



A safe place to call home

Ending unfair evictions & reforming renting

Foreword

“Everyone has the right to a secure and decent home. For too many of England’s 11 million private renters, this basic right is out of reach. In the two years since the Government pledged to end Section 21 ‘no fault’ evictions, the world has been turned on its head. The pandemic highlighted the insecurity built into the private rented sector, and the poor and overcrowded conditions that many have experienced for years. Reform of the private rented sector is evidently long overdue, and the Government’s upcoming White Paper provides an opportunity to transform our housing system and deliver lasting change. Generation Rent has long called for an end to Section 21, but this paper is an opportunity to go further. This report sets out our vision for a private rented sector which provides a stable home for everyone who relies on it.”

Alicia Kennedy, Director, Generation Rent



Summary

We are calling on the Government to:

- **End unfair evictions and introduce indefinite tenancies.** It is not right that landlords can evict a tenant without giving a reason. Section 21 must be abolished, with indefinite tenancies becoming the norm. The Government must make sure that tenants cannot be evicted through no fault of their own through other means in the new system, except in very limited circumstances.
- **Support tenants when forced to move.** If landlords wish to evict a tenant to sell the property or live in it themselves, they must pay the tenant's relocation costs to mitigate the disruption of an unwanted move.
- **End automatic evictions for rent arrears.** Renters should not face automatic eviction in the event of unforeseen economic shocks. The mandatory section 8 ground 8 should be removed, leaving landlords to use the discretionary ground 10 instead. Evictions should only take place as a last resort.
- **Protect tenants from retaliatory rent hikes and economic evictions.** At present, there is very little to prevent unscrupulous landlords from raising the rent to force a tenant to leave the property. Economic evictions - rent rises which force an eviction - must be prevented, through limiting rent increases within tenancies.
- **Introduce four-month notice periods and a permanent winter truce on evictions.** Longer notice periods will allow tenants to prepare for the upheaval of an unexpected move, and a pause on enforcement action in winter will protect vulnerable households from homelessness.
- **Introduce a national register of landlords.** One in seven privately rented homes are unsafe, and criminal landlords are rarely prosecuted. A national register of landlords would drive up standards and keep renters safe. A new national regulator for private rented sector (PRS) would oversee the running of the register.
- **Make deposits fair.** A new 'lifetime deposit' should minimise upfront costs and prevent landlords from making false deductions.
- **Allow renters to make a house their own.** Renters should be free to make minor changes and improvements to their property, to ensure their house feels like a home. The Government's model tenancy agreement should be made mandatory to enable more renters to own pets.
- **Allocate funding for local enforcement teams.** Annual ring-fenced budgets would enable council enforcement teams develop long-term enforcement plans and facilitate the return of Tenancy Relations Officers.
- **Fund tenant engagement programmes to improve tenant awareness of their rights.** Raising tenant awareness is crucial in ensuring that tenants reap the benefits of new rights. The Government must fund local authority engagement programmes to raise tenant awareness of the new rights afforded to them under new legislation, alongside existing rights.



Introduction

The private rented sector has doubled in size since 2000 and is now the second most common tenure in the UK. Despite this, no significant reform of tenure law in England has taken place since the 1980s, and 11 million private renters live in a sector that is not currently fit for purpose. Relative to other tenures, private renters spend more of their income on housing, report lower satisfaction, and are more likely to live in homes that are unsafe.¹ Until March 2020 when emergency coronavirus legislation was introduced, private renters on assured shorthold tenancies (ASTs) could be evicted with just two months' notice.

In April 2019, the Government pledged to end Section 21 'no fault' evictions, which allow landlords to evict tenants without giving a reason, and in December 2019 set out their intention to introduce a Renters Reform Bill. In the Queen's Speech 2021, the Government confirmed their commitment to "building back fairer and having a Better Deal for Renters in England."²

The Covid-19 pandemic caused significant upheaval to almost every part of society. In response to Covid-19 significant changes to tenancy law and court process were introduced, and the insecurity of the private rented sector was laid bare. In March 2020, the Government extended notice periods from two to three months and suspended all court action until September 2020. Notice periods increased further, to 6 months, from August 2020. New court processes were agreed to prioritise cases progressing through the courts once the stay was lifted. During the second and third national lockdowns, the courts remained open to process evictions, but bailiffs were prohibited from enforcing orders in all but limited cases.

