
RENTERS' REFORM BILL

Your guide to the
*A Fairer Private Rented
Sector* white paper



INTRODUCTION

The government has outlined its proposals for the Renters' Reform Bill in its A Fairer Private Rented Sector white paper.

The wide-ranging reforms for the private sector go much further than many initially expected, with the government calling it "the biggest shake-up of the private rented sector in 30 years" in its announcement ahead of the paper's publication. And the changes look likely to happen soon. The government will bring forward legislation through the Renters' Reform Bill in the 2022-2023 parliamentary session.

In addition to the expected changes - abolishing section 21, applying the Decent Homes Standard to the private rented sector, and introducing an ombudsman - the government has also proposed moving to a single system of periodic tenancies in a bid to "simplify tenancy structures". Other new proposals include doubling the notice periods for rent reviews; making it illegal for landlords to have blanket bans on renting to families with children or those in receipt of benefits; and improving the rights of tenants to have pets in properties.

The proposals "mark a generational shift that will redress the balance between landlords and 4.4 million private rented tenants," said the government in its announcement. Many of the proposals aim to provide tenants with "support for cost of living pressures with protections for the most vulnerable, and new measures to tackle arbitrary and unfair rent increases", says Housing Secretary Michael Gove. "Of course, we also want to support the vast majority of responsible landlords who provide quality homes to their tenants. That is one of the reasons why this white paper sets out our commitment to strengthen the grounds for possession where there is good reason

for the landlord to take the property back." "To say this has been a long time coming is an understatement," says Goodlord COO and co-founder Tom Mundy in response to the white paper. "The whole sector is keen to end the many, many months of uncertainty that have surrounded this bill and, in that respect, it's very useful to start seeing more detail behind the proposals. But, overall, this will mark a big period of readjustment for landlords and agents alike. We're pleased that the ability to evict anti-social tenants or those who don't pay their rent has been safeguarded. But other changes are causes for concern, such as moving all renters onto a single system of periodic tenancies and how the scrapping of Section 21 will work in practice.

"Agents need to get their systems and compliance processes massively tightened up and streamlined if they want to be able to run an efficient business that isn't tripped up by these rules. Forward-thinking agents will, as ever, come out on top despite the new hurdles this legislation will create."

This e-book is intended as a guide only and does not constitute legal advice. Please visit [gov.uk](https://www.gov.uk) for more information.

The content throughout this guide uses information from the following sources:

- "A Fairer Private Rented Sector", [gov.uk](https://www.gov.uk)
- "New deal for private renters published today", [gov.uk](https://www.gov.uk)
- "Call for evidence to consider the case for a Housing Court: government response", [gov.uk](https://www.gov.uk)
- "Housing Legal Aid: the way forward", [gov.uk](https://www.gov.uk)
- "A new deal for renting: government response", [gov.uk](https://www.gov.uk)
- "Dispute Resolution in England and Wales: Call for Evidence", [gov.uk](https://www.gov.uk)
- "A decent home: definition and guidance", [gov.uk](https://www.gov.uk)
- "Overcoming the barriers to longer tenancies in the private rented sector", [gov.uk](https://www.gov.uk)
- "Housing Health and Safety Rating System: Guidance for Landlords and Property Related Professionals", [gov.uk](https://www.gov.uk)

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Chapter one



A SINGLE SYSTEM OF PERIODIC TENANCIES

In one of the biggest changes announced in the *A Fairer Private Rented Sector* white paper proposals, the government has stated its intention to introduce a "single system of periodic tenancies" in a bid to simplify existing tenancy structures and "build on the greater security and empowerment afforded by abolishing section 21" (see page 7). It is proposing that all new and existing tenancies will move to periodic tenancies, with the implementation of the changes taking place over the course of two years.

THE CURRENT SYSTEM

Fixed-term tenancies commit both landlord and tenant to a property for an agreed period. During a fixed term, landlords cannot use section 21 to evict a tenant, though they can use other grounds for possession under section 8 (see page 10). Tenants can only leave during a fixed term with the landlord's agreement, and they must pay rent for the duration of the term, unless agreed otherwise. At the end of a fixed term, tenancies do not automatically end, becoming periodic unless a new fixed term is agreed, or notice is served.



In contrast, periodic tenancies are weekly or monthly rolling tenancies that do not last for a fixed period. If a tenant wants to leave the property, they are liable for the rent only until the required notice period - usually one month - has expired. A landlord can end a periodic tenancy with two months' notice by using a section 21 eviction notice or by using other grounds for possession.

The current tenancy system mixes fixed-term tenancies with periodic tenancies, although Assured Shorthold Tenancy agreements are currently the most common agreements in the private rented sector. The consultation, *Overcoming the barriers to longer tenancies in the private rented sector*, found that most tenancies begin with a fixed term of 6 or 12 months. After the fixed term expires, parties can either end the tenancy, agree to a new fixed term or allow the tenancy to become periodic automatically.

"While this appears to offer choice, these complexities can be difficult to understand, and tenants do not always have the power to negotiate their preference at the outset," notes the *A Fairer Private Rented Sector* white paper. "Locking parties into a contract undermines the flexibility that the private rented sector offers and restricts tenants' and landlords' ability to react to changing personal circumstances," it says.

