

House of Commons Public Bill Committee - Renters (Reform) Bill

Written Evidence from Propertymark

November 2023

Background

1. Propertymark is the UK's leading professional body of property agents, with over 17,500 members representing over 12,500 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Executive Summary¹

2. The UK Government is 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. When surveyed, over 80% agents agreed (63% strongly) that removing fixed-term tenancies will impact their tenants negatively. Furthermore, over 93% agents reported that removing fixed-term tenancies will negatively affect agents and landlords with less than 2% disagreeing.
3. 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, existing plans to strengthen grounds for evictions do not go far enough to protect landlords. Furthermore, landlords as housing providers will need to have greater knowledge of eviction procedures, the evidence required to remove tenants and will be operating in a more complex environment.
4. The proposed court reforms do not go far enough to meet the rising demand once Section 21 notices are abolished. 88% respondents were concerned that courts will not have the capacity to deal with the rise in evictions taking place through the courts once Section 21 notices are abolished. 97% agents agreed that a lack of a specialist housing court will undermine the ability for agents and landlords to evict tenants under new grounds.

Market context

5. There is unprecedented demand for rented housing in England. Figures from Propertymark members in August 2023 had an average of 197 prospective tenants registering compared to 149 in July 2022, which is almost a 32% increase year on year.² Furthermore, when surveyed our members also report that 59% saw a significant increase in the number of landlords selling properties or exiting the market in the past three years. When asked which kind of landlords are selling, the majority of agents reported landlords with small portfolios and accidental landlords.

¹ Propertymark's response is based on two surveys Propertymark conducted over the impact that the Renters (Reform) Bill will have on the sector. The first ran from 26 May 2023 until 17 October 2023 with 674 letting agents responding to the survey, representing organisations that manage over 500,000 properties. The second survey ran from 4 July 2023 until 17 October 2023, had 1,855 landlord respondents. If no source for data is listed, it has come from that survey.

² <https://www.propertymark.co.uk/resource/housing-insight-report-august-2023.html>

This makes up 85% of all landlords according to the most recent English Private Landlord Survey³. This rise in selling is due to increasing financial costs on landlords, including 25% increase in repair costs and an average utility bill increase of 66%. Furthermore, 39% of respondents reporting mortgage increases of over £250 a month and 68% of landlords surveyed by Propertymark reported that they experienced financial hardship due to rising costs.

Written Evidence

Part 1, Chapter 1 Assured Tenancies: *End of certain kinds of assured tenancy* – Clause 1 Assured tenancies to be periodic with rent period not exceeding a month

6. Propertymark fails to understand the need to remove fixed-term tenancies. 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. Tenants should not be limited in having as many options as possible to secure their long-term home. A comparison is the use of a deposit replacement product in context of Tenant Fees Act. Landlords cannot impose but if tenant requests a deposit replacement produced and the landlord is happy to accept, then an arrangement is made. Furthermore, tenants with periodic tenancies would still be at risk of the landlords selling, whereas in consideration of signing a longer-term tenancy by agreement, the landlords would forego one or more of the mandatory Section 8 grounds until the end of the fixed term.
7. Where tenants have a poor reference or poor credit rating means often landlords want the rent in advance or a guarantor. Keeping the fixed term means that guarantor know how long they are supporting the tenant and rent payment is linked to length of tenancy. Additionally, fixed-term tenancies form the basis of the student market. Without the fixed-term, students may refuse to leave at the end of their academic year, which would prevent future students from having access to private rented accommodation. While support the Secretary of State's decision to produce a new ground for eviction that specifically prevents students from doing this, a more practical solution would be to allow students and all private tenants the option to choose between a fixed-term and rolling periodic tenancy. Even if fixed-term tenancies are removed via the Renters (Reform) Bill, over 70% of Propertymark members stated that student lets should be exempt from Assured Tenancies becoming periodic.
8. The removal of fixed-term tenancies was the second most concerning element of the Bill, according to our surveyed landlords, with 69% raising that they were concerned about the end of fixed-term tenancies. That is not surprising considering that over 93% agents said that removing fixed-term tenancies will negatively affect agents and landlords. Less than 2% disagreed. Additionally, 63.35% agents strongly agreed and 17.06% agreed that removing fixed-term tenancies will impact their tenants negatively. Only 9.35% disagreed or strongly disagreed.

