



# Renters Rights Bill Briefing

## House of Commons, Second Reading

9 October 2024

### Introduction

1. JUSTICE is a cross-party law reform and human rights organisation working to make the justice system fairer for all. Our vision is of fair, accessible, and efficient legal processes in which the individual's rights are protected and which reflect the country's international reputation for upholding and promoting the rule of law.
2. This briefing addresses the Renters Rights Bill ("**the Bill**") in advance of its Second Reading in the House of Commons.

### Support for Measures Contained in the Bill

3. Reform to the private rented sector ("**the PRS**") is long overdue. Thousands of tenants across the country face constant risk of eviction<sup>1</sup> and are trapped in unsafe, low-standard housing.<sup>2</sup> With this in mind, and considering key recommendations contained within our Solving Housing Disputes report,<sup>3</sup> JUSTICE strongly supports the following measures in the Bill which help address these issues:
  - a) the immediate abolition of s.21 "no fault" evictions (Clause 2) – which will significantly reduce the number of unfair evictions. Contrary to concerns previously raised, we do not consider that it will have an adverse impact on court capacity.<sup>4</sup>
  - b) the extension of notice periods for possession cases (Clause 4),

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<sup>1</sup> Shelter, '[Every seven minutes a private renter is served a no-fault eviction notice despite government promise to scrap them three years ago](#)', 26 April 2022

<sup>2</sup> Department for Housing, Levelling Up and Communities, '[The English Housing Survey](#)', Chapter 4 estimated that in 2022, 21% of PRS homes did not meet the Decent Home Standard – around 1 million homes. This compares with 14% of owner-occupied and 10% of social-rented homes.

<sup>3</sup> JUSTICE, '[Solving Housing Disputes](#)', (2020)

<sup>4</sup> In fact, we consider that the abolition of s.21 will lead to fewer evictions, and therefore fewer cases in the court queue, by targeting rogue landlords who do not otherwise have reasonable grounds to evict using the grounds provided for by Schedule 2 of the Housing Act. According to government data, the current volume of no fault evictions proceeding through court which are currently at their highest level since 2017. See Department for Levelling Up, Housing and Communities, '[Live Tables on Homelessness](#)', updated 30 April 2024.

- c) a Decent Homes Standard for the Private Rented Sector (Clause 98); and
  - d) prohibitions on landlords discriminating against tenants who receive benefits and/or have children (Clause 32-33).
4. However, rights on paper mean little without proper enforcement. Therefore, JUSTICE is pleased to see provisions to create a Private Rented Sector Database (Clause 73) which will increase the transparency and accountability of landlords, and the introduction of a Landlord Redress Schemes (Clause 62). Nonetheless, we consider that additional measures are required to ensure that the Bill is capable of achieving its objectives and to facilitate all parties in the PRS to understand and enforce their rights.

## Room for Improvement

### Grounds for Possession

#### Anti-social behaviour

5. Clause 4 of the Bill removes the 2 weeks' notice period that landlords are required to give tenants when evicting on the grounds of anti-social behaviour ("ASB").<sup>5</sup> This means that they can immediately commence eviction proceedings via court. This is at odds with other possession grounds, including domestic abuse, where notice is required.<sup>6</sup>
6. Losing one's home can be a devastating and life-changing event which is why eviction should be the last resort for tackling ASB. However, our research<sup>7</sup> has found that police and local authorities often miss opportunities to intervene,<sup>8</sup> and that investigations into ASB are often inadequate owing to a lack of training and resource.<sup>9</sup> In addition, individuals, often in vulnerable circumstances, can be the subject of nefarious complaints from neighbours.<sup>10</sup> Rather than making it easier to evict tenants, the Government must invest in training and resources for the police and local authorities to investigate and fully respond to complaints of ASB.

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<sup>5</sup> Ground 7A and Ground 14

<sup>6</sup> Ground 14A

<sup>7</sup> JUSTICE, '[Lowering the Standard: A Review of Behavioural Control Orders in England and Wales](#)', (2023)

<sup>8</sup> For example, there is a down-turn in the use of anti social behaviour contracts, and significant discrepancies in the number of anti-social behaviour injunctions applied for by the Police. Several representatives voiced their unfamiliarity with the civil injunction process as being a cause of this.

<sup>9</sup> JUSTICE, '[Lowering the Standard: A Review of Behavioural Control Orders in England and Wales](#)', (2023)

<sup>10</sup> For example, the family of an autistic child were subject to a Community Protection Notice for "closing the door too loudly"; and a domestic abuse victim was subjected to enforcement powers due to "crying too loudly" in their home. According to s7A of the Housing Act 1988, breach of an order is a ground for mandatory eviction.