Periodic tenancies will provide "greater security for tenants while retaining the important flexibility that privately rented accommodation offers," the white paper says. The consultation also notes that fixed-term tenancies can also negatively impact landlords, restricting their ability to regain possession of their properties

"if they need to respond to an unexpected change in their own personal circumstances".

The government committed to working in "close partnership with the sector to deliver a smooth transition to the new system and communicate our changes clearly, and make sure that we protect responsible landlords by taking action against those who circumvent the rules" in the consultation outcome, *A new deal for renting: government response*. In his response to the proposals, Propertymark CEO Nathan Emerson agreed that it will be crucial that the government and the private rented sector works together to develop and implement this legislation.

"If ministers really do want to create a 'fairer private rented sector', they must work with us to ensure these reforms are carefully balanced and any interventions to achieve short-term objectives do not constrain the market in the longer term."¹

¹"White Paper claims a fairer deal for the PRS", propertymark.co.uk



THE NEW SYSTEM



Under the new system, all private tenancies will be periodic in "the biggest shake-up of the private rented sector in 30 years," according to the government's announcement. In the *A new deal for renting consultation* outcome, it acknowledged that it is "critical that we introduce them in a way that both protects tenants' security and retains landlords' confidence in the new system."

The changes will be implemented in two stages, allowing time for private and social landlords, tenants, agents, and others to prepare for the changes, while "offering increased security and empowerment to tenants as soon as is reasonable". Specific implementation dates will be dependent on the progress of legislation.

STEP 1

After the first implementation date, any new tenancies, which would have previously been Assured Tenancies or Assured Shorthold Tenancies, will be governed by the new system. The sector will be given six months' advance notice of the first implementation date, with timing dependent on when Royal Assent is secured.

1

STEP 2

To avoid "a prolonged 2-tier tenancy system", the reforms will be extended to all existing Assured and Assured Shorthold Tenancies. These will move to the new system after the second implementation date, which will take place at least 12 months after the first implementation date. After this point, any previously agreed fixed terms will not apply.

2

Chapter two



ABOLISHING SECTION 21 EVICTION NOTICES

The use of section 21 will be outlawed under the reforms. This means that a tenancy will only end if the tenant ends it or if the landlord has a valid ground for possession when section 21 is abolished. At the same time, the grounds for possession under section 8 will be strengthened so landlords can be confident that "when they need to manage their assets or a tenant does not meet their obligations, they can regain access to their properties," according to *A new deal for renting: government response* (see page 10). The changes will be made in tandem with the new system of periodic tenancies (see page 4).

The white paper says that "too many tenants face a lack of security that hits aspiration and makes life harder for families" and that "the prospect of being evicted without reason at two months' notice (so called 'no fault' section 21 evictions) can leave tenants feeling anxious and reluctant to challenge poor practice".

It contends that "the existing system does not work for responsible landlords or communities



either", with landlords unable to "access the information or support that they need to navigate the legal landscape, or they are frustrated by long delays in the courts", which it will look to improve with improved court processes (see page 13) and the creation of a new property portal (see page 24). It acknowledges that "inadequate enforcement is allowing criminal landlords to thrive, causing misery for tenants, and damaging the businesses and reputations of law-abiding landlords".

THE CHANGES

Under the periodic tenancy system, tenants will be required to give landlords two months' notice. Landlords and tenants will not be able to agree notice periods of longer than two months.

If a landlord wishes to evict a tenant under the new rules, they must give the tenants two months' notice in cases where eviction occurs for reasons outside of a tenant's control, for example if a landlord wishes to sell or where a property has been repossessed by a lender. Notice periods differ for other grounds, such as rent arrears or antisocial behaviour.

Under the current rules, you cannot use a section 21 notice to evict a tenant if you have not given the tenants copies of the property's Energy Performance Certificate, the government's 'How to rent' guide, and a current gas safety certificate for the property, if gas is installed. Under the new rules, only deposit protection will have to be demonstrated when making a claim for possession using section 8, according to *A new deal for renting: government response*.

IMPLEMENTATION

STEP 1

The use of section 21 to end a tenancy will be outlawed in two stages, alongside the introduction of periodic tenancies. From the first implementation date, all new tenancies will be periodic. Tenants will need to provide two months' notice when leaving a tenancy, and landlords will only be able to evict a tenant in reasonable circumstances, which will be defined in the strengthened grounds under section 8, rather than section 21.

Between the first and second implementation dates, pre-existing tenancies will continue as now, with section 21 able to be used in pre-existing periodic tenancies and as fixed terms end. If neither party serves notice as a fixed term ends, it will automatically move to the new tenancy system.

STEP 2

After the second implementation date, which will take place at least 12 months after the first implementation date, all tenancies will become periodic, after which tenants and landlords will only be able to end the tenancy in line with the new rules.

Chapter three



STRENGTHENING SECTION 8 GROUNDS

Once section 21 is outlawed, landlords will need to use "defined grounds to secure possession in reasonable circumstances," according to the consultation outcome on section 21, *A new deal for renting*. The government white paper, *A Fairer Private Rented Sector*, has confirmed that "responsible" landlords will be able to regain possession of their properties from anti-social tenants and sell their properties when they need to, and the consultation on abolishing section 21 promises that the reformed section 8 grounds will be comprehensive, fair and efficient, and proportionate.