³ [English Private Landlord Survey 2021: main report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/91222/English_Private_Landlord_Survey_2021_main_report.pdf)

RECOMMENDATION: amend Clause 1 to ensure a tenant is able to agree to a fixed term tenancy when requested and it is mutually beneficial for both parties (landlord and tenant).

Part 1 Tenancy Reform, Chapter 1 Changes to ground for possession – Clause 3 Changes to grounds to possession.

9. In addition to a lack of confidence within the court system, agents and landlords are concerned that the existing grounds for possession do not go far enough to protect landlords. For example, Homeppl, a customer risk and fraud prevention provider, report that between January 2022 and January 2023 there has been a 120% increase in tenancy fraud. Fake documents were identified in the majority of fraud cases (91%) including fake payslips, utility bill evidence and identification documents. The second most common fraud method was failed references (46%) including employment and rental references.⁴ Due to the discretionary nature of many serious grounds for eviction, many landlords risk going through the lengthy and costly eviction procedures with no guarantee that they will regain access to their property. 71% of landlords we surveyed are concerned about the removal of Section 21 notices, which was the aspect of the Bill our surveyed landlords were most concerned about.

RECOMMENDATIONS:

- **Ground 6 and Ground 18 to amend to include “tenant refusing access to the property”.**
- **Ground 12 - Breach of tenancy change to mandatory.**
- **Ground 13 – Deterioration of property change to mandatory.**
- **Ground 14 – Anti-social behaviour – include principles that judges must consider when making their decision and cases will be prioritised in Possession Lists in the courts.**
- **Ground 17 - Acquiring a tenancy by using False Statement change to mandatory and amend from two weeks to immediate.**

Part 1, Tenancy Reform, Chapter 1 Rent and other terms – Clause 7 - Right to request permission to keep a pet and Clause 8 – Pet insurance

10. While some landlords fear having pets can cause damage, we recognise that it can make their property more desirable and encourage their tenants to rent for longer and tackle issues such as loneliness. However, some landlords will have had bad experiences and even the best-behaved pet can cause damage. For instance, it can be hard to demonstrate bad smells from a cat urinating on the carpet. The Renters (Reform) Bill doesn’t explain what “unreasonably refusing” consent for a pet means. Examples that are likely to be used include:

- Breed or type of pet is not suitable for the property.
- Property is unsuitable.
- Pets in Houses in Multiple Occupation would impact other tenants.
- Landlord or their family or other tenants are allergic to the type of pet requested.
- There is already one or more pets at the property, and additional one would be too much for the property.

⁴ <https://www.homeppl.com/>

- Unsatisfactory pet reference from a previous landlord meaning pet would cause more damage than reasonable wear and tear.
11. Propertymark welcomes requirements for tenant to either have pet insurance or to pay the landlord for it to be allowed as a requirement for a tenancy where relevant. However, further detail is needed on available insurance providers, and it is unclear how this will work in practice. For instance, will it be like car insurance, with insurance premiums increasing with previous claims? Why would a landlord take out pet insurance if a claim on one property would put premiums up on other properties? There is often more of a risk of damage to a property where there is a pet. The UK Government should enable the level at which deposits are set to be more flexible to reflect this greater risk. Under the Tenant Fees Act, landlords and letting agents are no longer able to take a higher Security Deposit for tenants with pets – since 1 June 2019, deposits on new tenancies are capped at an equivalent five weeks’ rent, where the total annual rent is less than £50,000-, or six-weeks’ rent, where the total annual rent is £50,000 or more.
12. In February 2021, we asked Propertymark letting agents how many ‘pet friendly’ properties do they have in their portfolio - 81% said ‘some of their properties are pet friendly.’ However, 84% of Propertymark letting agents said they have had incidents of pet owners keeping pets without the landlord’s consent. Only 32% of Propertymark letting agents said that landlords are more likely to let a property to a tenant with pet insurance.