While these measures were introduced in response to an unprecedented crisis, on public health grounds, rather than as part of the Government's commitment to tenancy reform, their impact was nonetheless significant. Lessons learned from the pandemic can and should inform decisions on tenancy reform once the pandemic has subsided. While the pause on possession proceedings and longer notice periods undoubtedly reduced the number of evictions, local authorities and advice providers reported a sharp increase in illegal evictions. A growing body of evidence suggests that overcrowded

housing in the private and social rented sectors contributed to the higher rate of Covid fatalities amongst Black and Minority Ethnic (BAME) communities. Tenant and landlord groups both reported rising rent arrears as tenants struggled with the financial impact of Covid-19, yet courts were legally bound to evict if tenants owed more than two months' rent. Despite measures to introduce some degree of prioritisation of cases and mediation introduced into the courts system in the case of tenants with rent arrears, no attempt was made to change the legal obligation of the courts to grant landlords possession. The pandemic has highlighted the insecurity of the current system and provides many lessons on how new legislation can address this. And while the pandemic delayed the progress of the Renters' Reform Bill in England, the new system continued to operate in Scotland, and new research has emerged on how a new post-section 21 tenancy system was working for tenants and landlords.

The upcoming reforms are an opportunity to deliver transformative change for 11 million private renters and create a fairer housing system. Using new polling and existing research drawing on lessons learned from both the pandemic and the implementation of tenancy reform in Scotland, this report sets out Generation Rent's vision for a sector in which every private renter has a secure and decent home and proposes a package of interventions to achieve this.

1. <https://www.gov.uk/government/statistics/english-housing-survey-2019-to-2020-headline-report>
2. <https://www.gov.uk/government/publications/queens-speech-2021-background-briefing-notes> (page 113)
3. <https://www.gov.uk/government/statistics/mortgage-and-landlord-possession-statistics-january-to-march-2021/mortgage-and-landlord-possession-statistics-january-to-march-2021> (page 113)
4. <https://www.theguardian.com/society/2020/aug/23/no-place-like-home-illegal-evictions-in-shadow-sector-soar-in-lockdown>
5. <https://publications.parliament.uk/pa/cm5801/cmselect/cmwomeq/384/38408.htm>



1. Tenancy reform

The background to the 2021 Queen's Speech sets out the Government's intention 'to abolish Section 21 'no fault' evictions and improve security for tenants in the rented sector, as well as strengthening repossession grounds for landlords when they have valid cause⁶. This is an important opportunity to deliver genuine security for tenants.

Our proposals

Introduce indefinite tenancies

Once section 21 is abolished, tenancies should be indefinite by default. The pandemic has demonstrated that the insecurity of the private rented sector is not fit for purpose. Even with the eviction ban in place, the threat of having to leave their home proved an ongoing concern for a significant minority of renters.

'Survation polling for Generation Rent conducted in 2021 found a third of renters (32%) were concerned about the possibility of their landlord asking them to move out between March 2020 and March 2021.'⁷

Following the abolition of section 21, the Government should formalise open ended (indefinite) tenancies, which would provide both security and flexibility for tenants. Tenancies would be ended either by the tenant, or a landlord using one of the grounds in the new system.

Indefinite tenancies were introduced in Scotland in 2017, and initial evidence suggests that both tenants and landlords have responded positively to the changes. The Rent Better Tenants Survey, examining tenants' and landlords' experience of the new

tenancy system in Scotland, found the vast majority of tenants were generally satisfied with their rented property – 92% were either 'quite' or 'very' satisfied. Almost two thirds (63%) of landlords surveyed in Scotland reported that the ending of Section 21 'no fault' evictions had 'no impact' on their business.⁸ Research conducted by Shelter in 2019 found tenants in Scotland reported less worry over becoming homeless, felt less locked into tenancies, and had more faith in politicians since the introduction of indefinite tenancies.⁹

Remove automatic eviction for rent arrears

The economic shock of Covid-19 saw hundreds of thousands of rented households struggle to pay the rent for the first time; with 41% of tenants reporting a loss of income since 2020¹⁰ and the arrears rate tripling, from 3% to 9%.¹¹

This spike in arrears highlighted the lack of security and flexibility built into the current tenancy system; at present, section 8 ground 8, for rent arrears, is mandatory, meaning the court must grant possession if the tenant is in two months (or 8 weeks) of arrears. The White Paper and subsequent legislation provides an opportunity to introduce greater flexibility and discretion, in recognition that tenants' finances are subject to

6. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853886/Queen_s_Speech_December_2019_-_background_briefing_notes.pdf

7. https://www.generationrent.org/survation_april_2021

8. <https://rentbetter.indigohousegroup.com/wp-content/uploads/sites/3/2020/11/Landlord-and-Letting-Agent-survey-report-Wave-1-published.pdf>