The government aims to "strike a balance between protecting tenants' security and landlords' right to manage their property" with these changes, according to the white paper.

"There needs to be a balance between the rights of tenants and landlords," says Law Society president, Stephanie Boyce.¹ "We've previously recommended widening section 8, which enables a landlord to regain their property in some circumstances. Careful calibration is needed to



improve security of tenure while ensuring landlords are not disincentivised.

Many of the grounds will become mandatory, to give landlords more certainty when going to court.

Making the ground mandatory means that the judge will have to grant the landlord possession, if the landlord can prove the ground has been met.

Landlords currently need to comply with certain safety requirements and other processes to be able to serve a section 21 notice. However, the section 21 consultation outcome stated that "only deposit protection will have to be demonstrated when making a claim for possession" under section 8.

The government will consider which grounds it may restrict before legislating in cases where an agent or landlord doesn't protect a deposit. Landlords will still need to follow the relevant rules around gas safety and Energy Performance Certificates, deposit protection, and prohibited payments under the Tenant Fees Act.

The government will also work with the Ministry of Justice and Her Majesty's Courts and Tribunal Service (HMCTS) to target the bottlenecks in court proceedings, and strengthen mediation and alternative dispute resolution (see page 13) to "enable landlords and tenants to work together to reduce the risk of issues escalating", as outlined in the white paper.

THE PROPOSED CHANGES

MOVING INTO THE PROPERTY

Under the current law, a section 8 notice can be served if the landlord wants to move into the property to live in as their own home but not if their children or other family members wish to move into the home. The landlord or their partner must have also previously lived at the property.

The government will therefore introduce a new ground to allow landlords and their close family members to move into a rental property. However, landlords won't be able to use this ground in the first six months of a tenancy and will need to give tenants two months' notice of their intentions.

SELLING THE PROPERTY

Landlords wishing to sell their property have previously relied on section 21 to ask their tenants to leave. The section 21 consultation outcome says that landlords should be able to make decisions about their investment to maintain the "healthy operation of a private rented sector that provides choice to tenants".

Landlords will be encouraged to consider selling with sitting tenants - a faster and easier solution for all. Landlords will be able to use the mortgage repossession ground for this purpose - and a new ground will be created for other circumstances when the landlord wishes to sell.

However, landlords again will not be able to apply this ground in the first six months of a tenancy under the new periodic tenancy rules, and will need to give two months' notice.

REPEATED SERIOUS ARREARS

Landlords can currently regain control of their property if the tenant is over the prescribed period of outstanding rental payments. Landlords have found this ground difficult to use because tenants can currently reduce their arrears to just below the prescribed threshold to avoid appearing at court, which means the landlord needs to restart the possession claim process.

The new grounds mean that eviction will be mandatory if a tenant has been in at least two months' rent arrears at least three times within the previous three years - whatever the arrears balance at hearing. This will support landlords, but also reassure tenants that they can't be evicted based on what may be one-off dips in finances, years apart. Landlords will only need to give four weeks' notice.

NOTICE PERIODS ON THE EXISTING RENT ARREARS EVICTION

GROUND TO INCREASE

The notice period for existing rent arrears eviction ground will increase to four weeks, and the current mandatory threshold of two months' arrears at time of serving notice and hearing will not change.

However, tenants that receive scheduled welfare payments which may fall outside this threshold will be given more protection from eviction. "We will prevent tenants in this scenario from being evicted, provided it is the reason they have exceeded the mandatory rent arrears threshold," says the white paper.

This mandatory rent arrears ground should also be used if a tenant abandons a property - a new abandonment ground would require "a

higher burden of proof in court and allow less certainty" if the tenant were to re-occupy the property and invalidate the possession claim, says the section 21 consultation outcome.

CHANGES TO EVICTIONS FOR ANTISOCIAL BEHAVIOUR

For criminal or serious antisocial behaviour, notice periods will be lowered to two weeks in the most serious cases, and landlords will be able to make a claim in court immediately. The government will look into issuing further guidance to help landlords and tenants resolve any issues at an earlier stage.

¹ - "'No fault' evictions to be abolished under renter reforms", The Law Society Gazette, lawgazette.co.uk



Chapter four



IMPROVING COURT PROCEEDINGS FOR POSSESSIONS

The outcome of 2018's call for evidence, *Considering the case for a Housing Court*, found that the two main areas of dissatisfaction for landlords were timelines and the complexity of the court system. More than 90% of the respondents said that they'd experienced delays when taking court action for possession, and 40% also said that they found the steps from application to hearing too complicated.

The *A Fairer Private Rented Sector* white paper recognises that more efforts should be made to create a court process that's "transparent, fair, and efficient". It acknowledges that landlords are "frustrated" by delays in the court process, and that the whole process can be "challenging and intimidating" for tenants.



