

## Secure tenancies, strong families, stable communities: reforming private renting

October 2016

### Introduction

Private rented housing is the fastest growing tenure in the UK. But we should not confuse it for the most popular one. Most renters intend to buy a home (61%), while only 27% expect to rent in the long term.<sup>1</sup>

The reasons are not difficult to understand: not only does rent tend to be higher than the mortgage payment on an equivalent property, but, unlike a mortgage, the monthly outlay does not help to minimise housing costs later in life. More than a quarter of private rented homes (28%) are considered non-decent, with 15% physically unsafe – higher than any other tenure.<sup>2</sup>

But many tenants are paying rent they can afford on a home that is comfortable. One thing that affects even them is the lack of control they have over it.

More than 80% of private renters are on assured shorthold tenancies, and 89% have an initial agreement of up to 12 months.<sup>3</sup> Outside that fixed term, their landlord can ask them to move with two months' notice, without giving a reason and with no compensation or appeal process. The landlord can also raise the rent by as much as think the market will allow.

The existence of this no-fault eviction process makes it impossible for a renter to know how long they will be able to call their house “home”. They are unable to settle down, and there is less incentive to invest in their property or put down roots in the local community if there's a chance that they will be forced to move away within the year. An unwanted move can involve raiding savings to find a new home, longer commutes and disruption to children's education.

While the majority of landlords value long-term tenants, and will encourage them to stay with minimal rent increases, a minority are amateurs waiting for the right time to sell, using the no-fault process to do so. Another small section of the market is willing to abuse no-fault evictions to replace tenants with others who will pay a higher rent. It is impossible for tenants to know which type of landlord they have, and how long their home is theirs, until they receive a Section 21 Notice to Quit. One in four private renters has experienced an unwanted move, and many more are aware of the precarity of their housing situation.

Generation Rent believes that all landlords should offer their tenants a long-term home, but accepts that there will be occasions when a landlord has no option but to take back their property from a blameless tenant. We propose that the government replaces the Section 21 process with a system where:

- Landlords are required to give a reason for repossession;
- Tenants are entitled to compensation from the landlord for the cost of moving; and
- Landlords cannot raise rents by more than the rate of inflation.

By introducing protections for good tenants whose landlords force them to leave, and precluding evictions by proxy of an unaffordable rent increase, the government would encourage the sale of homes with sitting tenants, deter abuse of the eviction process and mitigate the stress and cost of moving house.

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<sup>1</sup> English Housing Survey 2013-14, Table 3.5

<sup>2</sup> English Housing Survey, 2014-15, Private Rented Sector, Tables 4.2 and 4.3

<sup>3</sup> English Housing Survey, 2014-15, Private Rented Sector, Tables 3.1 and 3.2

## Background

In the past decade, the number of private renters has doubled, as more households find themselves priced out of home ownership, and unable to access social housing. The private renter population no longer supports the image of a tenure for young people and those who expect to buy in a few years: 1.5m private rented properties are home to children – 36% of the sector. This figure has increased from 868,000 in 2009.<sup>4</sup> More than half of private renter households (52%) are headed by someone over the age of 35.<sup>5</sup>

While home ownership remains an aspiration for most, the government's policies will not have a significant impact; its plan for 200,000 Starter Homes will help less than 5% of the private renter population. The majority will remain stuck in a tenure that they did not choose, with very little ability to settle down given the ease by which they can be evicted.

Whereas 5% of home owners and 7% of social tenants moved in the past year, 30% of private renters did<sup>6</sup>. While a higher churn might be expected given the demographics of the sector, the lower security makes this number higher than it should be. The English Housing Survey estimates that 179,000 private renters were asked to leave by their landlord in the 3 years to 2013 – the majority through no fault of their own (57% of landlords wanted to sell or use the property).<sup>7</sup>

The English Housing Survey does not record the numbers who moved because of increased rent. However, polling in December 2015 by BMG found that of 784 respondents who rented privately, currently or in the past, 27% had experienced losing their home through no fault of their own, including 14% whose landlord had wanted to sell the property, and 7% whose landlord had raised the rent to an unaffordable level.<sup>8</sup>

Examination of Ministry of Justice eviction statistics tells a similar story. Because the no-fault eviction process gives tenants no defence, many will leave upon receipt of a Notice to Quit, and the government does not record the use of these. The government does record eviction cases that reach court in the form of claims through to repossessions by bailiffs. So while these represent only a fraction of Section 21 cases, we can track their rise and fall over time by studying evictions under the “Accelerated” process, most of which are no-fault evictions by landlords.<sup>9</sup>

Generation Rent research found a strong correlation between eviction levels and house prices. When house prices fell in 2008, the number of “accelerated” evictions also fell from an annual high of 7419, as fewer landlords decided to sell. This extra security for renters then fed into rent levels, which saw a brief drop during late 2009 and early 2010.