9. <https://blog.shelter.org.uk/2019/06/scotland-is-proof-we-must-abolish-section-21/>

10. https://www.generationrent.org/survation_april_2021

11. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/978991/Household_Resilience_Study_Wave_2_November-December_2020_Report.pdf

sudden and unforeseen shocks. Eviction for rent arrears should only be used as an absolute last resort. Section 8 ground 8 should be removed from the new system. Landlords wishing to evict a tenant for rent arrears would be able to use the existing ground 10 instead. Ground 10 is discretionary, meaning that if cases go to court, a judge can decide whether it is reasonable to make a possession order. Relying solely on ground 10 would prevent tenants from being evicted unless other routes had been exhausted. This would benefit tenants who were in arrears but only for a short period, or who were making reasonable efforts to pay off arrears. The removal of ground 8 would also prevent tenants in receipt of benefits who are behind on rent due to administrative errors from being evicted, and at risk of homelessness through no fault of their own. This policy would disproportionately benefit black renters, who are three times more likely to be without a home than people from all other ethnicities combined. A version of this system already exists, it is not uncommon for Housing Associations to commit to not using ground 8 evictions, in recognition that the inflexibility built into the mandatory element of the system harms tenants.

This change would not place undue burden on landlords' finances, as it would benefit tenants who have suffered a sudden and likely temporary income shock, rather than those who are unwilling or unable to make payments over the longer term. Government data on the profile of landlords suggests the vast majority would be able to weather a short-term income reduction. Half of private rented sector tenancies are let by landlords with five or more properties. Just 4% of landlords let out property as a full-time business, most landlords' income from rent makes up less than half of their total gross income.¹²

Introduce relocation payments for tenants forced to move

In a 2019 consultation the Government proposed introducing new grounds for use when a landlord wishes to sell or live in a property themselves. In these cases, the tenant is not at fault, as they have not broken the terms of the contract. There will always be some circumstances in which the landlord will need to take possession of the property without the tenant being at

fault. However, if these grounds are introduced as mandatory and without a deterrent, they will permit unfair evictions to continue after the abolition of section 21. They would also be open to abuse by a minority of unscrupulous landlords.

The Government must put in place measures to reduce instances of possessions under the new grounds and prevent abuse of the new grounds, while ensuring that support is provided to tenants faced with the expense and stress of an unwanted move.

To achieve this, the ground must be discretionary, enabling a judge to decide whether it is reasonable to grant an eviction.

If an eviction is granted, the landlord must pay the tenant's relocation costs, set at no less than 2 months' rent, as well as providing tenants with 4 months' notice.

The relocation payments would mitigate both the cost and disruption incurred by the tenant experiencing an unplanned house move.

Owner occupiers and social tenants are already entitled to compensation in the event of an unplanned move. Private renters should be offered the same protections as those with other tenures. Owners and social tenants are eligible for Home Loss Payments under the Land Compensation Act 1973, in acknowledgement of the distress and inconvenience of an unplanned move. Social tenants are entitled to a flat rate.

Under the new Home Loss Payments (Prescribed Amounts) (England) Regulations 2019, any occupants who are displaced on or after 1 October 2019 will be entitled to £6,400. Private renters should be offered the same protections as those with other tenures. Removal costs are also payable to private tenants if the landlord is using section 8 grounds 6 or 9 of the 1988 Housing Act.

12. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775002/EPLS_main_report.pdf

These payments would aid around 50,000 tenants per year. Around 146,000 private tenants were asked to leave their home by their landlord between 2015 and 2018, leaving them with the costs of moving home, which includes finding a new deposit, paying rent on two properties at the same time, the costs of cleaning and removals, and time lost in packing, cleaning, moving and unpacking.¹³ Generation Rent estimates this to be £1402 to the typical household.¹⁴ The payment would be made at the time an eviction notice is issued. Introducing relocation payments at this stage would minimise hardship faced by tenants and discourage landlords from using the new grounds except when necessary, thereby reducing abuse. A majority (58%) of respondents polled by Survation across all tenures supported relocation payments.¹⁵

If the payment were to be introduced, MHCLG would work with the Department for Work and Pensions to ensure this payment would not impact benefit payments for those receiving housing benefit or Universal Credit. These tenants are likely to benefit most from the payments. We propose that the Government introduce an earnings disregard, and these already exist for calculating housing benefit.

As well as the relocation payment, landlords intending to use this ground would have to give prior notice at the outset of the tenancy and register this at the point of use. This would warn the tenant, and further prevent abuse of this ground, as unscrupulous landlords would be unable to use this ground opportunistically to force an eviction for other reasons.