PROPOSED ENFORCEMENT MEASURES

"Misuse of the system or any attempt to find loopholes will not be tolerated," and it will be "unacceptable to attempt to lock tenants into contracts in other ways", with the government considering the case for new or strengthened penalties to support existing measures, including the power for councils to issue Civil Penalties Notices for offences related to the new tenancy system. New penalties will be considered alongside proposed improvements to the court process. Proposed enforcement measures could include:

- **allowing tenants to pursue compensation through the courts for breaches of the new tenancy system**
- **including the new tenancy system within the remit of the Ombudsman**
- **restricting the original landlord marketing and reletting a property for three months following the use of the moving and selling grounds**
- **giving local authorities the power to issue fines to landlords who fail to meet requirements of the new tenancy system**
- **giving local authorities the power to issue fines via Civil Penalty Notices (CPNs) to those who illegally evict or harass tenants**

PROPOSED CHANGES TO THE COURT PROCESS

Rather than introduce a new housing court, which would be too costly, the government will focus its efforts on reforming areas that "particularly frustrate and hold up possession proceedings", says the white paper.

However, Clive Betts, chair of the Levelling Up, Housing and Communities Committee, has expressed some misgivings over these measures it suggests.¹ "The proposed measures could see more possession cases being heard in courts. I hope the government will reconsider the case for a housing court which would protect both the tenant and the landlord."

The new measures according to *A Fairer Private Rented Sector* white paper include:

- **County court bailiff capacity**
- **Paper-based processes**
- **Limited advice about court and tribunal processes**
- **A lack of prioritisation of cases**

THE NEW OMBUDSMAN WILL HELP FREE UP TIME IN THE COURTS

The new Private Renters' Ombudsman (see page 22) will address redress earlier in the process, to help tenants and landlords avoid the need to escalate their issues to the courts. This will help to free up time for the courts to focus on more serious cases, and help resolve those cases more quickly.

Ben Beadle, chief executive of the National Residential Landlords Association, recognises that this support alone won't solve the issue of delays in the process.²

“Whilst we support proposals for an ombudsman to cut the number of possession cases needing to go to court, this cannot be a substitute for proper court reform as well.”

Ben Beadle - Chief executive of the National Residential Landlords Association

PROCESSES WILL GO DIGITAL

Many court and tribunal processes will be digitised, to "offer better advice and guidance - and to also "reduce common user errors and enhance the user experience," says the white paper. These changes will take place as part of the HMCTS Reform Programme, which aims to modernise services in the justice system, and is expected to conclude in 2023. The changes aim to "implement improvements and provide HMCTS with better data to enhance performance".

Digitising will be an important part of the court process reforms, according to Ian Fletcher,

director of policy at the British Property Federation.³ "It is vital that the government delivers on its digitalisation of the courts' agenda ahead of these reforms to ensure a swift resolution to these cases. Investors will feel let down if that is not the case," he says.

RENTERS WILL RECEIVE LEGAL ADVICE EARLIER IN THE PROCESS

Alongside access to the newly proposed ombudsman service, the government will help tenants access more effective legal advice on debt, housing, and welfare benefit matters, through the Housing Possession Court Duty Scheme.

Currently, Housing Possession Court Duty schemes (HPCDS) offer anyone facing possession proceedings in court some emergency face-to-face advice and advocacy on the day.

The government recently published its response to the consultation *Housing Legal Aid: the way forward*, which shared plans on an "ambitious new model" around access to legal advice and representation, including:

- **Creating a new advice service, "incorporating both the existing service of advice and representation at court but also early legal advice before court"**
- **Expanding the scope of legal aid so those who have received an eviction notice can benefit from early legal advice on social welfare law**
- **Contracting legal experts to help upskill providers**

MEDIATION SERVICES WILL BECOME AN ESTABLISHED PART OF THE PROCESS

The *A Fairer Private Rented Sector* white paper recognises that incentives and support to help landlords resolve disputes early in the process are lacking.

The Property Redress Scheme and the National Residential Landlord Association are currently working on a mediation pilot, while other private providers have also started to offer a mediation service (including Goodlord through its Rent Protection and Legal Expenses service).

This support will be "key to sustaining tenancies and avoiding costly and time-consuming court possession proceedings for both parties," says the white paper.

The government will soon publish the results of its nine-month Rental Mediation Pilot scheme which allowed landlords and tenants to access free and independent mediation in possession processes. This feeds into the government's ambitions to "transform the culture of dispute resolution" by offering more alternatives to litigation, such as mediation, that was outlined in its response to the *Dispute Resolution in England and Wales: Call for Evidence*.

PRIORITISATION OF CASES WILL BE STRENGTHENED

The white paper shares that the government will explore if it could start to label certain cases as "urgent" and also expedite cases involving serious harm, such as antisocial behaviour.

It will also "trial a new system in the First-tier Tribunal", to streamline certain cases and create a single judicial forum for cases with "split jurisdiction between the

civil courts and property tribunal".

This means that litigants won't have to deal with two courts for these cases, which will cut costs and simplify the process.

