

Levelling Up, Housing and Communities Committee Inquiry – Reforming the Private Rented Sector

Written evidence from Propertymark

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Background

1. Propertymark is the UK's leading professional body of property agents, with over 18,000 members representing over 12,800 branches. We are member-led with an executive Board of practicing agents who we work closely with to ensure that we uphold high-standards of professionalism and are able to advocate for legislative change on behalf of the sector.

Questions

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

2. Propertymark's view is that there are seven proposed areas within the UK Government's White Paper that will help deliver a fairer PRS:
 - the **commitment not to introduce rent controls, as this discourages investment and would reduce the overall supply of property** in the PRS.
 - a focus on the Department for Levelling Up, Housing and Communities working in partnership with the Ministry of Justice and HM Courts and Tribunals Service to **introduce a package of wide-ranging court reforms** that will target the areas that particularly frustrate and hold up possession proceedings.
 - **strengthening and embedding mediation as part of the possession process in order resolve disputes** between landlords and tenants without going to court.
 - **a new digital property portal** because removing poor management practices as well as substandard properties is vital to improving the sector and the lived experience of tenants.
 - **requiring landlords to provide a written tenancy agreement** that will help to ensure landlords and tenants understand their rights and responsibilities.
 - bolstering the **Database of Rogue Landlords and Property Agents by widening access to the Database and making it publicly available.**
 - **a focus on supporting local authorities with enforcement and reporting on their activity** to raise standards through increasing the number of property inspections.
3. In order to improve the UK Government's proposals and make the PRS fairer, further reform is needed in the following five areas:
 - **the introduction of the Decent Homes Standard must be tailored to the private rented sector** and be joined up with active assessments and enforcement by local authorities.
 - it's not just about guidance and information and only targeting improvements in certain areas, **all local authorities need the capacity and desire to go and enforce the existing laws, not just new ones.**

- **a tenant should be able to agree to a fixed term tenancy where it is mutually beneficial for both parties.** A fixed term gives landlords and tenants a guarantee as to the length of time the tenancy will last. The landlord knows that rent payments will be made for the whole fixed-term period and the tenant has the security of tenure for the full tenancy period.
- **the requirement for landlord redress should be limited only to those landlords who do not use an agent to let and manage their property.** This is because letting agents are already required to register with a redress scheme and therefore tenants have access to independent redress.¹
- **to ensure landlords have the protections they need there must be more mandatory grounds under the plans to reform possession proceedings.** To this end, breach of contract, persistent late payment of rent, acquiring a tenancy by using false identification, damage over the amount of the deposit and a tenant refusing access to property should all be mandatory grounds under the plans to abolish Section 21 and reform Section 8.

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?

4. It is our view that there are three fundamental things the proposals in the White Paper and other recent reforms indicate about the role the UK Government envisages the PRS playing in providing housing nationally:
 - Firstly, the UK Government are introducing changes to offer tenants greater security and safer homes as part of plans to create longer tenancies, but they are failing to recognise that the move to periodic tenancies with tenants allowed to give the landlord two months’ notice at any point when they want to leave a tenancy provides less long-term security for landlords. Subsequently, if landlords reject the changes and leave the market, the UK Government are risking creating a PRS that is smaller and more expensive.
 - Secondly, implementing more mandatory grounds of possession under Section 8 is a signal to tenants that rent arrears, criminal and anti-social behaviour will not be tolerated. However, landlords as housing providers will need to have greater knowledge of eviction procedures, the evidence required to remove tenants and consequently will be operating in a more complex environment.
 - Thirdly, there is a clear focus from the UK Government on improving standards amongst landlords without complimenting the role of letting agents. Although the White Paper references raising professionalism and standards amongst agents, there is no mention of the Regulation of Property Agents (RoPA) Working Group report and there is no planned date for the UK Government to respond to its recommendations.²

The recommendations in the report are important for two reasons. Firstly, full mandatory government regulation of property agents is the quickest and most effective method to eliminate unprofessional, unqualified, and unethical agents from the sector. Secondly, in the

¹ <https://www.gov.uk/redress-scheme-estate-agencies>

² <https://www.gov.uk/government/groups/regulation-of-property-agents-working-group>

UK Government's pursuit of equivalence across tenures it should be acknowledged that unlike the social rented sector, the private rented sector does not have a Regulator with the aim of promoting a viable, efficient, and well-governed sector including regularly publishing guidance. In the absence of an overarching regulatory framework for the PRS, the UK Government should be doing more to promote the benefits of using a trained and qualified letting agent.