Then, when house prices started rising in 2010, evictions picked back up from a low of 4963 in 2009 as landlords gained more confidence, and, as new tenancies started, rents started rising. The number of no-fault evictions has continued to climb in tandem with house prices and rents, and stood at 16,441 in 2015. Even accounting for the growth in the private renter population, the risk of being evicted through the no-fault process has more than doubled.

Landlords sometimes claim that Section 21 is an essential option where they have a tenant behind on rent and need to take back their property quicker than the with-fault eviction “Section 8” process

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<sup>4</sup> English Housing Survey, Live Table FA1221

<sup>5</sup> English Housing Survey, 2014-15, Private Rented Sector, Table 1.2

<sup>6</sup> English Housing Survey, 2014-15, Private Rented Sector, Table 1.7

<sup>7</sup> English Housing Survey, 2012-13, Chapter 6 Annex Tables

<sup>8</sup> [http://www.generationrent.org/spinning\\_the\\_roulette\\_wheel](http://www.generationrent.org/spinning_the_roulette_wheel)

<sup>9</sup> Another, smaller category, “Private landlord” evictions, relate to the use of non-accelerated Section 21 claims and Section 8 claims (where the tenant is at fault).

allows. However, rent arrears figures from LSL Property Services shows that since 2009, the proportion of rent in arrears has fallen from 11% to 9%, reaching a low of 7% in 2015. If this was the motivation for no-fault evictions, then we would have seen their numbers fall since 2009.<sup>10</sup>

Instead, the bigger driver of no-fault evictions is a strong seller's market. Section 21 enables people to let out a spare property and then, if they wish, sell it with minimum hindrance. The law has encouraged amateur landlords with no commitment to providing long term homes into the market. The ability of an amateur landlord to evict blameless tenants so easily is incompatible with the need for the wider sector to provide long term homes to increasing number of households, and government policy to prevent homelessness.

According to polling by Shelter in 2012, 66% of private renters would like to have the option to stay in their tenancy longer term if they wanted to. Some 79% said they would like to know that their landlord/letting agent would not be able to raise their rent above a certain rate while they are living in the property.<sup>11</sup> The BMG poll found similar numbers.

Moving home costs private renters a significant sum of money. Letting agent fees, moving costs and overlapping rent on two properties, plus the security deposit that they need to raise before they get their current one back, mean that the typical household needs to find £2041.<sup>12</sup> Finding a new home and moving can also cause a huge amount of stress – on families in particular.

Every home move is a setback in a renter's efforts to raise a deposit for their first home, and typically paying a higher rent in a new home will limit their ability to save even further.

More widely, community links can be broken if a family has no option but to move out of the area, and the expectation that one's home is not really one's own hinders the development of local links in the first place. Moving also disrupts education, both to individual children who have to start a new school, or travel long distances to attend their current one; and to the schools themselves if classes transform within a single school year.

For many, the desire to own one's home will lead renters to abandon expensive parts of the country in order to buy somewhere affordable, and when it is doctors, firefighters and teachers making these choices, public services in the areas increasingly starved of professionals will suffer. An Ipsos-Mori poll found that 64% of private renters in London would consider moving out of the city if house prices and rents continued to rise – 48% said that they were considering getting a job in a different part of the country because of housing costs.<sup>13</sup> Already the net number of thirtysomethings moving from London to another part of the UK has risen by 48% since 2012 – with a similar trend for under-10s.<sup>14</sup> So impacts are economic as well as social.

Moving home against one's will creates unnecessary personal and social costs and the government should keep this to a minimum.

