



‘Reforming the Private Rented Sector’, Levelling Up, Housing and Communities Committee Call for Evidence

Date: 19th August 2022

Introduction

1. The Country Land and Business Association (CLA) is the membership organisation for owners of land, property and businesses in rural England and Wales. Our members own or manage around half the rural land in England and Wales and more than 250 different types of businesses. Our members are the most significant provider of houses for rent in the private sector in rural areas and our members’ businesses also generate housing need and help sustain rural communities. 17% of the population live in rural areas, and research shows that over the next decade, an additional 124,000 households are expected to move to rural areas¹. Any policies related to reforming the private rented sector (PRS) must pay attention to the rural economy and the communities living in and contributing to it.

Question 1: Will the Government’s White Paper proposals result in a fairer private rented sector (PRS)?

2. No – “Fairness” is primarily about balance and our concern is that the pendulum can swing too far. We understand the arguments about security of tenure but there is a real danger of “over correction”. For example, with the proposed removal of fixed terms, a tenant would be able to give 2 months’ notice at any stage without reason but the landlord’s right to do so would be completely removed. This does not feel balanced. The CLA would prefer the retention of fixed term tenancies (in the interests of certainty and clarity) for those who want them as part of a truly flexible PRS, but with a longer notice period like that recently enacted in Wales. It seems contrary to the principle of “freedom of contract” not to permit the parties to commit to a fixed term if they so wish.
3. Additionally, to create a fairer PRS, there needs to be affordable and genuinely flexible access to homes. A CLA member survey in 2020 demonstrated that 90% of our members provide some private rented housing. Of these members, 60% let homes at a value below market rent, with 24% of all homes let below market rent. Many of our members also supply housing to their employees (at low or no cost) as part of the job “package”. A variety of housing options in rural areas is not only vital for local communities to flourish but also for the efficient working of the rural economy. While we understand the objectives of these reforms, we have [grave concerns](#) that the unintended consequences of these proposals will in fact exacerbate the housing crisis in rural areas.

¹ CPRE, Rural Recovery and Revitalisation, October 2020

4. There remains an undersupply of rented homes in rural areas; in 2020 there were over 260,000 people on a housing waiting lists in rural areas² and less than 4,500 social homes were built in rural areas in 2019-20³. The solution therefore for a 'fairer' PRS is first and foremost to increase supply by building new homes and maintaining the incentive to let properties where they are needed.
5. Our concern is that the White Paper's proposals will have the opposite effect. They will make it far less attractive for landlords to operate within the PRS, as they make letting riskier if landlords struggle to repossess their properties when needed in a court system that is already unable to cope.
6. The argument that legislative reform is needed to reduce tenant insecurity is understood but the perception of "high churn" in the PRS is often overstated – especially in the rural context. A survey of CLA members showed that the average length of tenancy in rural areas is 7.5 years (compared to 4.2 years nationally⁴); this is particularly relevant to the proposals to abolish Section 21 notices and the introduction of a PRS ombudsman.
7. The proposals concentrate on making a 'fairer' PRS by abolishing an eviction route which is primarily used in urban areas and to end very few tenancies. The Joseph Rowntree Foundation reports that in 2017, 62% of all Section 21 notices were served in London⁵, and the English Housing Survey in 2019-20 found that only 8% of PRS renters nationally were asked to move out by their landlord⁶.
8. We are regularly told by our landlord members that they are considering leaving the market due to increasing legislative burdens, rising costs of compliance and that the removal of section 21 "is the final straw". They are genuinely fearful that the system will no longer work for them when they require repossession. In rural areas therefore, where tenancies are much longer than average and use of Section 21 is relatively limited, these proposals will not create a 'fairer PRS' but will in fact have the perverse affect of decreasing supply and thus affordability.

Question 2: What do the proposals in the White Paper and other recent reforms indicate about the role the Government envisages the PRS playing in providing housing nationally?