7. Clause 5 of the Bill would require a judge to consider whether the tenant has failed to engage with interventions to manage their behaviour, when deciding whether to grant possession for reasons of ASB using ground 14. Individuals with additional support needs, including intellectual disabilities, mental ill-health and substance use disorders, often lack practical support which makes engagement with interventions impossible.<sup>11</sup> We recommend the Bill be amended to require a judge to explore the reasons why a tenant’s engagement has been poor, as well as what steps the landlord has taken to resolve the problem prior to eviction.
8. Eviction on the grounds of rent arrears under s.8 of the Housing Act should be “discretionary only”. It is common for tenants experiencing rent arrears to also be experiencing multiple disadvantage and/or clustered legal issues.<sup>12</sup> Often, tenants would be able to address their arrears, were they able to access the support available to them. Without helping tenants to address the root causes of arrears, the problem will just be pushed from one landlord to the next.

## **Ending Discrimination in the Rental Market**

9. Whilst we welcome the prohibition on landlords discriminating against tenants who receive benefits and/or have children (Clause 32-33), this should be extended to other marginalised groups who find it difficult to secure housing. In particular, prison leavers are highly susceptible to discrimination from landlords and experience a higher risk of homelessness.<sup>13</sup> In light of the Government’s early prisoner release scheme, preventing homelessness is vital. Ensuring that prison leavers can securing housing will aid effective reintegration and rehabilitation.

## **Private Rented Sector Database (“PRS Database”)**

10. Clause 73 of the Bill introduces a Private Sector Database which is mandatory for all prospective and current private landlords to register with. They will be required to provide certain information including details of their rental properties and information about any landlord banning order that they have been subject to.<sup>14</sup> Clause 80 prohibits landlords from listing a property for rent unless they and the respective property are listed on the database. Failure to comply can result in a financial penalty under Clause 89.

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<sup>11</sup> JUSTICE, [‘Lowering the Standard: A Review of Behavioural Control Orders in England and Wales’](#), (2023)

<sup>12</sup> Our [‘Solving Housing Disputes’](#) report found that many factors lead to rent arrears, including bereavement, difficulties accessing benefits, employment and poor mental health.

<sup>13</sup> See Crisis, [Expert Review Panel on Homelessness Briefing: Criminal Justice and Homelessness](#), 2023 and Russell Webster, [‘Access to the private rented sector for prison leavers’](#), May 2024

<sup>14</sup> Clause 73(c) and Ministry of Housing, Communities and Local Government, [‘Explanatory Notes’](#), updated 26 September 2024., para 464.

11. The type of information provided on the PRS Database should be expanded to ensure that it is fit for purpose in providing a “one stop shop” for tenants and landlords, as envisaged by the Government<sup>15</sup> and recommended in our Solving Housing Disputes report.<sup>16</sup> We understand that the information provided will be set out in regulations however, this should include:

- a) When an eviction has taken place using grounds 1 and 1A e.g., because the landlord is selling the property or they or their family members require to move back in. This is to avoid landlords mis-using such grounds, then relisting their property. This will make it easier for local authorities and tenants to take enforcement action.<sup>17</sup>
- b) Information to identify where a landlord has been subject to a rent repayment order in addition to landlord banning orders, which are already provided for in the Bill.
- c) More expansive information relating to obligations upon tenants and landlords<sup>18</sup> including information about a landlord’s duty not to discriminate. We support the Government’s commitment to including information about housing conditions. We encourage them to provide guidance to tenants and landlords about the Decent Homes Standard and require that landlords provide basic safety information and certificates via the database. Doing so will help improve knowledge and understanding across the sector – education upstream can mitigate poor practices and the need for enforcement further downstream.
- d) Signposting for support services, including legal support and advice services and the Landlord Redress Scheme. It should also incorporate other existing tools such as the Housing Disrepair Online Signposting Tool.<sup>19</sup> Doing so, will help parties navigate the complex, disaggregated housing advice / dispute landscape.

12. It is crucial that the Government invest in infrastructure, including a telephone support line, so that people who don’t have digital access and/or digital literacy can access the database and, where necessary, be supported to submit a complaint to the local authorities as envisaged at Clause 83(c).

13. There should be no exceptions to the ban on landlords obtaining possession where they have not registered on the PRS Database (Clause 88). The Bill provides that a court will be unable to grant possession

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<sup>15</sup> Ministry of Housing, Communities and Local Government, ‘[Guide to the Renters Rights Bill](#)’, updated 26 September 2024.

<sup>16</sup> JUSTICE, [Solving Housing Disputes](#), (2020)

<sup>17</sup> Ground 1 is amended to allow landlords to possess properties in circumstances where the landlord or family are moving in and Ground 1A is inserted into the Housing Act 1988 to provide for circumstances where a tenant is being evicted due to a landlord selling the property.

<sup>18</sup> See, Ministry of Housing, Communities and Local Government, ‘[Guide to the Renters Rights Bill](#)’, updated 26 September 2024 which states: “We will work to ensure that tenants know their rights; landlords and agents understand what is expected of them; and local authorities have the resources and skills to enforce effectively.”