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<sup>10</sup> David Adler, October 2016, [https://d3n8a8pro7vhm.cloudfront.net/npto/pages/4322/attachments/original/1477662310/Evictions\\_report\\_David\\_Adler.pdf?1477662310](https://d3n8a8pro7vhm.cloudfront.net/npto/pages/4322/attachments/original/1477662310/Evictions_report_David_Adler.pdf?1477662310)

<sup>11</sup> Chapter 2, [http://england.shelter.org.uk/\\_data/assets/pdf\\_file/0009/587178/A\\_better\\_deal\\_report.pdf](http://england.shelter.org.uk/_data/assets/pdf_file/0009/587178/A_better_deal_report.pdf)

<sup>12</sup> Based on: a typical two-adult household paying letting fees of £436 ([www.lettingfees.co.uk](http://www.lettingfees.co.uk)), a day's Zipvan hire (£105), 1 week's rent on a second property (£200), professional carpet cleaning (£100), and deposit equivalent to six weeks' rent (£1200).

<sup>13</sup> Question 7 in <https://www.ipsos-mori.com/Assets/Docs/Polls/london-councils-ipsos-mori-2015-tables.pdf>, September 2015

<sup>14</sup> [http://www.generationrent.org/london\\_s\\_housing\\_costs\\_are\\_driving\\_families\\_away](http://www.generationrent.org/london_s_housing_costs_are_driving_families_away)

## Current policy and its limitations

The government has expressed an aspiration for the industry to provide longer tenancies. In 2014 DCLG introduced a Model Tenancy Agreement to help landlords and tenants agree long term tenancies. While many landlords would prefer a long-term tenant, their mortgage lender might insist on 12-month contracts at most. Many lenders have recently changed their terms to allow tenancies of longer than 2 years, which is welcome.<sup>15</sup> However, there is still no mechanism to monitor their uptake. Some letting agents might favour 12-month tenancies which allow them to collect an annual renewal fee and/or try to maximise their commission by increasing the rent regularly.

When most renters are trying to find a home in a highly competitive market, with limited supply, their priorities tend to be a low rent, a convenient location and a property that meets their needs. If they want a longer tenancy, they might feel they cannot ask for one, worrying that the landlord would prefer to let to a less demanding rival. Equally, many renters do not know they can ask for a longer tenancy as they are so used to the practice of short tenancies.

Moreover, many tenants will not know whether they will want to remain in a home for the long term, because they might get a new job, or their relationship status might change, for example. They might be put off from signing a longer term tenancy even if it offered flexibility. But most tenants would prefer to enter a tenancy agreement knowing there was an option to stay put as long as they abided by the terms of the contract. Unfortunately, few tenants have the privilege of knowing if their landlord will want to sell their property in a year's time – or will value maximising rent above retaining reliable tenants.

These types of landlords might be in the minority, but the difficulty of knowing if one's landlord prefers long term tenants, and the small chance that one's home might not be one's own in two months is enough to create a pervasive sense of insecurity for private renters that requires new minimum standards to overcome.

## Proposal for secure tenure

There are several existing proposals for improving security of tenure.

The option of a **hardship test** for a tenant who was facing a no-fault eviction. The court would determine who of the tenant or the landlord had greater need for the home. This would help some tenants stay in their home, but it may make repossession by a landlord impossible if they had legitimate grounds. This may discourage supply of private rented homes.

**Three-year tenancies with limits on rent increases** were proposed by the Labour party at the 2015 election. Shelter proposes five-year tenancies. We would support these if they were made law, but we have one criticism: that after the fixed term, a landlord might evict the tenant rather than renew the tenancy, especially if market rents were at a much higher level than the tenant was paying.

This shortcoming could be avoided through **indefinite tenancies**, for which the Scottish Government has legislated; they will be introduced in December 2017. The tenancy ends by the landlord or tenant serving appropriate notice, so the assumption is that the tenancy will last indefinitely. The Section 21 eviction process will be abolished, and landlords will be required to give grounds for eviction, which include no-fault grounds.

Although tenants will now have a reason for being forced to move, they must still find the money to secure a new home. This is also a feature of some proposals for multi-year tenancies. While the landlord will be legally obliged to sell the property, or occupy it, depending on the grounds cited, it

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<sup>15</sup> <http://blog.shelter.org.uk/2016/06/mortgage-lenders-open-up-buy-to-let-to-longer-tenancies/>

would require enforcement to give the law any weight. Even if a tenant evicted on false pretences were eligible for compensation if the landlord was found out, tenants evicted on legitimate pretences would still have to pay for their unwanted move.