9. The executive summary to the White Paper makes it clear that the Government sees the PRS as a steppingstone to home ownership.
10. However, in rural areas at least, this is an unrealistic expectation. The PRS is not a homogeneous sector; in rural areas it is varied and has a different demographic. Tenants in rural areas tend to be older, more likely to be families with children and have a variety of

² Gov.uk Live Table 600: Number of households on local authorities' housing waiting lists by district: England, 31 March 1987-2021

³ Gov.uk, Table 1011: additional affordable housing supply, detailed breakdown by local authority

⁴ English Housing Survey 2020-21

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1060141/2020-21_EHS_Headline_Report_revised.pdf

⁵ <https://www.jrf.org.uk/report/poverty-evictions-and-forced-moves>

⁶ English Housing Survey 2019-20 <https://www.gov.uk/government/statistics/english-housing-survey-2019-to-2020-headline-report>



tenure types including Rent Act 1977, Rent (Agriculture) Act 1976, long-term Assured Shorthold Tenancies (ASTs), and a variety of employment accommodation e.g. Service Occupancy Agreements.

11. The ability of households currently in the PRS to buy in a rural area is significantly less than in urban areas. For example, in 2020 rural place-based earnings (where the person works in a rural area and lives in one) were £2,500 lower than place-based urban wages (excluding London). Growth in rural areas was also slower, with wages in urban areas rising 4.5% compared to rural wages growing just 1.7% (from 2019 to 2020)⁷. Whereas in the 12 months to June 2021 rural house prices increased 14.2% compared to just 6.8% in urban areas⁸. Therefore, the affordability gap widens.
12. It is clear through the CLA member survey that rural PRS landlords are often, in effect, fulfilling the role of a 'social landlord' providing homes below market rent, where too few social homes are available. This must be considered if the Government, through its proposals in the White Paper, intends to level the PRS with the social sector. In other words, the current government proposal needs to be properly rural-proofed.

Question 3: Have the Government's announcements already led to any changes in behaviour in the PRS?

13. Yes. CLA members are widely reporting that upcoming Renters' Reform Bill and in particular the abolition of Section 21 is making them consider leaving the market altogether and many are already selling up. For example, the National Residential Landlord Association (NRLA) report that that 28% of landlords in Yorkshire and Humber plan to cut the number of properties they let in the next 12 months, this is up from 20% the year before⁹.
14. The proposals in this White Paper cannot be considered in isolation – PRS landlords are also faced with proposals to increase Minimum Energy Efficiency Standards (MEES) to EPC 'C' and the phasing out of fossil fuel boilers. This proposed legislation means big upcoming capital spend for many landlords. Combined with a proposed decent homes standard, and other White Paper proposals, and it is not surprising that landlords are considering serving notice and exiting the market.
15. We know that this Government is pro-home ownership so may not be concerned to hear that landlords are selling up, but it is important to note that this change in behaviour of landlords in the PRS will radically diminish supply, in areas where local wages are not sufficient to enable renters to buy. These dwellings are more likely to become second homes or holiday lets. This will exacerbate the housing crisis in the countryside.

⁷ Office of National Statistics

⁸ Hamptons research

⁹ <https://www.nrla.org.uk/news/next-pm-must-tackle-rental-supply-crisis-in-Yorkshire-and-the-Humber>

CLA Member Case Study: A CLA member based in South Wales with circa 100 PRS properties has disposed of 20 let properties, 14 of these in 2021. The member is based adjacent to an Area of Outstanding Natural Beauty and a National Park therefore the homes they provide are much sought after, and affordability is an issue in their location. Of the 20 properties sold in 2021, 3 were sold to second homeowners, and the other 17 were sold to owner-occupiers. The member cited upcoming spend to meet increased MEES, and the changes to Section 21 and tenancies in Wales as the main reasons for disposing of a significant amount of their property portfolio.

Question 4: Do the proposals for reforming tenancies, including the abolition of Section 21, strike the right balance between protecting tenants from unfair eviction and allowing landlords to take possession of their properties in reasonable circumstances?