An effective deterrent, rather than relying on a court or tribunal system alone, is essential to minimise improper use of these new grounds. Evidence from Scotland suggests that reliance on the Tribunal system is not strong enough to prevent misuse. In Scotland, landlords wishing to sell a house must use 'ground 1', which is mandatory. Landlords must prove their intent to sell, for example with a letter from a solicitor or an estate agent, or a recent home report for the property. A Tribunal can issue a wrongful termination order if the grounds are misused. To date only one wrongful termination order has been issued.¹⁶ In this

case the tenant had already been evicted before the landlord was penalised and ordered to pay the tenant £1,350. Preventing misuse of these grounds through a deterrent rather than issuing penalties retrospectively would be far less disruptive for tenants.

Restrict rent increases to prevent economic evictions

Following the abolition of section 21, rent rises within tenancies must be restricted to ensure that they are not used as a mechanism for eviction.

The Affordable Housing Commission notes that without regulating rent rises within tenancies, *'unscrupulous landlords will be able to force tenants to move out, despite the change in the law, simply by insisting on huge increases in the rent.'*¹⁷ An unaffordable rent rise that forces a tenant to move is referred to in this paper as an 'economic eviction'.

Generation Rent proposes that following the abolition of section 21 and introduction of indefinite tenancies, rent increases within tenancies should be capped at no more than ONS wage inflation. This would give tenants an incentive to request repairs without the risk of being priced out of their home, and maintains a link with what tenants can afford to pay. Our proposed restriction on rent increases would only apply to existing tenancies. Landlords would not be restricted from listing new tenancies in line with market rates. This measure would have limited impact on the affordability of rents overall but would prevent tenants from suffering 'economic eviction' and would provide security of tenure.

Currently, tenants in England can challenge a rent increase using the First Tier Tribunal, but there are several weaknesses with relying on the tribunal system in its current form to combat a rent increase that would lead to an eviction. The tribunal system uses the current market rate at a benchmark when considering whether to allow a rent increase, meaning tenants living in

13. [English Housing Survey 2017-18, Annex Table 3.4](#)

14. https://www.generationrent.org/landlords_should_pay_tenants_moving_costs_the_case_for_relocation_payments

15. [ibid](#)

16. <https://www.scottishhousingnews.com/article/ground-breaking-decision-highlights-inadequate-protection-for-prs-tenants>

17. <https://www.affordablehousingcommission.org/news/2020/3/23/making-housing-affordable-again-rebalancing-the-nations-housing-system-the-final-report-of-the-affordable-housing-commission>



areas where rents are rising faster than incomes would not be protected from a rent increase. Only a tiny proportion of tenants use the tribunal to challenge a rent increase – just 248 decisions relating to rent increases were made by the tribunal in England in 2019.¹⁸ No reliable data exists on tenant awareness of the tribunal. While we could expect that tenants would be more willing to challenge a rent increase at a tribunal once the risk of a section 21 eviction is removed, the tribunal alone is unlikely to function as an effective mechanism to counter rent increases and economic evictions.

Evidence from Scotland indicates that removing Section 21 alone is not enough to increase tenant awareness of and engagement with a Tribunal system. A 2020 survey conducted by Indigo House and Nationwide Foundation found that while two thirds of tenants surveyed were confident in challenging

their landlord or letting agent, just 32% were aware of the new First Tier Tribunal set up to deal with disputes, including rent increases, and less than 1% had direct experience of it. This is compared to the 18% who had reported an annual rent increase. To combat economic evictions, restrictions on rent rises are essential.

If rent increases per year were capped, this may provide an incentive to some landlords to raise the rent by the maximum allowed every year, when they otherwise may not have done. This could prove inflationary in areas where rents may otherwise be falling. To combat this, a modified version of the tribunal system could exist to help tenants challenge a rent increase that may be out of line with the market.

18. <https://www.theyworkforyou.com/wrans/?id=2020-10-22.107647.h&s=how+many+residential+property+tribunal+decisions+were+made+speaker%3A24742#g107647.q0>

19. <https://rentbetter.indigohousegroup.com/wp-content/uploads/sites/3/2020/11/Wave-1-Baseline-Report-published.pdf>



Introduce 4-month notice periods for new grounds

The Government's introduction of 6-month notice periods in August 2020 was welcomed by both housing charities and campaigners. Suration polling commissioned by Generation Rent demonstrates the decision was also popular with tenants. A majority of tenants asked by Suration thought that 6 months was adequate or more than enough notice (78%), with just 17% saying it was not enough.²⁰

While 6-month notice periods were introduced in response to an unprecedented health crisis, and implemented on public health grounds, the broad support for longer notice periods in general should give the Government confidence in increasing notice periods permanently. Landlords using new grounds where the tenant is not at fault should provide tenants with a minimum of four months' notice. This would allow tenants to prepare for the upheaval of an unexpected move. Four months' notice would enable tenants to secure alternative employment and to serve notice periods at work, if forced to resign and move to a new area. Four months' notice would also allow tenants to plan any moves outside school term times, minimising children's educational upheaval.

