

## **Renters (Reform) Bill 2023**

### **1. Background**

The White Paper 'A Fairer Private Rented Sector' of June 2022 set out Government's plans for housing reform and the Renters (Reform) Bill 2023 is part of the commitment to deliver 'a better deal for renters'. The Bill has not yet been scheduled for a second reading.

#### **1.1 The need for change**

The national housing crisis includes issues like street homelessness, unsafe or substandard properties, exploitation and unfairness:

- There are concerns about the use of Assured Shorthold Tenancies (ASTs), which became the default tenancy in the private rented sector after being introduced by the Housing Act 1988. Section 21 of the Act allows private landlords to repossess their properties without needing to demonstrate any fault of the tenants, hence it has become known as the 'no-fault' eviction. ASTs are an insecure tenancy and can lead to tenants feeling powerless to challenge issues like poor housing conditions including damp and mould, or unfair rent increases because they fear it might result in being served a Section 21 eviction Notice.
- Local Housing Authorities (LHAs) generally feel Section 21 increases homelessness, but landlord groups believe rent arrears are the main contributory factor to homelessness and like the expediency and efficiency of Section 21 Notices. However, the system can be problematic for both parties - even if a landlord agrees to not claim any unpaid rents they still face long waits of many months to obtain a court order following a section 21 Notice and if that is granted, they must then return to court for a Bailiff's Order. Some of the new legal provisions aim to address this problem.
- Currently, landlords do not have to belong to a redress scheme, meaning that tenants either have to attempt negotiations directly with their landlord when things go wrong or take them to Court. In some cases, however, direct negotiations can resolve a dispute faster and more proportionately than a court case.
- The House of Commons feels that 'a lack of robust data and information on the sector' contributes to low or inconsistent levels of enforcement between local authorities.

The proposed reforms in the Renters (Reform) Bill 2023 are intended to address these concerns so that Local Housing Authorities can support people before they reach crisis point.

The Bill is available here: <https://publications.parliament.uk/pa/bills/cbill/58-03/0308/220308.pdf> and the Explanatory Notes can be accessed here: [220308en.pdf \(parliament.uk\)](https://publications.parliament.uk/pa/bills/cbill/58-03/0308/220308en.pdf).

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## 2. Key changes to legislation

The following are proposed key changes to existing housing legislation:

- A ban on ‘no-fault’ Section 21 evictions, (which lead to a fifth of all the homeless presentations nationally (1)) and reforming landlord possession grounds (2). However, the legislation must safeguard against landlord eviction powers for antisocial behaviour being used as a ‘back door method’ to evict tenants who have not done anything wrong.
- New powers for housing authorities including the ability to penalise landlords not operating fairly, and to investigate issues such as tenancy agreements, grounds for possession, harassment and unlawful eviction.
- An end to assured short term tenancies.
- A clear possession pathway for landlords with legitimate grounds.
- A new landlord database (the Property Portal) to provide information on landlords. Membership will be enforced by LHAs.
- A Private Rented Sector Landlord Ombudsman scheme so that tenants can have complaints about their landlord independently investigated.
- The Decent Homes Standard will be legislated for the private rented sector and will introduce a new requirement for councils to report on enforcement activity.
- Full detail on the proposed changes to grounds for possessions are contained in Annex B of the Bill’s Explanatory Notes: [220308en.pdf \(parliament.uk\)](https://www.parliament.uk/bills/2023/220308/en.pdf)

## 3. Key Elements of the Tenancy Reform:

### 3.1 Abolition of no-fault evictions and fixed terms

- The Bill will abolish section 21 ‘no fault’ evictions, and fixed-term assured tenancies. Tenants will be moved onto a single system of rolling periodic tenancies.
- Tenants will need to provide two months’ notice when leaving a tenancy, giving more flexibility to end tenancies in situations including where landlords are failing to meet their obligations or where properties are poor quality.
- Assured tenancy terms which try to create any length of notice period other than either monthly or no more than 28 days long will be of no legal effect.
- The grounds for possession notice period for court proceedings for tenants in arrears will be extended from two weeks to four weeks.
- Leases of seven years or more are excluded from the assured tenancy system and will be allowed to have fixed terms, to allow the lease to function. The main effect will be on shared ownership products and leasehold agreements with ground rents high enough to meet the legal threshold of an assured tenancy.