THE HOUSING COURT CONSULTATION RESPONSE

The outcome of the call for evidence around the housing court, *Considering the case for a Housing Court*, should also be considered alongside the white paper's proposals. This consultation response outlines additional plans to:

- **Introduce an online process for possession claims, aiming to "make it easier for landlords to make a possession claim and reduce some of the most serious delays they experience"**
- **Review and improve bailiff capacity, through limiting their administrative tasks and improving bailiff recruitment and retention**
- **Reduce the time it takes to list first hearings, "in cases of serious anti-social behaviour and in temporary and supported accommodation"**

¹- "A game-changer': sector reacts to PRS white paper," Inside Housing, [insidehousing.co.uk](https://www.insidehousing.co.uk)

²- "Landlords fear courts logjam after ban on 'no-fault' evictions," The Financial Times, [ft.com](https://www.ft.com)

³- "Government publishes its plans to reform the rental market and outlaw Section 21," property reporter, [propertyreporter.co.uk](https://www.propertyreporter.co.uk)

Chapter five



APPLYING THE DECENT HOMES STANDARD TO THE PRIVATE RENTED SECTOR

“Everyone deserves to live in a safe and decent home” says the *A Fairer Private Rented Sector* white paper, which outlines the government’s plans to legislate and introduce a legally binding Decent Homes Standard to the private rented sector for the first time. Its improvements will target the lowest performing areas in the country first.

The white paper shares how poor-quality housing can undermine the health and wellbeing of renters while reducing “pride in local areas”. Half a million properties - covering 12% of households - “pose an imminent risk to tenants’ health and safety” according to the paper. The new minimum standards for the sector, alongside the other proposals outlined in the bill, aim to “halve the number of poor-quality rented homes” by 2030.

Richard Donnell, executive director of research and insight at Zoopla urges a balanced approach when it comes to the investment required for the reforms.¹ “There is a delicate balance to ensure



reforms don't compound these supply-side challenges which continue to keep an upward pressure on rents, which have risen 11% in the last year," he says. "Ensuring decent homes is paramount but so is the investment into this important sector of the housing market."

STEPS TO RAISE STANDARDS SO FAR

The white paper gives an overview of what the government has undertaken so far, including requiring landlords to provide smoke and carbon monoxide detectors in all relevant private rented properties, and adhere to the Homes (Fitness for Human Habitation) Act 2018 - which means that landlords can't let out a home with serious hazards that make it unfit for purpose. Private landlords must also carry out electricity safety checks every five years, and their properties must reach the minimum energy efficiency standard of an EPC band E rating.

DEFINING "DECENT"

The white paper outlines that a "decent" home needs to be "free from the most serious health and safety hazards, such as fall risks, fire risks, or carbon monoxide poisoning".

This means that landlords will need to ensure their rented homes don't fall into disrepair, and address problems before they deteriorate and require more expensive work.

Kitchens and bathrooms will need to be located correctly, in "adequate" and "not too old" condition, with decent noise insulation. Landlords will also need to update their tenants' facilities "before they reach the end of their lives", to keep them clean, appropriate, and usable - plus all homes will need to be warm and dry.

It has also reiterated its intention to upgrade as many homes as possible in the private rented sector to an EPC band C by 2030.

MORE ENFORCEMENT TOOLS

The white paper states that local councils will be given more tools to enforce the new standard, so they can "crack down on non-compliant landlords while protecting the reputation of responsible ones." They will also receive support to "manage their local supported housing market and take action against poor quality providers."

The standards will also encourage landlords to "manage their properties effectively, rather than waiting for a renter to complain or a local council to take enforcement action."

IMPLEMENTATION

A review of the Housing Health and Safety Rating System (HHSRS) - the system that assesses and rates how serious the conditions are in a property - is currently underway. The review will streamline the process for inspecting properties to assess hazards. It's due to close in autumn 2022.

In the white paper, the government has committed to running pilot schemes "with a selection of local councils to explore different ways of enforcing standards and work with landlords to speed up adoption of the Decent Homes Standard".

In the future, the government will consider the scope of introducing "a system of regular, independent checks to make sure that tenants are confident in a property's condition from the outset; exploring the costs and benefits of an independent regulator for the PRS; and considering the case for further consolidation of existing legislation", says the white paper.

- “This reform should be implemented quickly, and it is vital that councils are sufficiently resourced, through new burdens funding, to support the implementation of the standard,” says David Renard (Con), the Local Government Association housing spokesperson.²



To go even further towards tackling insecure and unfit housing, we would like to see a review of Local Housing Allowance rates, and councils to have stronger selective licensing powers by removing the requirement of secretary of state approval for larger schemes.”

David Renard - Local Government Association housing spokesperson

THE SYSTEM THAT COULD BE APPLIED TO THE PRIVATE RENTED SECTOR

The standard and its rating system - under review - currently covers all social housing, excluding leasehold and shared ownership properties. The *Decent home: definition and guidance* outlines four criteria to define what is considered decent - criteria that private rental properties may need to meet in the future, as outlined below.

Under the standard, aiming to “bring health benefits to tenants and reducing health inequalities”, a property is considered a safe and decent home if it meets the following four criteria:

- It meets the current statutory minimum standard for housing
- It is in a reasonable state of repair
- It has reasonably modern facilities and services
- It provides a reasonable degree of thermal comfort

THE HOUSING HEALTH AND SAFETY RATING SYSTEM

Properties need to be assessed under the Housing Health and Safety Rating System (HHSRS) to ensure they have no serious hazards. There are 29 potential hazards assessed under this system. Each hazard is given a score. Those with a score over 1,000 will be deemed serious, because they put the tenant's health or safety at risk, and won't meet the minimum standards criteria.

