that landlords often do not increase the rent until the sitting tenant moves out; and in most cases, that move is usually done with agreement. Moreover, many landlords want to keep existing tenants as at the end of any tenancy there are decorations or repairs needed before new tenants can be found. It should be recognised, therefore, that the proposed changes directly address a relatively small proportion of tenancies – but may impact on attitudes more widely.

Although most landlords never use S21, it gives all landlords the option to end a tenancy if they feel it is going badly. This option will be lost under the proposals. Some landlords value the option enough that they will decide to leave the business. We would therefore expect the reforms to result in a somewhat fairer sector but also a smaller one. The tenants most affected would be those for whom the risks for landlords are seen to be higher, for example, low-income tenants, benefit recipients, people with mental health problems, and homeless households.

What do the proposals in the White Paper and other recent reforms indicate about the role the Government envisages the PRS playing in providing housing nationally?

Over the last 30 years the PRS has evolved to take on some of the roles performed in the past by social rented homes (given the shortage of these homes) and of owner occupation (given the difficulties first time buyers face in finding money for deposits etc). While the government has aspirations to increase both social housing and owner-occupation this is unlikely significantly to modify the role of the private rented sector in the immediate future.

The Policy Paper contains much data about the attributes of landlords and tenants, as well as the identification of problems within the sector, but presents no strategic vision for its size or role. It does not indicate whether the government has a view about whether the sector should be larger or smaller, or accommodate different types of households, let alone what they expect to happen after the changes are implemented. The paper would have been more useful had it included discussion about the desired direction of change and how the proposed changes address this strategic view.

Have the Government's announcements already led to any changes in behaviour in the PRS?

It is too early to say with certainty. Changes to the taxation and regulation of private landlords - particularly of buy to let landlords - over the last 10 years, have reduced the financial incentive to operate as a landlord (as indeed was their intention). Surveys have shown that these changes are affecting landlord behaviour. Changes in taxation (particularly the changes to mortgage tax relief) are seen to be the most important factors, certainly more influential than the effects of Covid. But some landlords who have already left the sector, or are considering doing so, cite regulatory changes and especially the mooted removal of S21 as important reasons.

In the last few months there has been evidence that there has been a net decline in the flow of lettings coming on to the market. This may partly reflect the departure of landlords from the sector. However, in the wake of the pandemic, there have been other changes to the rental market, such as people moving back into central London and other cities; and the return of properties to the Airbnb sector as tourists and business visitor numbers increase once again. Overall, the impact on rents is expected to be significant – but cannot be directly linked to the government's announcements.

Do the proposals for reforming tenancies, including the abolition of Section 21, strike the right balance between protecting tenants from unfair eviction and allowing landlords to take possession of their properties in reasonable circumstances?

This probably cannot be determined until we know a lot more about how well the legal system will be able to adjust to the changes. The latter is critical as survey evidence shows that one of the reasons landlords like S21 (even when they are keen to retain tenants in the long term) is that their experience of seeking possession in the courts is that the process is long, expensive, and uncertain, even when they are seeking possession on grounds of rent arrears and/or antisocial behaviour. In effect, they see S21 as helping them manage the business risk of taking on tenants with unknown profiles. Most buy to let landlords have very small portfolios, and one difficult tenant is a major risk for a landlord with only a handful of properties. Hence removing S21 requires that court cases where landlords seek possession are dealt with speedily.

How easily will tenants be able to challenge unfair rent increases under the proposals?

No way of saying – the details about these aspects of the proposal are not yet known. It clearly needs some way of assessing what might be the market rent. This is not an easy process without either an algorithm or involvement of the rent officer service (but the latter would have workload and hence cost implications).

Does the PRS need its own ombudsman? If so, what powers should it have?

The main question is practicability and infrastructural cost. In principle an ombudsman could be valuable, but the information required to operate such a system is unavailable. There are about 2 million private landlords and no database of their details; and therefore obtaining information about them will be difficult and costly. There is also no guarantee that many tenants with problems would be willing to complain. A far more effective use of funds would be to support enforcement action by local authorities better.

Will the proposals result in more disputes ending up in the courts? If so, will the proposals for speeding up the courts service suffice?

Section 21 will be at least partially replaced by Section 8 or equivalent, which will be more complex and expensive. Hence, the total number of cases (currently including S21 cases) would probably go down, but individual cases would likely be more complex and more time-consuming to deal with.

What impact, if any, will the reforms have on the supply of students' homes in the general PRS?

Under the proposals, students will have the same rights as all other tenants to give 2 months' notice. However, currently many contracts are for the academic year, with students in high-demand cities arranging their accommodation for the next academic year as early as March (or even pre-Christmas). If landlords do not know until June whether their tenants will return in September, then those seeking housing for the following term will also have to wait until shortly before term starts. This situation has already arisen in Scotland, where similar reforms were introduced a few years ago, and they are now considering introducing special rules for those letting to students.

However, the number of purpose-built student accommodation units (which will be unaffected) are now large and the market has matured quite a lot. We do not have much understanding of the knock-on effect on mainstream PRS provision normally in HMOs and terraced housing and owned by individual landlords. There is some evidence that these buy to let landlords are feeling the competition from purpose-built landlords and selling off into the first time buyer market or to larger landlords. There is also some evidence that the student new build market has helped give confidence to the wider build to rent market. Some universities own non-purpose-built housing for letting to their students – and it would be problematic to include them in the proposed 2 months' notice provision.

What impact, if any, will the reforms have on the supply of homes in the PRS?