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### **3.2 Grounds for possession in anti-social behaviour cases**

- The notice period for serious anti-social behaviour has been reduced so landlords can make a claim for possession immediately. The mandatory grounds are defined as “The tenant has been convicted of a specified criminal offence or has breached a relevant order put in place to prevent antisocial behaviour.”
- The discretionary grounds (requiring a court decision) are defined as “tenant or anyone living in or visiting the property has been guilty of behaviour causing, or capable of causing, nuisance or annoyance to the landlord or anyone living in, visiting or in the locality of the property.”
- A court cannot make an order for possession until at least 14 days after the landlord has given notice to the tenant.

### **3.3 Rent increases, and pets**

- The notice period for a rent to change will increase from one month to two months - to allow time for tenants to raise a challenge.
- All rent increases must now be done by issuing a section 13 notice. This cannot be issued during the first year of a tenancy and can only be issued once a year following that.
- Landlords will be legally obliged to consider requests to keep a pet. They will be able to require insurance to cover pet damage.

### **3.4 Homelessness duties**

- Housing Act provisions will be repealed that placed shorter tenancy sanctions on those owed a prevention or relief duty who deliberately and unreasonably fail to cooperate, This is because the Bill abolishes fixed-term tenancies.
- The Bill removes the reapplication duty, which is a duty owed by a local housing authority to a homeless applicant who accepted a final offer of suitable accommodation in the private rented sector, and then becomes homeless again within 2 years and reappplies for accommodation.

### **3.5 Enforcement**

- Clause 58 includes a wide duty on every LHA to enforce “landlord legislation” in its area, including parts of this new Bill, the Protection from Eviction Act 1977 and Housing Act 1988.
- Local authorities will be given enforcement powers to enact financial penalties on landlords who do not provide correct tenancy agreements or misuse the grounds for possession and will be able to levy fines of up to £5,000 for such offences, rising up to £30,000 for landlords wilfully misusing grounds for possession.
- Authorities will have to issue a notice of intent before imposing a financial penalty. Landlords can make written representations against the penalty within 28 days.

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The Authority must then issue a final notice which landlords can appeal. Unpaid fines will need to be recovered via a county court order.

- Local authorities will also be able to levy penalties of up to £30,000 for unlawful eviction and harassment and may use the proceeds of financial penalties towards costs and expenses associated with carrying out enforcement functions relating to the private rented sector.

### ***3.6 Lead Enforcement Authority***

- The Secretary of State will be able to appoint a 'lead enforcement authority' for landlord legislation, to oversee the operation of legislation and issue guidance, information and advice to LHAs.
- The body will have the power to take enforcement action in a local authority's area, relieving it of its duty in the relevant case. Clause 62 also includes an obligation to report on its functions as required by the lead enforcement authority.
- The Government intends that this could remedy a lack of capacity and capability within LA enforcement in complex or high-profile cases. SDC intends to plan its responsiveness to the new requirements in the Bill to avoid a scenario where the Lead Enforcement Authority would step in and take over these operations.

### ***3.7 Landlord Redress Scheme***

- Residential landlords will have to join a landlord redress scheme (the PRS Landlord Ombudsman scheme), giving tenants the opportunity to complain to an ombudsman about their landlord. The scheme must provide for the independent investigation and determination of complaints.
- LHAs can impose a penalty of up to £5,000 on a person if it is satisfied that a landlord is breaching the requirement to be a member of an approved or designated redress scheme, rising to £30,000 for repeat offences.
- The scheme Ombudsman will refer cases to the local housing authority in whose area the dwelling is for investigation.

### ***3.8 Supported Housing***

- The Secretary of State is required to report on the Government's policy on safety and quality standards for temporary accommodation and supported housing, one year after the Bill comes into force.
- This report will indicate how standards would be developed, overseen, and enforced, and how guidance would be provided to LHAs. It will complement the Supported Housing Regulatory Oversight Bill.

### ***3.9 Private Renter Property Portal and Database***

- A database will be created to identify current residential landlords and properties, and any action has been taken against them by the LHA.

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- Regulations will set out the information required from landlords or their agents to register, including the cost to register, the duration of registration and or conditions for registration to expire (e.g., if the property is sold). The landlord and their property/properties must be registered separately, and each registration will receive a unique reference number.
- A landlord or agent cannot advertise a property unless there is a valid entry for them and the property on the portal, with unique identifiers for registrations part of this written advertisement. However, there will be a 28-day grace period where landlords may advertise the property, but their registration is pending as some information has not yet been provided. The Bill provides LHAs with the power to set out fines where the advertising prohibition is ignored.
- LHAs will be required to:
  - Ensure all records are kept up to date.
  - Assess the validity of entries and housing standards information provided to the register. This may require spot testing of documents.
  - Register where a banning order, criminal proceedings or a civil financial penalty have been pursued by the authority.
  - The Bill requires councils to use the database in the exercise of any of its functions “relating to housing, residential landlords or residential tenancies.”
- The Secretary of State will be required to provide a method for residents to report breaches to their local authority.
- Regulations will specify what information from the register will be publicly available.