<sup>19</sup> Ministry of Justice, [Online Housing Disrepair Signposting Tool](#)

where a landlord has not registered on the PRS Database, unless one of the ASB possession grounds is used. The purpose of the Database is to increase the accountability of landlords and mitigate against unfair evictions – this should be true regardless of which ground for possession is relied upon. Carving out an exception for ASB (and not other grounds such as the one pertaining to domestic abuse) is confusing and inconsistent with the approach of the Bill.

## Landlord Redress Scheme

14. The Bill will enable the Secretary of State to require all prospective, current and former private landlords to register to a new Private Housing Ombudsman.<sup>20</sup> Failure to do so will result in financial penalties under Clause 64. Tenants will be able to raise complaints against landlords for free. Decisions from the Ombudsman will be binding and outcomes will include compelling landlords to issue apologies, provide information, take remedial action or pay compensation.<sup>21</sup>
15. Currently, there is no redress mechanism specifically for private sector landlords. Letting and managing agents in the private rented sector have been required to belong to a government-approved redress scheme since 2014 e.g., via the Property Ombudsman or the Property Redress Scheme.<sup>22</sup> Whilst private landlords can voluntarily register with these schemes, only around 80 – 90 landlords out of the 2.3 million in the private rented sector have done so.<sup>23</sup> This has led to inconsistent provision and patchwork protection for tenants in the private rented sector. It also reflects the general incoherence within the wider housing dispute landscape which comprises the Housing Ombudsman, the Local Government and Social Care Ombudsmen, the Property Ombudsman, the Property Redress Scheme, the Tenancy Deposit Scheme, the Deposit Protection Scheme, and MyDeposits. The bifurcation of housing disputes between courts and tribunals also continues to cause confusion, particularly where the jurisdiction to decide a case lies with both the County Court and the First-tier Tribunal (Property Chamber).
16. Therefore, whilst we welcome the requirement for private landlords to belong to a redress scheme there is a lack of detail as to how the new and existing schemes will interact with one and other and we are concerned that this will cause further confusion to tenants trying to navigate an already complicated landscape. For example, the new Private Housing Ombudsman scheme envisages voluntary members which could include landlords who are already mandated to register with other Ombudsman services, including the Housing Ombudsman and Property Ombudsman. Conversely, private landlords may have already voluntarily registered with one of the other schemes. Whilst we understand the Bill introduces

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<sup>20</sup> See, Ministry of Housing, Communities and Local Government, '[Guide to the Renters Rights Bill](#)', updated 26 September 2024

<sup>21</sup> Clause 63(3)(j)

<sup>22</sup> The [Property Redress Scheme](#)

<sup>23</sup> This data is an estimate based on data directly provided to DLUHC by the Property Ombudsman and the Property Redress Scheme, as well: Housing Ombudsman Annual Report and Accounts 2020/21.

provision for co-operation between schemes, we wish to stress that it is crucial that the redress pathway for a tenant is clear and accessible and that there is no discrepancy in outcomes for the tenant, depending on which forum the complaint is initially processed through.

17. To help tenants and landlords navigate the confusing housing dispute landscape, the Government should create a single-entry point or portal through which access can be gained to all redress schemes, tribunals and the courts as well as services providing alternative dispute resolution including mediation. That single entry point should also facilitate individuals to obtain help to deal with related / ancillary matters such as debt advice and support to access benefits.
18. Finally, we are pleased to see a provision in the Bill for landlords to voluntarily initiate mediation with tenants as part of the redress scheme. However, for alternative dispute resolution to be successful, mediators must be trained to identify and signpost to advice relating to the types of clustered legal issues that arise in the housing context.<sup>24</sup> Parties must also be supported to interact with one another in a way that best suits their needs e.g., indirectly, directly, via telephone, via video or in person. Furthermore, tenants should not bear any costs for this mediation.
19. Secondly, we are not confident that the uptake of mediation will be substantial, due to landlord familiarity with court processes and the power advantage they hold in acquiring legal advice in court actions. Instead, we recommend making it mandatory for landlords to engage (in a meaningful way) with the mediation service prior to being able to raise court action against a tenant. This would be in line with Civil Procedure Rules<sup>25</sup> that promote litigation as a last resort, and the Pre-Action Protocol for Housing Condition Claims (England),<sup>26</sup> which were designed to help reduce pressure on HM Courts and Tribunals Service. It also aligns with the current approach to mandatory mediation for claims in the small track, currently being piloted.<sup>27</sup> We agree that tenants would maintain the right to opt out of this as provided for in the Bill and it is crucial that tenants have access to legal support throughout the mediation process to ensure that they can make appropriate decisions about how to settle their case.

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<sup>24</sup> For instance, research has found that housing, benefits, debt, and relationship breakdowns are commonly associated with one another.

<sup>25</sup> Civil Procedure Rules, Practice Direction – Pre-Action Conduct and Protocols, Paragraph 8-10.

<sup>26</sup> See [Pre-Action Protocol for Housing Condition Claims \(England\)](#)

<sup>27</sup> See Ministry of Justice and HMCTS, '[Faster resolution for small claims as mediation baked into court process](#)', May 2024