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

5. Yes, the UK Government's announcements have already led to changes in behaviour in the PRS. Increased pressure from legislative change, such as landlords' inability to offset finance costs against tax liabilities, is altering landlord opinion on investing in the private rented sector. Proposals to reform the PRS were first announced in the Queen's Speech in December 2019³ and data from a Propertymark survey of our members earlier this year shows the number of properties available to rent through letting agents in the month of March halved between 2019 and March 2022. During this period 84 per cent of landlords who removed their property from the rental market did it in order to sell. Over half of the rental properties sold in March 2022 alone did not return to the PRS. 53 per cent of buy-to-let properties sold in March 2022 left the PRS and there was a 49 per cent reduction in properties available to rent per branch in March 2022 compared to March 2019. A lack of property stock is the root cause of rent increases and rising figures on social housing lists. Our qualitative research shows that the most common reasons for landlords to choose to sell their properties and no longer provide homes for rent are risk, finances, and viability.⁴

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?

6. We do not think that the proposals for reforming tenancies, including the abolition of Section 21, do enough to strike the right balance between protecting tenants from unfair eviction and allowing landlords to take possession of their properties in reasonable circumstances. It is our view for the following reasons; firstly, by introducing a simpler tenancy structure and removing an initial fixed term from a tenancy agreement will reduce choice for landlords and tenants. Secondly, the anti-social behaviour ground must be strengthened because it is rarely used in the PRS as it requires a conviction.
7. The UK Government's plans to make all tenancies periodic will reduce choice and security for tenants and landlords. Existing arrangements dictate that fixed term tenancies provide tenants with the right to move whenever they need flexibility through break clauses. Even where there may not be a break clause in the agreement, the Tenant Fees Act⁵ allows for landlords and agents to recover reasonable costs from a tenant where they may request for

³ <https://www.gov.uk/government/publications/queens-speech-december-2019-background-briefing-notes>

⁴ <https://www.propertymark.co.uk/resource/a-shrinking-private-renter-sector.html>

⁵ <https://www.gov.uk/government/publications/tenant-fees-act-2019-guidance>

an early termination. This provides adequate protection and reassurance for a landlord to consider early terminations of tenancies where a tenant's situation may change. The proposals to completely remove an initial fixed term from tenancies will provide less security for landlords beyond the two months' notice and no long-term guarantee of rent.

8. More consideration must be given to a landlord's ability to seek possession due to anti-social behaviour. The White Paper suggests that the notice period for the existing mandatory ground for serious anti-social behaviour will be lowered, but this ground can only be used in situations where the tenant has been convicted of anti-social behaviour. Whilst most landlords and agents will seek to resolve these types of complaints with their tenant amicably, there are always situations where such disputes cannot be resolved and yet the process of conviction is undesirable, inappropriate, and lengthy. Landlords, therefore, currently rely on serving a Section 21 in these situations, as the other grounds that can be used for anti-social behaviour are determined on a discretionary basis in court. Furthermore, evidence and witness statements from neighbours and other tenants in the property are difficult to collect and local authority involvement is often inconsistent. To strike a better balance, the UK Government should do three things. Firstly, define what constitutes anti-social behaviour and how it can be proven through statutory guidance. Secondly, provide guidance to local authorities, the police and other agencies as to how they can help and support landlords, letting agents and tenants in such situations. Thirdly, explore how a formalised system of reporting anti-social behaviour could be introduced and work in practice.

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

9. No, we do not think that the PRS needs its own ombudsman and instead the UK Government should do three things:
 - **streamline redress provision in housing through creating a single-entry point (one ombudsman portal for housing related complaints) for consumers to engage with the redress process.** This entry point should have the capacity to redirect the consumer to their agent to exhaust the agent's formal complaint proceedings or direct the issue to the relevant redress scheme. A single ombudsman portal would allow for a clear, effective and simple system for tenants to raise complaints about their home.
 - ensure that **the redress schemes are all operating to the same criteria and adjudicating against members in the same way.** This is important because out of the two government-approved redress schemes (The Property Ombudsman and Property Redress Scheme) only The Property Ombudsman has a Code of Practice that members of the scheme must comply with.⁶
 - to strengthen the rules for consumers, **membership of a redress scheme should be a requirement for landlords who are self-managing property** only. There are two reasons for this. Firstly, landlords who do not fully manage property often have other jobs and are not renting out their property full time. They are unlikely to have either

⁶ <https://www.tpos.co.uk/codes-of-practice>

a complaints procedure in place or the infrastructure comparable to a letting agent or a landlord who is managing property on a full-time basis when dealing with grievances. Secondly, letting agents are already required to register with a redress scheme and therefore tenants have access to independent redress.

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

10. We do not think that abolishing Section 21 will significantly change the number of evictions, it will simply change the process, which may have knock-on consequences for the number of current court cases and the related costs for which the tenant will be liable. It is positive that the UK Government has committed to improving the speed and efficiency of the court system. However, the proposals for speeding up the court process on their own are not suffice and the UK Government must do three things. Firstly, providing landlords with an automatic right for a High Court Enforcement Officer (HCEO) to enforce Court Possession, would speed up the possession process for landlords attempting to regain possession of their property. Secondly, the county court bailiff system should be privatised to increase the number of bailiffs. The process could be outsourced to providers who work to clear guidelines relating to qualification and certification of private bailiff officers. Thirdly, due to the significant impact and change to the sector that would be introduced because of the proposals, the UK Government must conduct a full pilot of the proposals to remove Section 21, mediation, and the new court processes before rolling out the new reforms across the country. A pilot scheme would mirror the way that other important legislation has been introduced for the private rented sector, such as Universal Credit and Right to Rent⁷ which was first trialled to measure its impact before being introduced fully.