A 2021 report found that two million homes contain a serious hazard, with only 12% of those poor-quality homes owned by councils and housing associations.³ If serious hazards are found, remedial action should be taken, unless this causes “disproportionate expense or disruption.”

Landlords can wait until the property's next void period to make the home safe and decent if their tenant doesn't want the work to be undertaken, although tenants should be made aware of the risk that the hazard poses.

1 ENSURING A REASONABLE STATE OF REPAIR

The guidance on the Decent Homes Standard also shares that homes with one or more "key" building components, or two or more "other" building components, that need replacing or major repair because they are old won't be classified as in a "reasonable state of repair".

Building components include the home's structure, other external elements such as the roof or chimneys, and internal services and amenities, such as kitchens or heating systems.

The National Housing Federation has proposed dropping "the distinction between 'key' and 'other' components" to avoid confusion over what falls into each category.⁴ It also suggests replacing the age of a component as a factor and instead considering its condition and functionality, or taking into account the lifetime of the component.

2 HAVING REASONABLY MODERN FACILITIES AND SERVICES

This criteria requires kitchens to have adequate space and layout and to be 20 years old or less, and bathrooms to be appropriately located and under 30 years old. There should also be adequate noise insulation, and space in the common entrance areas. Some of the improvements to bring properties in line with this criteria may be challenging to make due to "physical or planning restrictions". If the relevant agency or body finds that it is impossible to do the renovations, the property won't fail this criteria. On this point, the guidance notes that "demolition and new build may be more appropriate" in some instances, and therefore renovations won't be necessary.

3 PROVIDING A REASONABLE DEGREE OF THERMAL COMFORT

Properties need to have efficient heating and effective insulation to meet this criteria. The heating systems must be able to heat two or more rooms in the home and, even if the system covers most of the house, landlords need to make sure the home is warm enough for their tenants under the HHSRS.

If a new heating system is installed, landlords should see this as a chance to increase the property's energy efficiency.

As the efficiency of oil or gas heating differs from other forms of heating, the level of insulation required also differs. For oil or gas, cavity wall insulation or at least 50mm loft insulation is required. For electric storage heaters or solid fuel programmable heating, this is upped to 200mm for loft insulation.

¹ - "Property industry reaction to Rental Reform White Paper proposals." Property Industry Eye, propertyindustryeye.com

² - "LGA: authorities must be 'sufficiently resourced' to deliver new private renting reforms," Local Government Chronicle, lgcplus.com

³ - "Good homes for all," Centre for Ageing Better, ageing-better.com

⁴ - "Decent Homes Standard review: comments on 'reasonable state of repair' – National Housing Federation response to MHCLG review," National Housing Federation, housing.org

Chapter six



CREATING A NEW PRIVATE RENTERS' OMBUDSMAN

A new Private Renters' Ombudsman will help landlords and tenants settle disputes quickly, at low cost, and without going to court. It will make sure that tenants in the private rented sector have the same access to redress as those living in other types of housing, as "the PRS is falling behind other housing tenures" for redress, says the *A Fairer Private Rented Sector* white paper.

THE CURRENT REDRESS LANDSCAPE

Redress schemes currently exist for social tenants and leasehold agents, and private landlords can voluntarily join an agent redress scheme or Housing Ombudsman - but only around 80 to 90 landlords are covered out of an estimated 2.3 million, says the white paper.

The paper goes on to explain that ombudsmen or redress schemes are set up to help protect consumer rights. They aim to provide "fair, impartial, and binding resolutions" without needing to advance the problem to court. Using an ombudsman should therefore be faster, cheaper, and easier than going through the court system.

Currently, there is a redress scheme for agents to help settle disputes with tenants, but no similar scheme for landlords. This means that, if a tenant has a complaint, their agent may be relying on a landlord that doesn't want to engage when remedying that complaint.



THE PROPOSED SERVICE

The ombudsman will offer a streamlined service for both landlords and tenants to use. The white paper outlines how the service will aim to "tackle the root cause of problems, address systemic issues, provide feedback and education to members and consumers, and offer support for vulnerable consumers."

It will be mandatory for landlords with an agent to join the scheme. This will give tenants access to redress services in any situation, while landlords will be more accountable for their own conduct and responsibilities, rather than the agent.

The government has also promised to identify ways to link this database with the proposed property portal (see page 24), to help streamline the process further.

Sean Hooker, Head of Redress at the Property Redress Scheme, has previously commented on the fees that may be involved.¹ "There is going to be a cost," he says. "Whether that cost comes through a registration fee or whether the industry pays for the individual complaints to be handled, all I can say is that we are looking at a very big sector."

“We are looking at two and a half million landlords out there, adding to the 30 or 40,000 agents that are already out in the market. Spreading the costs over those sort of numbers, you can push the costs right down, because most people will not have complaints that will need to be referred up.”