#### **4. Implementation**

The Bill is currently in the House of Commons for its second reading which had not been scheduled at the time of the summer recess, meaning it will not be debated until September at the earliest. If progressed, the Bill will then be debated and scrutinised in the House of Lord, before it receives Royal Assent. Consequently, there is no implementation date yet for the primary legislation.

There will be a two-stage implementation process with six months’ notice before changes affecting new tenancies and another 12 months before applying to existing tenancies.

#### **5. Implications for Stroud district**

##### **5.1 For Tenants**

- Tenancies should be more secure, and it should be harder for landlords to behaviour unscrupulously. Deposits will be better protected, and the portal will provide tenants with information about property registration and safety documentation.

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- The right to keep a pet is introduced.
- No improvement in the quality and standard of living conditions will arise *directly* from the Bill although the Decent Homes standard is proposed to apply to the private rented sector (not currently in the Renters Reform Bill but it is a legislative commitment in the White Paper). It is anticipated that the Decent Homes Standard (when it is introduced) will improve standards because of the new provision for tenants to come forward when a landlord does not appropriately deal with issues like repairs.
- The removal of the section 21 notice should result in greater clarity around the reasons why a landlord has served notice, which could result in clearer options toward homelessness prevention initiatives.

## **5.2 For Landlords**

- It is important that landlords are supported to ensure they remain in the market. In some areas like Stroud district, there is already a shortage of private rental accommodation and there is a risk that an excessive burden on landlords could see many exit the market. It is also acknowledged that the financial pressures on private buy-to-let landlords with mortgages may also contribute to some landlords exiting the market.
- Criminal and very poor landlords will find it more difficult to operate once all provisions of the Bill are introduced.
- Smaller landlords could find it difficult to operate economically within the more restrictive system that the Bill will bring, and many are already talking about moving out of the sector – this is of particular relevance to the district as there do not tend to be larger portfolio landlords and there are already problems with supply of accommodation.
- Conversely, some small to medium sized professional landlords have commented that they do not anticipate the proposed new requirements to cause them difficulty.

## **6. Implications for Stroud District Council**

### **6.1 Staff resource**

- The Chair of the District Council's Network, Councillor Sam Chapman-Allen, has said that 'resources are required to ensure private tenants are protected' and that 'The noble aims of the Renters' Reform Bill should not be thwarted by possible capacity challenges. (1). We welcome our 'enhanced stewardship' of the system, however, we agree with the DCN that there is a clear case for new burdens funding to be supplied to allow us to appropriately discharge the new duties and to shift from a reactive to a proactive approach. DLUHC are also mindful of the funding/resource issue.
- We welcome the provisions in the Bill to further protect and empower tenants, but we do have concerns, however, about the wide range of additional enforcement administration being placed on housing authorities. This includes investigation of

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tenancy agreements, grounds for possession, harassment and unlawful eviction; but also, enforcement of the landlord redress scheme and property portal registration.

- Although LHAs may use the proceeds of financial penalties towards costs and expenses associated with carrying out enforcement functions relating to the private rented sector, it is unlikely that these proceeds could be used for proactive work or regulation, making it difficult to quantify the possible resource requirements in terms of FTE at this stage. Another consideration is that another regulator such as Trading Standards or the Fire & Rescue Service may be the primary regulator for some of the requirements of the Bill.
- The proposed statutory Decent Homes Standard for the private rented sector would also have a significant impact on the capacity of the council's private sector housing team and is likely to warrant a business case for further resource. The Decent Homes Standard does not form part of the Renters (Reform) Bill.
- SDC contributed to the DLUHC consultation on the Decent Homes Standard being brought to the Private Rented Sector and suggested that the DHS is implemented as a certificated standard, much like a Gas Safety Certificate. This would then allow LAs to bring in revenue as part of the awarding body, and also simplify enforcement i.e. lack of a certificate is the offence. This suggestion was welcomed as it did not appear to have been previously considered by DLUHC representatives as an option.