Introduce a permanent winter truce on enforcement action

The Government's introduction of a 'winter truce' on bailiffs enforcing evictions, between 11 December 2020 and 11 January 2021, was welcomed by the housing sector. This initiative should continue permanently in some form, in recognition of the public health implications of losing a home in winter. Renters who face eviction in winter could face homelessness as a result, and cold temperatures claim lives of homeless people each year.

We propose a permanent hold on enforcement action by bailiffs between October and February every year. This would not stop landlords from serving notice or pursuing court action, but would provide a reprieve for tenants who may otherwise face homelessness in the winter months.

20. https://www.generationrent.org/suration_april_2021

2. Deposits

The background to the 2021 Queen's Speech sets out the Government's intention to introduce 'a new 'lifetime' tenancy deposit model that eases the burden on tenants when moving from one tenancy to the next.' The Government's proposed lifetime deposit scheme is an opportunity to remove the upfront costs involved in moving and improve the dispute resolution system.

The current deposits system leaves tenants with significant cash flow issues when moving home. Tenants are asked to pay 5 weeks' rent upfront for a new deposit and cannot access hundreds of pounds of their existing deposit in protection schemes until they have started their new tenancy.

A Generation Rent survey conducted in 2019 found two thirds of respondents reported struggling to afford a deposit.²¹

Tenants have little faith in the dispute resolution system. They frequently experience delays in having their deposits returned, face unclear expectations about what is deductible, unfair dispute processes, and little accountability of schemes regarding their decisions.²²

Our proposals

Introduce a lifetime deposit passporting system

The Government must introduce a modified version of the existing custodial deposit system, which allows a tenant to 'passport' a deposit between properties and save on upfront costs. Funds would be held on the tenants' behalf, and actively managed by an accredited third party. Insurance based schemes, meanwhile, would be gradually phased out.

Tenants' money would be held securely by a Government approved provider in the tenants' name. The money would

be allocated to a landlord or property as the tenant moves to a new house. Each tenant would have their own account, meaning that those in shared houses would have multiple accounts linked to the same property. In cases where tenants in a shared house are jointly and severally liable for damage, deductions would be taken equally from all accounts unless otherwise agreed.

Upon payment of the final month's rent, the landlord would confirm receipt. A tenant would make a request to passport the deposit within the scheme to the next landlord and the outgoing landlord would confirm this. Once any dispute process had taken place, and the tenant had made any necessary top-ups to the fund, the deposit would be allocated to the next landlord. The scheme would assess and provide assurance that the tenant is able to pay any top-ups, in the event of deductions.

The next landlord would therefore have confirmation from the scheme that they would receive the deposit on a set date. The scheme would be free to use, and funded by the interest on deposits.

Standardise the disputes process

An effective passporting system relies on a fast, transparent and standardised disputes process. Faith that the deposit would be passported swiftly to the next landlord is essential in building trust in the system. The Government must reform and standardise the disputes process alongside introducing a passporting product.

21. https://d3n8a8pro7vhmx.cloudfront.net/npto/pages/7143/attachments/original/1571413815/Tenancy_Deposits_-_Generation_Rent_submission_110919.pdf?1571413815

22. *ibid*

Currently, 50% of tenants experience deductions or attempted deductions on their deposits. Major providers have different processes for handling deductions and disputes. Inventory processes vary significantly between agents. This contributes to a lack of clarity on the correct process on both sides, leading to avoidable and often unfair deductions. Data from the English Housing Survey suggests just 62% of tenants get their deposit back in full. Currently, tenants wishing to challenge a deduction often wait months, despite most schemes stating tenants should expect maximum wait times of 28 days.

An effective dispute resolution process must be user focused, encourage active participation and be proportionate and fair. It must also be compulsory; the current system requires consent from Landlords in England and Wales. Under the new system, multiple providers would have to sign up to a standardised disputes process, and this would be written into standard tenancy agreements. Standardising the process would help ensure that it is well understood by both landlords and tenants. This process would ensure that no deductions would be made until both parties have had an opportunity to submit evidence and answer any clarifications.