For this reason, Generation Rent proposes a model similar to Scotland's, but where the landlord cited grounds where the tenant was not at fault, they would need to compensate the tenant for the upfront cost of moving. This could be standardised as three months' rent. The figure should be large enough to both minimise hardship to the tenant, and deter landlords from evicting their tenants simply in order to bring new tenants in at a higher rent. Tenants should also be protected from landlords raising the rent unreasonably to achieve the same effect.

Two fifths of private tenants (41%) report that the two-month notice period is currently too short to allow them to find a new place to live.<sup>16</sup> We recommend that the notice period is extended to at least three months.

With these protections in place, once an assured shorthold tenancy ended there would be no need to renew the contract (and incur the costs), and the tenancy would become a statutory periodic tenancy. Landlords would retain the ability to take possession from tenants who had breached the tenancy agreement through Section 8.

We note that in Germany, for example, landlords do not have this route available to them – if they wish to sell, the buyer must accept the tenants as part of the deal. We would support such a system, but recognise that it would require extensive changes to practices in England's property market. Our proposal acknowledges the circumstances where landlords have little option but to repossess their property regardless of the tenant's record, but aims to ensure that a tenant who picks such a landlord is not disadvantaged.

Under our system, a landlord who decides to sell or renovate his property would, with a payment, help his blameless tenants search for and move into a new home. The sum involved will be small compared with the price of the property when it is sold, or the investment required for a major renovation.

Conversely, a landlord who simply wants to charge a higher rent than his current tenants can afford will not find it economical to evict his tenants using the new procedure. But even if they did, the tenants would be supported.

Generation Rent recently surveyed over 1000 supporters, most of whom rent privately, and asked them whether each of these proposals would improve their housing situation. Both the three-year tenancies and compensation would help 58% of respondents a lot and a further 27% a little. For 62% a longer notice period would help a lot, and help another 25% a little. Limiting rent increases to inflation would help 81% a lot. Requiring landlords to prove that a tenant was at fault in order to evict – essentially the German system – was slightly less favoured, by 55%.

There are some circumstances where our proposed reform may be challenging, but there are already widespread practices that offer a solution:

- For example, a landlord might not have funds to pay the compensation, but they would still have the option to sell the property with sitting tenants, which is already an established practice.
- Similarly, if the landlord defaults on their mortgage before they have a chance to exit the market, the lender should be required to appoint a receiver of rent – again, an established practice, but one which should have greater support in law.

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<sup>16</sup> English Housing Survey, 2014-15, Private Rented Sector, Table 3.3

The requirement may deter some people from becoming landlords, but with the private rented sector home to increasing numbers of families, we do not believe that it is appropriate for the legal framework to encourage amateur landlords who are not committed to providing long term homes.

Any reform would also need to curtail the ability of a landlord to in effect force tenants to leave by making the property too expensive for them to continue living in. Landlords' costs rarely rise and two thirds of private rented housing is not mortgaged.<sup>17</sup> Indeed, National Landlords Association figures indicate that most landlords don't raise sitting tenants' rent, an experience reported by 59% of our survey respondents who had lived in their home between 1 and 3 years.<sup>18</sup> We believe that all tenants should have this right to certainty about their rent. Given prevailing practice, it should not be a great burden on landlords to restrict their ability to raise the rent by more than the rate of inflation. This would prevent landlords using means other than permitted grounds to force tenants out of their homes. It would also help renters to plan their finances better and save more for a deposit on a first home.

By disincentivising unfair evictions of good tenants, these changes would give the growing number of families and individuals in the private rented sector greater certainty about their home, and the knowledge that an unwanted future move would be less arduous. It would reduce rates of homelessness and give tenants greater confidence in demanding better conditions from their landlords. This change would thus take a significant step towards making private renting more bearable for people who have no other option, and – for many – a tenure of choice.

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<sup>17</sup> [http://www.generationrent.org/landlords\\_and\\_mortgages\\_what\\_do\\_we\\_know](http://www.generationrent.org/landlords_and_mortgages_what_do_we_know)

<sup>18</sup> <https://landlordnews.co.uk/tenants-believe-rent-value-for-money/>