Sean Hooker - Head of Redress at the Property Redress Scheme

SUPPORTING TENANTS

Tenants will be able to seek redress for free if they have a complaint about their tenancy. Legitimate complaints could be around their landlord's behaviour, property standards, or repairs that haven't been completed within a "reasonable" timeframe, for example.

The white paper highlights that the ombudsman will be given powers to "put things right" for the tenant, such as "compelling landlords to issue an apology, provide information, take remedial action, and/or pay compensation of up to £25,000."

Landlords also may be required to reimburse rents, if the "service or standard of property they provide falls short of the mark".

POTENTIAL PENALTIES

If landlords don't comply with the ombudsman's decision - especially for repeat or serious offenders - they may be liable for a banning order. The ombudsman's decision may also be enforced through the courts, if the landlords' compliance becomes "a concern".

¹ - "Q&A: Renters' Reform Bill update with Sean Hooker," Goodlord, goodlord.co



Chapter seven



INTRODUCING A NEW PROPERTY PORTAL TO ENHANCE ENFORCEMENT

Landlords in the private rented sector (PRS) will soon be legally required to register their properties on a new property portal. This portal will deliver a single "front door" to help landlords understand their obligations, give tenants more insight into their landlords' compliance, and give local councils access to more data, so that they can target criminal landlords, the *A Fairer Private Rented Sector* white paper reveals.

HOW IT WILL WORK

The new digital property portal will be a "trusted one-stop-shop for guidance on renting in the PRS," says the white paper. It will give tenants more transparency on the standard of the property they're renting and give councils more visibility when serious issues arise.

"Driving equality between private landlords and tenants must be recognised as a key element of solving the housing crisis," says Guy Horne, co-founder and chief executive at the real estate investment company, HSPG.¹



"The expansion of the Decent Homes Standard and creation of a Private Renters' Ombudsman are set to balance this currently unequal and exploitative power dynamic."

The government has not yet put forward proposals on exactly how this portal will work, but it will test potential solutions for the portal, focusing on user research and engaging with representative groups to make sure that the new system works for everyone involved.

The government will also look into how it can combine the compliance and legal requirements in the portal to achieve the portal's goal of creating more transparency. A "lead operating authority" will be considered too, says the white paper, to help local councils use the portal in the best way.

ENHANCED ENFORCEMENT

The white paper clarifies that the new portal will "dramatically increase" the ability of local councils to enforce against criminal landlords, and the government will consider incorporating some functionality of the existing Database of Rogue Landlords and Property Agents into the new property portal in the future, to boost these efforts.

Councils are currently only required to add landlords to the Database of Rogue Landlords and Property Agents if they make a banning order - if no banning order is served then the council can choose whether to add it to the database or not. Councils also have discretion to record Civil Penalty Notices if a landlord has received more than one within 12 months.

Under the new white paper proposals, it will be mandatory for councils to enter all "eligible offences" in the database - and that offence data will be made publicly available, to help

tenants see if their landlords have committed an offence. The eligible offences will be expanded to include all civil penalties, with no leniency on the number committed before it needs to be entered. The government is also "exploring options for broadening the criteria for entry".

Councils will also be given more power to "pursue the worst offenders", by reducing red tape, strengthening the fines for serious offences and high criminality and introducing a national framework for setting fines, and looking into how they can bolster local council enforcement to "tackle a wider range of standards breaches".

PRIVACY CONCERNS

Although tenants will be able to access "necessary information in relation to their landlord's identity and compliance with key legislative requirements", the white paper shares that not all data will be publicly available. It will instead balance landlords' privacy concerns against the information that private tenants require to make an informed decision when choosing their new rented home.

IMPROVING COMMUNICATION

The white paper recognises that there are many rules and regulations for landlords to follow, which can be "overwhelming" - particularly for first-time landlords - and that communication is therefore key to "ensure clarity across the sector".

Landlords are already required to share the "How to rent" guide with their tenants at the start of the tenancy. In the future, landlords will also need to provide a written tenancy agreement which sets out all the basic information and responsibilities for the parties involved - which should help avoid and resolve disputes, and provide

evidence if the disputes go to court.

- The government will look into how it can make sure messages "reach the right groups", using existing touch points to improve communication with those in receipt of benefits and working with partners that already provide information to landlords and tenants, such as Citizens Advice and the National Residential Landlords Association.

PORTAL OR REGISTER?

Sean Hooker, Head of Redress at the Property Redress Scheme, has commented on the practical nature of calling it a "property portal" rather than a "landlord register", explaining that this focuses on the property itself, rather than the landlord. "There's a lot of advantages to that," he says.²



Properties don't move. They stay where they are. They are what they are. So it doesn't matter if you change ownership or management of it, the property is still going to be there. And if you focus on a condition, and this is why they're pushing these decent home standards, the register will be on the property. And it will stay there regardless of whether the landlord is renting out or not.