In order to make a claim for a deduction, landlords must fill out an application form, indicating clearly under what clause of the tenancy agreement the claim is being made. They must also provide supporting evidence of this claim, including invoices/quotes for services such as cleaning. This process should not take longer than 28 days, from the end of the tenancy. If no deductions are made, the deposit should be transferred within the scheme to the new landlord within 10 days, with tenant consent. If deductions are accepted, the remaining deposit will be allocated, within the scheme, to the new landlord within 28 days. If a deduction is disputed by the tenant, they should be able to contest this further. The remaining portion of the deposit is passported, while the claim can be disputed for a further 28 days, using the scheme's formal complaints process.

Unsuccessful claims by the landlord should be monitored, using a 'points' style system, and displayed on a public landlord

register. Repeated unsuccessful deductions should result in penalties. There is currently no penalty for landlords making inaccurate or vexatious claims, meaning there is no reason for a landlord not to attempt deductions.

Introduce a zero interest deposit loan scheme

A passporting scheme does not address the high costs involved with entering the PRS for the first time. Leading homelessness charities, including Crisis, Centrepoin and St Mungos, state that high costs are a barrier to accessing private rented housing for individuals that have recently been made homeless.²³ Generation Rent supports a zero-interest deposit loan scheme to enable people without savings and on lower incomes to access the PRS for the first time.

Regulate 'zero deposit' products

The White Paper is an important opportunity to review the regulation of 'zero deposit', deposit replacement or deposit free schemes. Zero deposit products offer renters the option to pay a weekly or monthly fee instead of a deposit. These schemes cut the upfront cost of a deposit, but ultimately cost the tenant more than a traditional deposit, as they are non-refundable and tenants remain liable for any deductions. Generation Rent analysis found three leading zero deposit products were hundreds of pounds more expensive than a traditional deposit.²⁴ That the schemes are primarily appealing to those without access to the money upfront, means they often act as a 'poverty premium'. Furthermore, a lack of regulation means this product is often poorly understood by renters and can be mis-sold. The Government must review regulation of these products in line with affordability criteria, to ensure that they do not cost renters on low incomes significantly more than a traditional deposit product.

23. <https://www.crisis.org.uk/about-us/the-crisis-blog/help-to-rent-funding/>

24. <https://www.generationrent.org/deposit-free-products>



Allow renters to make a house a home

Renters are often prevented from making minor changes to properties they live in, such as painting or hanging pictures from walls. They also face many barriers to pet ownership. In response to evidence suggesting just 7% of landlords offered pet-friendly properties, the Government updated its model tenancy agreement to include consent for tenants to have pets. We recommend adding clauses to allow tenants to make small changes to their home. To strengthen this, the Government should create a statutory obligation on the landlord to offer the model tenancy agreement in the majority of circumstances.

7%

Only 7% of landlords offered pet-friendly properties

3. Enforcement

The background to the 2021 Queen's Speech sets out the Government's intention to "bring forward reforms to drive improvements in standards in rented accommodation...ensuring well targeted, effective enforcement that drives out criminal landlords."

It is essential that the significant changes to tenancy law are made alongside efforts to improve tenant awareness and the capability of local councils and law enforcement to take action against landlords who are breaking the law. Illegal evictions increased by up to 50% during the pandemic²⁵. This demonstrates that if significant changes to tenancy law are made in isolation, a minority of criminal operators will simply resort to illegal activity, rather than complying with the new system. At present, despite extensive powers handed to them under the Housing and Planning Act 2016, enforcement of regulation by local authorities is patchy. This is evidenced by low housing standards and low prosecution rates. One in seven privately rented homes has a category 1 hazard, which indicates the property is not safe to live in. These conditions directly affect renters' health.

50%

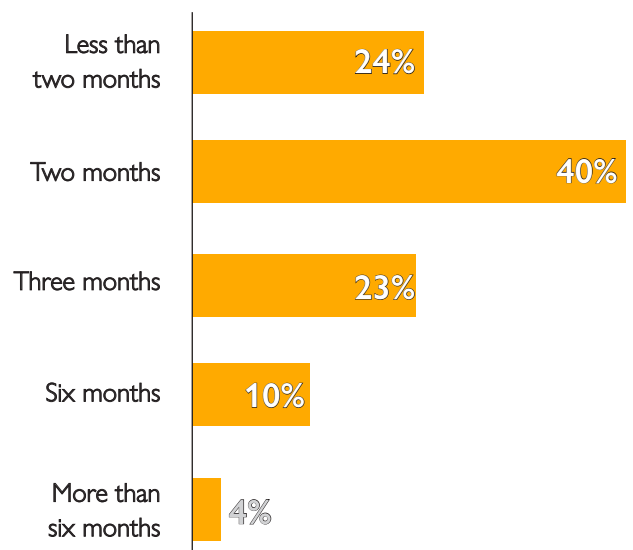
Illegal evictions increased by up to 50% during the pandemic.²⁵