There have been cumulative negative effects mainly on individual landlords mainly as a result of the tax changes, but also for some because of the covid-related changes to eviction processes and timetable. As stated above the direct impact of will be on landlords who might expect to use S21 and uncertainties about how the court proceedings will operate. Both suggest falling supply from individual landlords - with the

possibility that some of the properties will be purchased by larger landlords - leading to some restructuring of the sector as has happened in Ireland.

As or maybe even more importantly, considerable numbers of landlords will be faced with significant increases in costs in order to comply with the Decent Homes Standard and other requirements. Some landlords will be able to finance the necessary costs to bring homes up to the standard, but many others will not. Nor is it obvious that such changes lead to rent increases to cover these costs. Financing property upgrades will be especially difficult at the lower end of the market, where the cost is likely to be greater and the scope for raising rents to recoup the costs very limited due to the low incomes of the tenants. Landlords will respond in different ways to this situation, but one likely outcome is a reduction in properties to rent for low-income tenants.

More generally, the biggest issues will be with respect to the lower end of the market. A report to the Nationwide Foundation by Rugg and Wallace at the University of York last year suggested

'A great deal of current supply to the bottom end of the market is being let in circumstances that are not easy to replicate: in particular, there is an aging cohort of landlords with portfolios that were built at a time of flexible financing and benign tax treatment. New entrants to the market will not be able to build their holdings in the same way.'

It concluded that 'there were multiple reasons why landlords were choosing to exit the market, which often worked in combination. Taxation changes, introduction of UC and a swathe of new regulations had *'increased the risks attached to letting whilst at the same time reducing profitability'*.

In a report to the Trust for London by LSE London, Kath Scanlon looked at case studies of low- income areas in London. The report raised many of the same issues, but also found that the cumulative impacts - particularly of taxation changes - were potentially significant. It concluded:

'The many taxes, regulations and incentives affecting the PRS do not form a coherent framework for the sector, and their goals are poorly understood by landlords. The Renters Reform Bill represents another piecemeal change. It will improve things for many private tenants, but by incentivising some small landlords to leave the sector may have the unintended consequence of making it harder for lower-income people to become tenants in the first place.'

An overarching concern not discussed in the Policy Paper relates to the limits on LHA payments, and perhaps even more importantly the Benefit Cap. In London in particular, but increasingly elsewhere in the country, rents even at the bottom end of the market are higher than the LHA, and recent reports (e.g., by Savills for Capital Letters) stress that there are very few lettings available for those on housing benefit who cannot top up their payments.

Accommodation for homeless households. One issue associated with the potential impact of the change to a periodic tenancy with long term security for tenants relates to the growing market in ASTs to accommodate those in fear of homelessness or already evicted. There has been considerable growth in this market which has been supported by government funding as a means of accommodating homeless or potentially homeless households more effectively and more cheaply than through more traditional TA accommodation. But this growth has been under a system where it is possible to offer a fixed term lease

usually of up to 2 years rather than in perpetuity under the new proposals. The potential impact on landlords who anyway often have to be persuaded to take homeless households is likely to be negative.

Short term lettings. Another area of concern, especially in tourist areas, is the growth of short term Airbnb-type lettings, which are seen to remove dwellings from the residential market, thus increasing local housing pressures. Such lets are unaffected by the proposed changes and may well be seen as a more desirable option for some landlords. This market declined during Covid in many areas but is now said to be increasing again.

What should be included in the new decent homes standard and how easily could it be enforced?

The proposed reform, which obliges private landlords to meet a Decent Homes Standard similar to the current requirement for social landlords, is an admirable attempt to ensure that all tenants can expect adequate and safe homes. It is worth noting that much of the worst PRS housing is former local authority owned housing once acquired under the right to buy but now sold on to private landlords. Many such flats now often sit alongside homes still belonging to local authorities that have been improved to the Decent Homes Standard.

Our research on getting landlords to meet the standards previously expected of private landlords suggests this will not be an easy task, for two reasons. First, the financial returns to landlords of remedying disrepair and improving facilities can in some cases be negligible or indeed negative. Although such investment can lead to an increase in capital values, many of the worst PRS homes are in neighbourhoods with much poor quality stock, where landlords have little prospect of charging higher rents or achieving commensurate capital gains. Landlords providing for this part of the sector thus tend to emphasise reducing costs. Because of this, former governments of all political persuasions provided (i) grants to cover costs which landlords could not support from debt or equity funding themselves and (ii) area improvement grants and other support which could help 'lift up' whole neighbourhoods.

Second, success in getting PRS homes improved will depend on local authorities having adequate staff and resources both to support and cajole landlords (including through enforcing standards). Our previous research showed how problematic this has been for local authorities. This is partly because the role is time consuming and involves local authorities using (mainly) discretionary powers to enforce standards. Given the lack of staff and, often, the absence of a database of PRS properties, local authorities generally rely on complaints from tenants to identify problems. However, many tenants choose to endure poor conditions rather than complain, not only because they worry about being evicted but also because they accept a kind of trade-off between poor standards and low(ish) rents, and know that if properties were improved, they would find the new rents unaffordable. Meanwhile, hard-pressed local officials were often dealing with perhaps less pressing but easier to solve problems.

More fundamentally we suggest that in the long term the problems of poor standards can best be addressed by reducing the demand of low-income households for private rented homes by increasing the supply of well-built and affordable social rented housing. In the meantime, we think the problem can only be addressed successfully by the provision of grants and the funding of more local authority staff.

Overall, what additional pressures will the proposals place on local councils, and how many of these will require new burdens funding?

There is likely to be some loss of properties available to low-income tenants at the lower end of the rental market where landlords are unable to finance works needed to meet the Decent Homes Standard. This could have cost implications for local authorities in discharging their duties under homelessness legislation.