RECOMMENDATIONS: Amend Clause 7 – define “unreasonably refused” through examples and amend Clause 8 to also allow for an additional pet deposit to be taken to cover the risks to the property of renting with pets.

Part 1, Chapter 1 Tenancy Reform, Duties of landlords etc – Clause 9 Duty to give statement of terms and other information

13. Despite it being common practice there is no legal requirement for a written tenancy agreement in England. A written tenancy agreement protects the landlord’s property and ensures that landlords and tenants understand their rights and responsibilities. The agreement can be used to stipulate the periodic inspection schedule ensuring that the tenant has written notification and is given appropriate notice. This will help to maintain the condition of the property throughout the tenancy and help to reduce disputes and costs for tenants at the end of the tenancy that will allow them to retain more money and move quickly.
14. Notwithstanding aspirations from the UK Government to make moving between tenancies for renters quicker and easier there are no mandatory requirements for an inventory or check in and check out reports. An inventory is a listing of all the contents of a property and a record of the condition of each item as well as the condition of the property itself. If the tenant has agreed the inventory, this reduces the potential for a dispute to arise at the end of the tenancy speeding up the end of tenancy process. In a deposit passporting scenario this would help to ensure that the end of tenancy process is quicker and straight forward to resolve.

15. The Renters (Reform) Bill introduces written statements, but this will duplicate a lot of the information in a tenancy agreement. The Bill should be amended to create an enhanced tenancy agreement which includes all the relevant information, what is required as a minimum and the primary contact details of the person who is managing the tenancy for the tenant. According to the Tenancy Deposit Scheme (TDS) Group Statistical Briefing 2022/23, the number of adjudications issued by the three tenancy deposit schemes in England and Wales increased by 6,912 from the previous year.⁵ Disputes in 2022/23 were largely around cleaning and damage. Disputes relating to rent arrears have been declining since 2017/18. Furthermore, 76% of disputes are raised by the tenant. By amending Clause 9 to include an inventory and check-in and check-out at the start and end of tenancy to speed up the return of deposits and prevent disputes.

RECOMMENDATION: amend Clause 9 to include a written tenancy agreement and compulsory inventory and check in and check our report to provide tenants with greater consumer protections.

Part 1, Chapter 1 Landlords etc: financial penalties and offences Clause 11 Landlords etc: financial penalties and offences and Clause 12 Financial penalties: procedure, appeals and enforcement.

16. Propertymark welcome the provisions in the Bill that enable local authorities to keep the proceeds of financial penalties to reinvest in enforcement activity. However, this funding alone will likely be insufficient to cover the full cost of undertaking enforcement work in the PRS that is required to achieve the ambitions of the Bill, particularly as it will be councils' intention to issue financial penalties or undertake criminal proceedings as a last resort. Councils are facing severe budgetary constraints. However, many local enforcement teams do not currently have the resources and capacity to proactively tackle poor standards in the private rented sector.

RECOMMENDATION: Amend Clause 11 and Clause 12 to include an assessment of the resources councils need to regulate the private rented sector effectively with new burdens funding then being allocated accordingly.

Part 1, Chapter 2 Landlord Redress Schemes Clause 24 Landlord redress schemes and Clause 25 Approval and designation of landlord redress schemes

17. To strengthen the rules for consumers, membership of a redress scheme should be a requirement for landlords who are self-managing property only and join one of the existing schemes because they know the sector. Those 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 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.