Sean Hooker - Head of Redress at the Property Redress Scheme

¹"A game-changer?: sector reacts to PRS white paper," Inside Housing, [insidehousing.co.uk](https://www.insidehousing.co.uk)

²"Q&A: Renters' Reform Bill update with Sean Hooker," Goodlord, [goodlord.co](https://www.goodlord.co)

Chapter eight



IMPROVING TENANT RIGHTS

As rents increase and the cost of living crisis grows, it becomes even more important to find ways to give tenants a "positive housing experience" - a key ambition of the Renters' Reform Bill as stated in the *A Fairer Private Rented Sector* white paper. The paper highlights some additional measures - alongside the proposals outlined in previous chapters - which will help achieve that goal.

NOTICE PERIODS FOR RENT INCREASES TO BE DOUBLED

An estimated 11,000 households in the private rented sector (PRS) reported moving recently because their landlord had put up the rent, according to research in the white paper.

The paper confirms that the government "does not support the introduction of rent controls to set the level of rent at the outset of a tenancy." Instead, in a move to combat the cost of living crisis, rent increases will be limited to once per year and the minimum notice landlords must provide of any change in rent will be increased to two months.

Landlords will need to use section 13 to increase rent during a tenancy, so that the tenants can choose to challenge at the First-tier Tribunal, if they think the increase is unjustified.



In cases where increases are disproportionate, the government will "make sure that tenants have the confidence to challenge unjustified rent increases through the First-tier Tribunal" and it will "prevent the Tribunal increasing rent beyond the amount landlords initially asked for when they proposed a rent increase".

It will also end the use of rent review clauses, "preventing tenants being locked into automatic rent increases that are vague or may not reflect changes in the market price" and says that "any attempts to evict tenants through unjustifiable rent increases are unacceptable".

However, some commentators believe that these changes aren't enough. "There [isn't] any sign of meaningful proposals to address the problem of unreasonable rent rises," says Shadow Minister for Housing and Communities, Matthew Pennycook.¹

“A one-year rent increase limit, the removal of rent review clauses, and vague assurances about giving tenants the confidence to challenge unjustified increases at tribunal is simply not good enough.”

Matthew Pennycook - Shadow Minister for Housing and Communities

TENANT RIGHTS FOR RENT REPAYMENTS BOLSTERED

Removing section 21 will allow tenants to "seek Rent Repayment Orders where Appropriate", says the white paper. It highlights that in rent-to-rent cases it may be difficult to know which landlord should repay the rent, and that tenants can also be "timed out"

when making an application for the Order.

The government will therefore boost the current system and expand Rent Repayment Orders to cover repayment on non-decent homes too. The shift to periodic tenancies will also help tenants leave a property without being liable for the rent, if their property is unsuitable or unsafe.

Additionally, if a landlord charges multiple months' rent upfront - as may be the case with overseas tenants or those without guarantors - they will need to repay any of that rent if the tenancy ends earlier than the period that the tenant has paid for. The amount of upfront rent that landlords can ask for will also be limited.

TENANTS GIVEN MORE RIGHTS TO KEEP PETS IN PROPERTIES

The government will legislate to ensure landlords do not unreasonably withhold consent when a tenant requests to have a pet in their home, with the tenant able to challenge a decision. At the same time, the government will amend the Tenant Fees Act 2019 to include pet insurance as a permitted payment. This means landlords will be able to require pet insurance, so that any damage to their property caused by pets is covered.

"It will be interesting to see how much opposition there is against the pet proposals, given most landlords don't allow pets," says Craig Vile, director of The ValPal Network.²

Chris Norris, Policy Director for the National Residential Landlords Association, says that the law needs to take "a common-sense approach to pets" as well as reflecting that some properties aren't suitable for pets.³ "Likewise, in shared homes, the rights of those to have a pet need to be balanced

with the rights of fellow tenants who might have concerns, especially those with certain allergies," he says.

Through the white paper, the government also encourages landlords "to allow reasonable requests by tenants to redecorate, hang pictures or change appliances - provided they return the property to its original state when they leave".

BANS ON RENTING TO FAMILIES WITH CHILDREN OR THOSE ON BENEFITS TO BE OUTLAWED

The paper has outlined that it will become illegal for landlords or letting agents to have blanket bans on renting to families with children or those in receipt of benefits ("No DSS"). The white paper says that, "while most landlords provide a professional service to their tenants, there is evidence that some landlords and agents are actively discouraging, or even preventing people in receipt of benefits or with children from renting their properties".

In 2021, the English Private Landlord Survey discovered that 44% of landlords were unwilling to let to tenants on housing support or Universal Credit, which could "severely restrict the ability of a person on a low income to live in a decent home," says the white paper.

The government will also explore whether action is needed to support other vulnerable groups that may struggle to access PRS accommodation, such as prison leavers. To offer more support to landlords, the

government says in the white paper that it will work with insurance companies to "address landlord and agent misconceptions that it is difficult to arrange insurance for properties where tenants are in receipt of benefits", and will also look into how to improve the welfare support information for tenants and landlords.

¹ "Ministers urged to address 'extortionate rent hikes' amid cost-of-living crisis," Express & Star, [expressandstar.com](https://www.expressandstar.com)

² "Is rental reform a distraction from government failures elsewhere?" Letting Agent Today, lettingagenttoday.co.uk

³ "Pets in lets: Everything you need to know about the new 'legal right' for animal-loving renters," The Evening Standard, [standard.co.uk](https://www.standard.co.uk)





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