16. *On paper* many of the new and improved grounds under section 8 sound reasonable and we are grateful to the changes that have been made in respect of employees housing but it is *the practice* that is the real concern to our members – especially those with experience of the court system.
17. As stated earlier, only 8% of PRS tenancies in 2019-20 ended using a Section 21. Many CLA members report using Section 21 as a route to regain possession even when a Section 8 Ground would be available, therefore it would seem the issue of “unfair eviction” has been inflated. We know that landlords use section 21 when other grounds are currently available (often with shorter notice periods) to avoid lengthy court proceedings.
18. Although our members are generally reluctant to resort to using section 21 (the parties are likely to know each other and/or live in close proximity), they are reassured to know it is there in case they need it. There is also the perception that the fact that *tenants* know it is there, generally helps to prevent antisocial behaviour that has blighted so many Rent Act tenancies where the tenants could act with relative impunity. Many of our members have such protected tenants still and/or remember the “bad old days” and would rather leave properties empty or change their use altogether than return to such a situation.
19. Having said that, we were pleased to see that many of the new Grounds proposed under section 8 will be mandatory and require 2 months’ notice or less. Any new or revised Grounds for Possession must be fit for purpose in a rural context. As we have explained to the Department for Levelling-Up, Housing and Communities (DLUHC), the proposal for “*agricultural*” landlords to be able to evict a PRS tenant if the property is needed for an incoming “*agricultural*” worker must be defined as widely as possible and preferably be amended to “*rural*” worker. 85% of rural businesses have nothing to do with farming or forestry, but many of them (e.g. tourism and hospitality) need to provide accommodation in order to attract staff. Without assurance that properties can be freed up when necessary to house key workers in the countryside (where homes are already scarce), they risk being left empty so as to be available to house employees when necessary (as we understand has been happening in Scotland since they removed the equivalent of Section 21).



20. Short-term ASTs give valuable flexibility to tenants, particularly for more mobile groups such as young professionals. However, many of our members would be in favour of granting longer tenancies if required, so long as they could be sure of regaining possession at the end of a fixed term. To encourage this would seem a more creative and positive option and would give flexibility to both tenants and landlords. As stated earlier, in rural areas tenants are much more likely to live in a single property for a long term, so security of tenure but with flexibility for the landlord is hugely important in a rural PRS.

Question 6: Does the PRS need its own ombudsman? If so, what powers should it have?

21. We do not believe an ombudsman is either necessary or a good use of scarce public funds. A properly resourced, accessible, fit for purpose court system is what the PRS needs instead. In most cases, CLA members report that disputes can be resolved between the parties, so we are doubtful of the merits of an ombudsman.

22. There is limited information about how a PRS ombudsman would be administered and audited, and by whom. Is the intention for the ombudsman to take pressure off the courts? We propose that a more effective policy proposal would be to reform and invest the money in the court system rather than create a secondary level of adjudication.

23. We have a number of concerns with the proposed powers of the ombudsman as set out in the White Paper. In particular, the proposal for the ombudsman to be able to impose fines of up to £25,000 is astonishing. A fine of £25,000 would be a very serious level of judicial penalty so we have concerns that it could be issued by a body with a lower level of scrutiny than a court of law.

24. The Housing Ombudsman Service which operates in the social sector would not be easily transferable into the PRS. Landlords in the PRS are far more likely to be individuals with one or two properties and so the Ombudsman's charter e.g. to encourage landlords to have an exhaustive complaints process would not be realistic for the PRS. The point at which a tenant could refer a complaint to the ombudsman would need to be clearly defined.

25. If there is to be an ombudsman in the PRS it is imperative that it would be equally accessible for both tenants and landlords. If tenants are to have the option to escalate a complaint outside of the court process, so too should landlords. This will be particularly important if Section 21 is removed.

Question 7: Will the proposals result in more disputes ending up in the courts? If so, will the proposals for speeding up the courts service suffice?

26. Yes – it seems inevitable that if the accelerated possession procedure is removed, there will be a huge increase in court cases. This is already a huge problem. Many of our members are reporting that it has taken 12-18 months to get their properties back – often without rent being paid for that time.

27. We have particular concerns that the Section 8 grounds for 'Anti-Social Behaviour' and 'Major Redevelopment' remain discretionary and will be difficult to establish in practice.
28. The reason that the Section 8 route for repossessions is so little used in practice is that it requires an application to the court, and this takes too long. The proposals in the White Paper would not appear to offer much comfort in this respect. Consequently, our plea to Government has been and remains that any reform to the legislation must not happen until the courts are sufficiently resourced and ready to cope with the increased workload.