18. It is not clear to consumers about who to raise a complaint with. the consumer is unaware that they must complain to the agent before the redress schemes can act – is this going to be the same for landlords. Under the legal requirement for agents to belong to one of the two government-approved redress schemes there is an assumption that all agents have a complaints procedure in

⁵ <https://www.tdsgroup.uk/statistical-briefing>

place and will deal with matters in the same way and to the same timescales. A quick search of agent websites will show the difference in complaints handling procedures and a difference in how the information is presented. There are gaps in redress- redress schemes are all operating to the same criteria and adjudicating against members in the same way. For instance, 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. This creates inconsistencies in standards for consumers.

RECOMMENDATIONS: Amend Clause 24 and Clause 25 to extend redress membership to landlords who self-manage property only and landlords should join one of the two existing redress schemes.

Part 1, Chapter 3 Marketing, advertising and letting – Clause 39 Restrictions on marketing, advertising and letting dwellings

19. There is a clear focus in the Bill on improving standards amongst landlords without complimenting the role of letting agents. The Secretary of State said in February that all property managers in the social rented sector should be qualified so tenants should have the same parity regardless of tenure they rent. Currently, anyone can operate as a estate, letting or managing agent, regardless of qualifications or experience. There are no minimum standards to work in the sector and there are no statutory rules to ensure property agents are suitably qualified. Additionally, agents who are not members of a professional body do not have to meet minimum competency standards. This can result in variable service levels for tenants, landlords, leaseholders, homebuyers and sellers including general bad practice, lack of financial protection and no effective way to resolve complaints.
20. Considering the new reforms for the private rented sector, including the proposed Decent Homes Standard, letting agents will have a significant role to play in delivering the reforms and ensuring they and landlords are compliant. Improving standards through qualifications and officially regulating agents would be the best way to ensure this compliance. Additionally, on 23 February 2023, it was announced by the UK Government that property managers in the social rented sector must gain professional qualifications under new rules to protect residents and raise standards in the sector⁶. Given that the Decent Homes Standard is being introduced to the private rented sector, bringing it to parity with the social rented sector, there is no reason why private renters should expect an inferior service than those in the social rented sector.
21. In 2014, legislation was passed making provisions for the regulation of letting agents in Scotland. A recent report into letting agent qualifications and CPD highlights the importance that professional qualifications is playing in driving up standards across the private rented sector in Scotland: 87% of letting agents who had completed a qualification said it had a positive impact on their professional capabilities. 51% of landlords said that requirement for letting agent qualification had been a positive thing for the private rented sector overall.⁷

⁶ <https://www.gov.uk/government/news/social-housing-managers-must-be-qualified-under-new-laws-to-protect-residents>

⁷ <https://www.cih.org/media/vrqorb5f/review-of-letting-agent-qualifications-report.pdf>

RECOMMENATION: Amend Clause 39 to advance information on PRS Database where ownership or management of the property includes – letting agent name, redress scheme, CMP provider, passed a fit and proper test, creates a registration number – letting agent qualification – five years to get qualified or come off the Database – policed via membership bodies or the CMP providers.

Part 2, Chapter 4, Part 3 Enforcement Authorities Clause 58 Enforcement by local housing authorities: general duty and Clause 59 Enforcement by local housing authorities: duty to notify

22. A recent Local Government Association work force survey showed that 45% of councils were having difficulties recruiting environmental health officers and 25% were having difficulties retaining housing officers.⁸ Effective enforcement of regulations is reliant on an adequate number of qualified and trained staff. The UK Government should urgently work with sector experts to develop a skills and capacity building strategy to ensure that local authorities can support effective implementation of the reforms. Effective enforcement is reliant on having the right number of trained and qualified staff, which councils are facing significant challenges in recruiting.

RECOMMENDATION: Amend Clause 58 and Clause 59 to ensure every local authority has a skills and capacity building strategy to support the effective implementation of the reforms.

⁸ <https://www.local.gov.uk/publications/2022-local-government-workforce-survey>