

Technical consultation on consequential changes to the homelessness legislation

Initial comment

Chartered Institute of Housing (CIH) welcomes the opportunity to respond to this consultation on the consequential changes to homelessness legislation as a result of the Renters Reform Bill, namely, the removal of Section 21 evictions, assured shorthold tenancies and fixed-term tenancies.

CIH has long advocated for the end of 'no fault' evictions which are the leading cause of homelessness in the private rented sector, and we are pleased to see the government bringing forward the long-awaited Renters Reform Bill to enact this. Removing Section 21 (no fault) should help to level the playing field between landlords and tenants, empowering tenants to challenge poor practice and unjustified rent increases, as well as incentivising landlords to engage and resolve issues. It is also crucial the abolition of Section 21 possession notices does not lead to a reduction in homelessness rights.

The aim of changes to the homelessness legislation must be to require and encourage local authorities to take early prevention actions which support tenants to remain in their existing home (if they wish to). The abolition of Section 21 notices (and thereby no-fault evictions) should lead to a reduction in caseloads for local authority homelessness services, as the ending of a private tenancy is currently a leading trigger of homelessness. Some private tenants will still face repossession on either the permissible landlord grounds or due to breach of tenancy (for example rent arrears, anti-social behaviour), but this is likely to be considerably fewer cases than those currently homeless due to no-fault eviction. This should allow statutory homelessness services to put more resources into preventing eviction.

We have limited the number of consultation questions we have responded to as follows.

Consultation questions

Q1e: Do you have any additional comments on the impacts of option 1 which have not been covered in your response to Q1a-d? Yes/No. If yes, please provide comments for your answer.

Yes.

This is our least preferred option as we consider that this option would lead to unequal and inconsistent treatment of homeless applicants. Option 1 leaves it to local authorities' discretion to decide whether an applicant is threatened with homelessness (within 56 days). This will lead to some deciding that a valid section 8 notice constitutes being threatened with homelessness within 56 days and others deciding that it does not. This is not robust enough and the potential for gatekeeping in this scenario would be high. We are concerned that option 1 could mean that the opportunity would be reduced for tenancy rescue support through the Homelessness Prevention Grant. If a local authority can decide that a person with a section 8 notice is not threatened with homelessness within 56 days, they will not issue a tenancy rescue payment or signpost to advice and support to help save the tenancy.

This option could result in people at risk of homelessness being turned away without help which would undermine of the government's approach of early prevention, increasing homelessness, and (in the case of applicants who are unintentionally homeless and have a 'priority need' for rehousing) an increase in the use of temporary accommodation.

Q2e: Do you have any additional comments on the impacts of option 2 which have not been covered in your response to Q2a-d? Yes/No. If yes, please provide comments for your answer.

Yes.

Option 2 is our preferred option.

Unlike option 1, option 2 removes local authority discretion as to whether the person is threatened with homelessness within 56 days and ensure that early prevention assistance is owed to all tenants at risk of homelessness due to being served a repossession notice. Homelessness prevention activity will also be more consistent across the country as the expectation on local authorities will be the same everywhere.

The guidance should make clear that this applies when (but is not limited to) a section 8 notice is served, regardless of how long the notice period is or how long it is expected that the court process will take.

It is worth noting that the different grounds for possession under Section 8 have different notice periods, so local authorities will have to work more quickly to prevent homelessness in some cases.

Q3e: Do you have any additional comments on the impacts of option 3 which have not been covered in your response to Q3a-d? Yes/No. If yes, please provide comments for your answer

Yes.

This option is not preferred. Courts can still grant possession where discretionary grounds are used, therefore only allowing local authorities to accept that someone is threatened with homelessness if they have been served a Section 8 notice based on mandatory grounds will lead to these people being excluded from prevention activity. This option would mean that tenants facing repossession due to rent arrears or other breaches of tenancy would not be owed a prevention duty. Applicants most at risk of homelessness are likely to be those without sufficient income and housing benefit to afford or access a suitable alternative home. They may well be facing possession and eviction due to rent arrears. Therefore, like option 1, this approach would likely increase homelessness and temporary accommodation use.

In line with our comment for option 2 it is important to note that the different grounds for possession under Section 8 have different notice periods, so local authorities will have to use differing time frames to prevent homelessness in some cases.

Q4: Do you have any comments on the proposed option to remove the reapplication duty from the homelessness legislation? Yes/No/Don't Know. Please provide comments for your answer.

Yes.

We do not support the removal of the reapplication duty from the homelessness legislation as it may still be needed given that applicants given a PRS offer could

become homeless again within two years (for example if the landlord were to sell the property).

However, if the government were to set the eviction protection period to two years as detailed in the 2019 'New Deal for Renting Consultation' (rather than the six months detailed in the White Paper), then CIH could support the removal of the reapplication duty.

Q5b: Do you have any comments on the proposed minor technical changes in Annex A? Yes/No/Don't know. Please give your comments.

Yes.

Replacing the wording "the tenancy being offered is a fixed-term tenancy for a period of at least 12 months" with "the tenancy being offered is an assured tenancy" could lead to situations where people owed the main rehousing duty are offered a supported housing tenancy that is intended to be short-term at the outset, or temporary accommodation, to discharge that duty, as "an assured tenancy" will apply to all tenancies.

It should also be acknowledged that the agreement that an offer of PRS accommodation to discharge the main rehousing duty should be 12 months recognised the fact that a social housing tenancy (previously the only possible offer to discharge a main rehousing duty) was inherently more secure than a PRS tenancy, and that to offer a similar (but not equal) level of protection to tenants as in the social sector, the length of the PRS tenancy would have to be longer than the usual six months. Some of the new mandatory grounds are only likely to arise under a private tenancy (e.g. landlord wishes to use for a family member) and in these situations the tenant may only have effective short-term security. A reference to a minimum period of security may still therefore be necessary.

Q6: Do you think that any of the proposed changes could give rise to any impacts on people who share a protected characteristic? Yes/No/Don't know. Please give your comments.

Yes.

Multiple sources have shown that the cost of living crisis is disproportionately impacting on certain groups of people in society with various protected characteristics; including lone parents (who are predominantly women), disabled people, and racially minoritised people. Therefore, these people who share a protected characteristic could be subject to eviction from the PRS for rent arrears, for which the grounds are being strengthened. It is imperative that the definition

of 'being threatened with homelessness' is robust, the reapplication duty is not removed, and the abolition of section 21 (no-fault) possession notices under a Renters Reform Bill does not lead to a reduction in homelessness rights.

About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is to provide housing professionals and their organisations with the advice, support, and knowledge they need. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org.

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