Over 2.7 million private renters have suffered mental health consequences and more than 2 million have been made physically ill as a result of their housing circumstances.²⁶

Data from FOI requests indicates that, on average, for every improvement notice served by a council to a landlord in 2019-20, four category 1 hazards were identified. This means that even for the minority of serious hazards that are actually identified by council officers, three quarters do not result in enforcement action. Enforcement varies between councils, while some issued notices in 90% of cases of unsafe homes, others failed to serve a single notice.²⁷

Survation polling for Generation Rent suggests widespread non-compliance with the new longer notice periods introduced in March 2020, in response to the coronavirus pandemic. Of tenants asked to leave by their landlord from March 2020 onwards, two thirds (64%) received two months' notice or less.

Q19: Roughly how much notice did your landlord give you?



25. <https://www.telegraph.co.uk/investing/buy-to-let/complaints-of-illegal-evictions-rise-50pc-as-more-landlords-igno/>

26. <https://www.theguardian.com/society/2020/jan/15/private-renting-making-millions-sick-england-poll>

27. <https://www.generationrent.org/three-quarters-of-tenants-in-unsafe-homes-go-unprotected>

Likewise, tenant awareness of their rights and routes to redress is low. Survation polling for Generation Rent in 2021 found that just a 23% of renters recall receiving the Government's How to Rent Guide. This guide contains essential information landlords are required to provide.²⁸ The same is true for new 2020 coronavirus measures. Just 24% of tenants were aware of the Government's eviction ban, and 26% were aware about the longer notice periods.

Our proposals

A National Regulator for the PRS

No single body is responsible for regulation of standards in the PRS. At present, enforcement against landlords is conducted at a local authority level. Letting agents must be members of redress schemes, deposits are registered with multiple providers, yet there is no single body overseeing this nationally.

A regulator, as supported by Shelter, the Affordable Housing Commission, and others, would have oversight of the sector and be responsible for ensuring that existing enforcement processes are operating effectively, as well as overseeing new ones. This would include a national landlord register, which we have outlined below. The regulator would also be able to oversee further enforcement measures introduced outside the scope of the upcoming reforms.

The register would be funded through a combination of central government funding and contributions from the sector.

A national landlord register

Over 2 million private landlords are active in England, and there is no single database covering those that operate in the sector, nor any licence or registration necessary to operate as a landlord.

Council enforcement teams lack the information and resources necessary to enforce against criminal landlords.

The Government's rogue landlord database is welcome, but is not widely used and is limited as an enforcement tool. Only 38 landlords and property agents have been placed on the database to date²⁹, and just three banning orders have been made. The database alone will not provide an accurate picture of the market and will only cover landlords who have been subject of enforcement action by the council. Rather than being compulsory, the decision to add a landlord to the register is at the local authority's discretion, meaning many criminal landlords never make it onto the database.

A national register of landlords would set minimum standards landlords would have to meet to operate and provide invaluable information on the sector to aid enforcement teams. Both Wales and Scotland operate landlord registration schemes which allow tenants to check easily if their home is registered: the Scottish Landlord Register, introduced in 2004, and Rent Smart Wales, which came into force in 2015, and became mandatory in 2016.

A national register of landlords would make it compulsory for all landlords (who grant possession of their properties to tenants, in return for a rent) to register and provide basic information; such as the address, rent, number of tenants, and the tenancy start and end date. As a minimum, the register should compel landlords to provide documents that prove the property is decent and safe, such as an Energy Performance Certificate that complies with recent regulations, gas and electrical safety certificates. The register would be overseen by a dedicated PRS regulator (see above) which would assess whether the landlord passed a 'fit and proper person' test, as is the case in Wales and Scotland. The Government should also consider collecting data on landlords' deposit claim history and rents charged for the property. Generation Rent research found this information was most sought after by tenants, and it would provide valuable information to policymakers, seeking to make housing more affordable. The requirements would apply to tenancies of all lengths, including short term holiday lets and 'AirBnB'-style arrangements. Landlords would pay a small fee (less than £100) to register.

28. https://www.generationrent.org/survation_april_2021

29. <https://www.theyworkforyou.com/wrans/?id=2021-03-25.176080.h&s=rogue+landlord+database#g176080.q0>

The register would be publicly available, and so accessible to tenants, council enforcement teams and other regulatory bodies. To check if the landlord of a property is registered, individuals could search online using the address or a unique property reference number (UPRN). Renting out a property without being registered would be a criminal offence. Landlords who are not registered would face fixed penalty notices and/or Rent Repayment Orders.

