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Housing

What you need to know about ending 'no fault' evictions



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On 15 April 2019 government announced plans to end so called 'no fault' evictions of private tenants in England.

'No fault' evictions were introduced via Section 21 of the Housing Act 1988. This makes it possible for a private landlord to evict a tenant by giving two months' notice at any time after their tenancy's initial fixed term period (usually either six or 12 months) has passed. It is not necessary for the landlord to give a reason for an eviction and tenants have only very limited grounds on which to challenge this.

On 21 July 2019 government published a consultation, [A new deal for renting](#), setting out their plans in more detail and asking for feedback. The consultation will run for 12 weeks, until 12 October 2019.

This briefing for CIH members summarises the government's current plans, as set out in the consultation. These may be subject to change, depending on the outcome of the consultation.

What is being proposed?

In summary, government's proposal is to abolish 'no fault' evictions by abolishing assured shorthold tenancies (ASTs), the form of tenancy typically used by private landlords. Instead landlords would need to use assured tenancies, which can only be ended using one of a specified number of grounds for possession. This would ensure that a private landlord could never evict a tenant without giving a valid reason.

Government is also proposing to make several changes to the available grounds for possession, strengthening some existing grounds and introducing several new ones, as well as making changes to court processes to make these quicker and easier to use. These changes are intended to provide some reassurance to landlords that they would still be

able to recover their properties, where they had a genuine need to do so.

If implemented in their current form, these proposals would mean that:

- landlords could choose to issue either fixed term or periodic assured tenancies. Without a break clause (see below) a tenant cannot generally end a fixed term tenancy before the end of the term but can end a periodic tenancy at any time by giving a months' notice. In either case (without a break clause), the landlord would only be able to end the tenancy by citing a valid ground for possession. Where a fixed term tenancy is used this would automatically become periodic at the end of the term, unless both parties chose to sign up for a new fixed term
- landlords and tenants may be able to agree to include a 'break clause' if they are using a fixed term assured tenancy. This would allow either party to end the tenancy early, on a specified date





- all of the existing grounds for possession (listed in full on page 22 of the [consultation document](#)) would remain available to landlords, with a number of changes. The most significant of these are:
 - o widening ground one, which allows a landlord to evict a tenant in order to use the property as their main home, to include other members of the landlords' family. The current requirement that they must have previously lived at the property would be removed but landlords would not be able to use this ground until the tenant has lived there for at least two years
 - o strengthening ground eight, which allows a landlord to evict a tenant where they owe more than two months' rent, to address concerns that tenants can currently avoid eviction by repeatedly paying arrears down to just below this level ahead of any court date
 - o creating a new ground to allow a landlord to evict a tenant in order to sell the property. This ground would also not be available until the tenant has lived there for at least two years
- in some cases, landlords would still be able to use 'accelerated possession'. This allows for a decision to be made by a court without an actual hearing taking place. It is one of the main benefits to landlords of the current Section 21 process. The consultation document suggests that government may allow 'accelerated possession' to be used in cases involving some specific grounds for possession in the future
- no new controls would be placed on rent increases alongside the changes to tenancies. Instead, where a fixed term tenancy is being used, these rent increases must be set out in the tenancy agreement. Where a periodic

tenancy is being used, rent can be increased once a year. Although there is no specific limit on the size of this increase, tenants can appeal to the first-tier tribunal for independent adjudication if they feel that the new rent is above market rates.

Changes would not be introduced retrospectively and would apply only to new tenancies. It is not yet clear exactly when the proposed changes might be introduced.

Will social landlords be affected?

Local authorities do not generally use ASTs and so are not affected by the changes, other than where they have established a separate housing company or where they manage property on behalf of private landlords (for example through a social lettings agency or private sector leasing scheme) in their area.

However, housing associations could be significantly affected. As well as possibly owning and/or managing homes in the private rented sector, many associations also use ASTs when managing their socially rented homes.

Most commonly:

- as starter tenancies
- where an assured tenancy is demoted due to anti-social behaviour
- where they have chosen to issue tenancies for a fixed term (most commonly five years), instead of for life.

At present, government is not proposing any kind of exemption to the changes for housing associations.

Will student landlords be affected?

Institutional providers of student accommodation are already exempt from the Housing Act 1988, and so are not affected by any changes to it.

The consultation suggests that government would not make other types of student landlord exempt. Instead they may seek to widen the use of ground four, which allows education providers to evict tenants at the end of a predetermined period (e.g: the end of an academic year), so that it could be used by all student landlords. This would effectively allow any landlord letting to students to specify upfront, in the tenancy agreement, an end date for their tenancy and then to serve notice to end the tenancy on that date.

What does CIH think?

We support the principle of ending 'no fault' evictions.

Private renting has increased dramatically in the last 20 years and a sector that has traditionally often provided a relatively short-term home for groups such as students and young professionals is now increasingly also providing homes for the long-term. More than a third of

private renters are now families with children and there are also growing numbers of older renters.

While some tenants genuinely value the flexibility that the sector offers, current arrangements are no longer working for everyone and we believe it is necessary to offer a greater level of security to long-term renters.

However, we also accept that landlords have legitimate concerns, particularly around rent arrears. It is important that there is a fair and efficient process for them to seek possession of their properties, where there are genuine problems. The present alternatives to Section 21 do not do this effectively - government's figures suggest that on average it takes a private landlord 22 weeks to secure an eviction through the court system.

It is therefore welcome that government is also considering this issue by reviewing the available grounds for possession and by looking at ways to speed up the process. Government has also separately [consulted on establishing a specialist housing court](#). We support these proposals and have [previously encouraged government to introduce a new court at the same time as abolishing 'no fault' evictions](#).

We will be responding to the consultation on A new deal for renting and will be seeking the views of our members on the detail of the proposals, including how they might affect housing associations, shortly.

