

PUTTING DOWN ROOTS

Improving security for renting families and private landlords

March 2019



CSJ Housing Commission

Since its inception in 2004 the Centre for Social Justice (CSJ) has worked to identify and reverse the root causes of poverty: worklessness; educational failure; family breakdown; addiction; and serious personal debt. But also vital in tackling poverty is providing the foundation all individuals need to flourish: a safe and secure place to live.

While the full causes and consequences of the tragedy remain unclear, the fire that engulfed Grenfell Tower in 2017 shone a spotlight onto the quality of social and affordable housing provision in this country and the living conditions of the poorest.

In March 2018, the CSJ established a Commission to address this and has been asked to report its findings back to government. In July 2018 it published its first interim report, Social Housing and Employment, which sets out how the Government can unlock the potential of housing associations to provide life-changing skills programmes for disadvantaged residents. In October 2018, it published its second interim report, A Social Justice Housing Strategy, which advanced a comprehensive plan to turbocharge the supply of truly affordable housing in England.

In the coming months, the Commission will continue to investigate the housing issues shaping the experiences of those most struggling.

Its Final Report will be published in Spring 2019.

Putting down roots
Improving security for renting families and private landlords
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About the Centre for Social Justice

Established in 2004, the Centre for Social Justice (CSJ) is an independent think tank that studies the root causes of Britain's social problems and addresses them by recommending practical, workable policy interventions. The CSJ's vision is to give people in the UK who are experiencing the worst disadvantage and injustice every possible opportunity to reach their full potential.

Since its inception, the CSJ has changed the landscape of our political discourse by putting social justice at the heart of British politics. This has led to a transformation in Government thinking and policy. The majority of the CSJ's work is organised around five 'pathways to poverty', first identified in our ground-breaking 2007 report, *Breakthrough Britain*. These are: family breakdown; educational failure; economic dependency and worklessness; addiction to drugs and alcohol; and severe personal debt.

In March 2013, the CSJ report *It Happens Here* shone a light on the horrific reality of human trafficking and modern slavery in the UK. As a direct result of this report, the Government passed the Modern Slavery Act 2015, one of the first pieces of legislation in the world to address slavery and trafficking in the 21st century.

The CSJ delivers empirical, practical, fully funded policy solutions to address the scale of the social justice problems facing the UK. Our research is informed by expert working groups comprising prominent academics, practitioners and policy-makers. Furthermore, the CSJ Alliance is a unique group of charities, social enterprises and other grass-roots organisations that have a proven track record of reversing social breakdown across the UK.

The 15 years since the CSJ was founded has brought with it much success. But the social justice challenges facing Britain remain serious. Our response, therefore, must be equally serious. In 2019 and beyond, we will continue to advance the cause of social justice in this nation.

“

We made it clear we were looking for five years plus. We were assured by the agent that the house was suitable for a long-term family rent, so we took the house on in July with a six month Assured Shorthold Tenancy.

After I reported urgent safety issues with the electrics, gas fire and shower that we discovered on the day we moved in, the landlady now refuses to have any contact with me.

This week we received 'notice of possession'. We now have to move out at the end of January, just six months after moving in. But there's nothing available in this area that we can afford at the moment.

We've done nothing wrong, and are exemplary tenants who've paid up front and just want a quiet family life.

Our lives have been turned upside down by this nightmare.

Mother of two based in Cheshire, in evidence to the CSJ Housing Commission

Executive summary

The CSJ Housing Commission has called on the Government to dramatically increase the number of truly affordable homes delivered in the years ahead.¹ But just as urgent is ensuring that struggling families have enough security in their homes, today, to build prosperous lives and escape poverty.

In this report the attention of the Commission turns to the private rented sector – a housing sector that has experienced rapid growth in the last two decades, with now some 4.5 million households renting in England. In the decade to 2017 alone, the number of renting households with children increased by just shy of one million. The number of renters on below average incomes increased by 1.5 million. And the number of older renters (aged 65+) increased by almost 150,000.

The liberalisation of the private rental market in the 1980s breathed new life into a stagnant sector and introduced new powers for landlords. Many of whom, beforehand, could count on few legal rights to gain possession of the properties they owned. The new regime also meant that more of the people most likely to rent privately and benefit from its flexibility – that is, students, travelling workers and young people – could take advantage of the increased dynamism (but overall reduction in security of tenure) in the sector.