The register would allow councils to better understand the PRS in their local authority. Enforcement teams could target properties that are not currently on the register, eliminating those that are registered, or known to be privately or council owned, to identify landlords more likely to be offering substandard accommodation. They could also compile lists of, for example, properties where no one is registered to vote or where there are council tax arrears. They could then delete from these lists all known social tenured homes and owner-occupied homes, giving them a clear understanding of the PRS in their area. The remaining addresses could then be prioritised for inspection. A national landlord register would also enable enforcement teams to take action against rogue landlords with multiple properties. Once a hazard was identified, all other properties would be flagged with the team. Targeting enforcement would lead to higher levels of prosecutions, driving up standards for tenants and raising revenues through PCNs for local authorities.

In 2019, the Housing, Communities and Local Government Committee recommended introducing a national landlord register. The 2018 Rugg review, from the University of York, also recommended that a landlord and letting agents register be introduced, alongside the Chartered Institute for Environmental Health, Chartered Institute for Housing and British Property Federation. The government's own review of the selective licensing regime recommended introducing a national register.

Ringfenced funding for local enforcement

In addition to information and oversight, councils require additional resources to effectively enforce against the PRS. The PRS has doubled in size since 2000, but council budgets have not kept up with the pace of growth. Councils require increased funding, specifically, ring-fenced annual budgets instead of piecemeal “rogue landlord” grants. Annual ring-fenced budgets would enable council enforcement teams to plan for the future and develop strategic and tailored long-term approaches to enforcing against criminal landlords, rather than relying on small, unreliable pots of money. Among other things, this funding could support the reintroduction of Tenancy Relations Officers, many of which have been removed from housing teams in response to budget constraints.

Tougher penalties against illegal eviction

The increase in illegal evictions, during the coronavirus pandemic, has highlighted the inadequacy of current legislation in protecting tenants. When Section 21 is abolished, tougher measures against the minority of criminal landlords who will use other means to remove a tenant are essential. Currently local authorities have too few resources to enforce the Protection from Eviction Act 1977 effectively, and while the Police also have powers, no single body has responsibility for protecting tenants and preventing illegal evictions. Generation Rent supports the initiatives put forward by Safer Renting³⁰ in their 2020 Report, Journeys in the shadow Private Rented Sector, including:

- Making landlords who perpetrate illegal eviction pay for the related costs, such as rehousing tenants by the council.
- Making landlords (not local authorities as it is currently) pay the Land Compensation Act costs to tenants for any prohibition orders served on properties deemed un-liveable or needing to be demolished.
- A stronger line on illegal eviction from the legal system, including the introduction of sentencing guidelines for illegal eviction under the Protection from Eviction Act 1977.

30. https://trustforlondon.fra1.digitaloceanspaces.com/media/documents/Safer_Renting_Journeys_in_the_shadow_Private_Rented_Sector_-_September_2020.pdf



- A duty on local authorities to enforce the Protection from Eviction Act, in addition to its powers to do so.
- Powers of investigation for council officers enforcing the Protection from Eviction Act, by amending section 235 of the Housing Act 2004.

Fund tenant engagement programmes to improve tenant awareness of their rights.

Abolishing Section 21 and the risk of retaliatory eviction will give tenants greater powers to enforce their rights. However, raising tenant awareness is crucial in achieving this. Research from Scotland suggests tenant awareness of their rights is low overall, which limits tenants' ability to exercise these rights. The 2020 Rent Better Tenants Survey, conducted by Indigo House for the Nationwide Foundation, found that only a third of tenants were aware of the introduction of the new private rented tenancy introduced, following the abolition of Section 21.³¹

The Government should address this through funding local authority engagement programmes. Local authorities need to actively engage with private renters, to ascertain what they understand of their rights already and how this knowledge can be improved. With funding, local authorities can put in place effective PRS strategies that include provisions for formalised structures for private renter engagement, which could include frequent surveys, private renter focus group discussions and forums. Like the structures that local authorities have in place for landlords, these structures would ensure that key information about their rights and responsibilities is imparted directly to private tenants and their awareness of the services available to them is increased.

31. <https://rentbetter.indigohousegroup.com/wp-content/uploads/sites/3/2020/11/Wave-1-Baseline-Report-published.pdf>

Generation Rent is the national voice
of private renters. We campaign to ensure
every home in the private rented sector
is safe, secure and affordable.

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