Question 9: What impact, if any, will the reforms have on the supply of homes in the PRS?

29. As set out in our answer to question 3, we are already witnessing behavioural changes of landlords operating in the PRS, meaning a decrease in supply of private rented homes, of which some are let below market rent. Such a reduction in rural homes to not only threatens the sustainability of communities but also the efficiency of the rural economy.
30. We are concerned that although the intention appears to be to encourage the PRS to act as a steppingstone into home ownership, the reforms are making it harder to rent by diminishing supply before it is easier to buy.

Question 10: What should be included in the new decent homes standard and how easily could it be enforced?

31. There are currently approximately 140 Acts of Parliament and more than 400 regulations¹⁰ affecting the renting of residential properties in the PRS. The sole purpose of any new decent homes standard for the PRS should be to consolidate existing legislation and make it easier for landlords and tenants to understand. There is already a plethora of complicated legislation and standards for landlords to navigate, including:
- The Housing Health and Safety Rating System
 - Minimum Energy Efficiency Standards
 - The Homes (Fitness for Human Habitation) Act 2018
 - Smoke and Carbon Monoxide regulations
 - Gas and electrical safety regulations
 - Legionella risk assessments
 - Right to Rent immigration checks
 - Tenancy Deposit Protection
 - Licensing
32. We seriously doubt that a new decent homes standard would 'fix' anything in the PRS that is not already covered by existing legislation. A decent homes standard for the PRS is at risk of being a reporting tool and another layer of audit, as it has become in the social sector.

¹⁰ <https://landlordlawblog.co.uk/2018/05/01/select-committee-reportprs/>



33. If the number of homes which would be classed as “non-decent” quoted in the White Paper has been calculated against the decent homes standard in the social sector, this is not an appropriate basis for new policy. The decent homes standard in the social sector needs review and was introduced to tackle issues such as outdated kitchens and bathrooms, and poorly located facilities. Of particular concern for CLA members would be any inclusion of age being an acceptable measure of adequacy of facilities in a property. If this was introduced, beautiful heritage properties could have their facilities ripped out because they're over a certain age and don't meet modern standards.
34. Rural properties are more likely to be of traditional (pre-1919) construction, more likely to be classed as energy inefficient (because of difficulties in upgrading, not discussed in this response), and more likely to be heritage, listed and in a conservation area. This is likely to make them fall within the “non-decent” category by default. We are a country with an older building stock and this needs to be considered before legislation is enacted. Otherwise, as with MEES there becomes a need for a complicated system of exemptions and the legislation fails to perform as it was intended.
35. Local authorities should concentrate on supporting landlords to understand their responsibilities under current legislation rather than be required to enforce a further standard which may duplicate what is already required by other legislation.

Question 11: How enforceable are the proposals to make it illegal for landlords to have blanket bans on letting to people on benefits or with children? What other groups, if any, should be protected from blanket bans?

36. It is important that landlords are able to ban tenants from having pets. The damage caused by some pets is very costly to landlords at the end of tenancies. Amending the Tenant Fees Act 2019 to require tenants to obtain pet insurance would alleviate some concern, but it must be possible for landlords to require that tenants claim on that insurance during and once the tenancy has ceased and reimburse the landlord for any remedial works.
37. Some properties in rural areas may be on a working farm, therefore it is for safety reasons that landlords have blanket bans on tenants with children, discretion needs to be applied to specifically rural issues.

Question 12: Overall, what additional pressures will the proposals place on local councils, and how many of these will require new burdens funding?

38. Councils have been unable to enforce existing legislation due to lack of funding and resources. Enforcement of the Housing Health and Safety Rating System has, for example been somewhat of a postcode lottery. It is a matter of real concern that Councils will enforce against the “softer targets” of the *almost* compliant landlord who is trying to keep up with all the changes (and known to them) rather than the totally uncompliant criminal landlords who have brought the sector into disrepute. No additional legislation is needed for that – just determination to see justice done and the expertise and resources to carry out effective enforcement.



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