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

11. The UK Government's proposals to move to periodic tenancies will not work in the student market and will likely reduce the supply of student homes in the general PRS. Students generally only look to rent properties in time for the start of the academic year and aren't typically in the market outside of this period. The result is that both landlords and students need the fixed terms to ensure a consistent supply at the points of the year where it is needed. Under a periodic tenancy, this certainty will be removed, and landlords will have justifiable concerns about remaining in the student market. Furthermore, landlords in areas with Article 4 Directions are likely to face even more difficulties. As these areas restrict landlords from moving between letting a House in Multiple Occupation (HMO) and letting to a family, if tenants leave midway through the academic year, then landlords will face a difficult choice; either leave the property vacant until the next academic year or leave the student market by letting to someone else. If this someone else is a family member then it may not be possible to ever let the property to students again, as local authorities are often reluctant to grant permission for the change of use.

⁷ <https://www.gov.uk/government/publications/evaluation-of-the-right-to-rent-scheme>

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

12. The reforms will likely reduce the supply of homes in the PRS. Supply is the most pressing issue affecting letting agents and there is concern that increased pressure from legislative change is changing landlord opinion on investing in the PRS. Consequently, plans to abolish Section 21 will take away many of the protections which have allowed the PRS to grow since the late 1980s and dissuade landlords from reinvesting or deterring new entrants into the market. The UK Government must recognise that for many letting agents and landlords their view of the housing market and the longevity of the sector is often based on sentiment and certainty. If people no longer want to be landlords and the private rented sector reduces in size, local authorities will be placed under unmanageable pressure to help many households secure a suitable alternative against a backdrop of significant under-supply of affordable homes to rent. The impact this would have across the country should not be underestimated.

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

13. Propertymark wants to see warm and decent homes across the PRS as well as the removal of properties that are inadequate, but the introduction of the Decent Homes Standard must be tailored to the PRS. Unlike social housing, which is designed to a specific specification, the PRS compromises a range of property without that specification. We have four main concerns:

- the UK Government **must link the existing rules and regulations affecting standards of private rented property to active assessments and enforcement by local authorities.**
- the UK Government must **focus on facilities including bathrooms and kitchens that are ‘fit for purpose’** rather than age and over prescriptive measures.
- the UK Government must **move away from a one-size fits all policy on energy efficiency and develop proposals that work with the different age, condition, and size of properties.** This way the UK Government can target grants and funding support based on the archetype of a property rather than its tenure.
- Whilst we accept a review into **Housing Health and Safety Rating System (HHSRS)** is ongoing, overall, it is **too complicated and poorly understood by tenants, landlords, agents and local authority enforcement officers.** The HHSRS does not provide practical assistance for landlords and agents to know what is expected of them in relation to the main hazards under HHSRS. A single standard is needed that is easy to understand and implement for tenants, landlords, letting agents and local authorities.

How enforceable are the proposals to make it illegal for landlords to have blanket bans on letting to people on benefits or with children? What other groups, if any, should be protected from blanket bans?

14. The courts have ruled that 'no DSS' policies are unlawful because they indirectly discriminate against women and disabled people. In order to ensure that people are protected, and the proposals are enforced four things need to happen. Firstly, local authorities must use their existing enforcement powers to crack down on landlords and letting agents who discriminate.

Secondly, the UK Government must ensure that local authorities have the resources they need to crack down on landlords and letting agents who flout the law. Thirdly, whilst many lenders have changed the criteria for buy to let mortgages that prohibited property being let to benefit recipients, insurance providers and referencing agencies should also be encouraged to do so. Fourthly, the UK Government must recognise that the introduction of Universal Credit has drastically altered perspectives of some landlords in certain areas of the market in three ways:

- housing benefit was previously paid directly to the landlord;
- benefit payments for claimants have moved from two weeks to once monthly;
- and benefits are paid in arrears.

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

15. All local authorities will need to receive, and allocate, adequate long-term funding to enforce the new proposals as well as the current regulations affecting rented property. A lack of enforcement and the low number of private rented property inspections by local authorities undermines the current regulatory regime. All councils need sufficient financial support to ensure they can invest in officers who can adequately inspect properties and enforce the wide range of rules and regulations in the private rented sector. These include both recently created and long-standing laws. To this end, the UK Government should be working with local authorities to develop apprenticeship schemes to increase the number of local authority enforcement officers, resulting in more property inspections and improved standards across the country.