## **6.2 Other considerations:**

- The proposed abolition of Assured Short Term tenancies may present problems in some parts of the PRS. For example, in short-life housing and specialist letting (like supported housing) although the legislation may contain a provision to let on a licence (not confirmed yet). Some long leases of residential units contain covenants that allow the units to be sublet only with forms of residential tenancy that do not grant security of tenure, like ASTs. Unless the legislation overrides such covenants, the future sub-letting of flats by leaseholders to individuals for residential use will be prohibited because of the implications that security of tenure is being granted.
- Clause 58 will require all councils to take formal action for a range of new offences. The disparity between well-resourced and poorly-resourced Council enforcement teams will have to be addressed to achieve consistency across England.
- A corresponding increase in activity in relation to poor living conditions may come along later, if the additional regulation of these matters goes ahead.
- It is difficult to predict the percentage by which private sector housing complaints to the council might increase by. In 2022-23, the figures for the core work of the team were:

325 service requests including Homes for Ukraine accommodation checks.

10 new HMO applications

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50 housing standards complaints  
75 DFG applications.

Service requests and housing standard complaints could potentially quadruple. There may also be an increase in DFG applications as a result of housing standard investigations. There is currently insufficient staff resource to cope with that level of demand.

- The change in emphasis to an enforcement-led approach where LHAs may only receive funding through the issuing of fines, has implications for SDC's graduated enforcement policy and strength-based approach as it discourages the use of informal means to achieve compliance. Enforcement-related funding is difficult to plan and budget for as it is not guaranteed income.
- There will be a heavy training burden on local authority officers alongside the need to promote legislative changes and support landlords and tenants (and there may be an expectation that the LHA would provide training for landlords). Most landlords in the district are singular property landlords, increasing the potential resource needed for this kind of support.
- Need for closer working and to develop processes with the ASB teams and the housing advice team on some of the grounds for possession.
- There is a detailed proposal to make significant changes to the method by which the standard of housing is assessed (the Housing Health & Safety Rating System – HHSRS). This is running at the same time as the Renters Reform Bill is being progressed and DLUHC indicate that their response to this consultation is imminent. If implemented, those changes will be further evidence of the wide ranging extent of the reform of the PRS.
- This is the biggest legislative change in private sector housing since the Housing Act 2004. There is a risk that there might be similarly high levels of qualified staff moving to those LAs with enough resource to carry out proactive activity.
- The professional body for Environmental Health practitioners, the Chartered Institute of Environmental Health, has not been forthcoming with support or guidance for its Members.

The District Councils Network is engaging with central government on the following potential issues, all of which will have some bearing on SDC:

- Resource and capacity challenges and the support needed to grow relevant workforces to meet these responsibilities, as well as further powers that might assist.
- Careful consideration of the communication of proposals such as the Property Portal, in partnership with housing authorities so that landlords are not pushed out of the market.
- Concerns that some grounds for possession, such as those related to antisocial behaviour, may be exploited to allow for unfair evictions to take place.

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- How the Property Portal will interrelate with both local authorities' selective licensing schemes (of which there are none in Stroud district), and any potential short-term lets registration scheme (such as the one proposed in the Bill for the registration of holiday accommodation).

## **7. Next steps**

- Track the progression of the Bill and provide further update to Housing Committee when the detail of the legislation and guidance is known
- Suggest discussion at the county-wide Strategic Housing Partnership with county lead being ideally being taken by an urban authority (SDC are leading on other housing priorities like Warm and Well).
- Analyse results of Private Sector House Condition survey when completed (November).
- Ensure officers are trained, when courses become available.
- Review and amend enforcement policies and processes (in progress).
- Prepare a business case if further resource is likely to be needed.

## **8. References and Useful Information**

1. <https://www.districtcouncils.info/district-bulletin-for-may-2023-resources-are-required-to-ensure-private-tenants-are-protected/>
2. Renters' Reform Bill: Briefing for DCN Leaders & Chief Executives
3. House of Commons Library Research Briefing 'Renters (Reform) Bill 2022-23', published 29<sup>th</sup> May 2023 <https://commonslibrary.parliament.uk/research-briefings/cbp-8756/>
4. <https://www.gov.uk/government/publications/a-fairer-private-rented-sector>
5. DHLUC Guides to sections of the Renters (Reform) Bill, published 17<sup>th</sup> May 2023 <https://www.gov.uk/government/collections/renters-reform-bill>
6. Progress of Public Bills List: as at 21 July 2023, <https://www.parliament.uk/business/bills-and-legislation/current-bills/public-bill-list>
7. The Bill is available here: <https://publications.parliament.uk/pa/bills/cbill/58-03/0308/220308.pdf> and the Explanatory Notes can be accessed here: [220308en.pdf \(parliament.uk\)](https://publications.parliament.uk/pa/bills/cbill/58-03/0308/220308en.pdf)

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