Yet this context has since profoundly changed. The decline in homeownership and scarcity of new social housing has seen the private rented sector explode in size – household types that could traditionally rely on the security and control granted by owner occupation or a social tenancy now live in housing where once the fixed term of their tenancy has finished (this being typically six to twelve months), they can face having to uproot their lives and look for a new home at just two months' notice. Simultaneously, the processes private landlords rely on to limit costly void periods and to gain possession of their property in legitimate circumstances have grown unfit for purpose.

The rules governing the sector have simply not adapted to the seismic demographic changes it has experienced. And the prevailing culture of insecurity has harmed both landlords and tenants alike.

Meanwhile, independent polling conducted by ComRes for the CSJ Housing Commission finds that there remains desire among private renting households for the security, control and sense of ownership provided by more secure tenures. But while approaching two thirds of private renters agree that it is important for them to feel a sense of ownership over their home, only one in five currently do so.

¹ J Shalam, *A Social Justice Housing Strategy: Increasing the supply of truly affordable homes*, Centre for Social Justice, Oct 2018 [www.centreforsocialjustice.org.uk/core/wp-content/uploads/2018/10/CSJJ6574-Housing-Commission-2-Housing-Supply-181025-WEB.pdf]

In this report we examine the impact of insecurity on the lives of those already struggling. We explore the appetite among renters to feel in control of their homes, tracing the decline of people living in tenures which offers this. And we set out our vision for a new Standard Tenancy, providing much more security for families while retaining the beneficial flexibility of the sector, but also establishing fairness for the thousands of good landlords who are currently let down by the housing justice system.

Summary of recommendations

Recommendation 1: Implementing a longer Standard Tenancy

In its consultation on establishing longer tenancies in the private rented sector, the Government explored three ways to introduce the new tenancy regime it proposes: through voluntary measures, financial incentives, or on a mandatory basis. In order to avoid a two-tier rental market, the Government should introduce a new tenancy regime on a mandatory basis. However, exemptions should be made to support the operation of specific markets, such as student rental properties and holiday lets.

As the Government advances on these reforms to tenancy, it should consider whether tax incentives should be reintroduced to maintain investment in the sector.

Recommendation 2: Standard Tenancy length

The Government should introduce legal requirements for a new Standard Tenancy with a fixed term of four years, to mirror the average tenancy length as recorded in the English Housing Survey of 4.1 years (the average over the last eight years is 3.9 years).

Tenants should be able to exit the tenancy with two months' notice once the initial six months have passed, retaining the advantage of flexibility in the private rented sector.

Proposed annual rises in rent should be clearly advertised by landlords and subject to negotiation at the beginning of a tenancy, as per the Government's suggested new framework, however over a four year period. Landlords should also be able to delay or waive rent rises to incentivise good tenants to stay.

Recommendation 3: Abolishing Section 21 and reforming Section 8

The Government should abolish Section 21 of the Housing Act 1988, meaning that households can live with the security of not facing 'no fault' evictions and having to move with two months' notice. The Standard Tenancy ends automatically at the end of the four year fixed term; however, tenants finishing their tenancy should be entitled to another four year term if rents are successfully negotiated with the landlord. The Government should look elsewhere, for example in Scotland where since 2017 private tenancies have been made indefinite, to assess the viability of even longer-term securities for private renters.

Meanwhile, the Government should update the mandatory grounds covered by Section 8 of the Act so that landlords can gain possession of their property during the fixed term for a wider range of reasons, such as if they need to sell or move into the property (on top

of the existing mandatory grounds for antisocial behavior and rent arrears). 'Accelerated grounds' should also be introduced for when a tenant has incurred serious rent arrears of more than three months.

Again, as the Government advances on these reforms to tenancy, it should consider whether tax incentives should be reintroduced to maintain investment in the sector.

Recommendation 4: Introducing a specialist Housing Court

The Government should introduce a single Housing Court, staffed by judges with expertise in housing issues. All housing cases would then travel through a single body with the institutional insight needed to do this more quickly and effectively than the existing county court process.

Recommendation 5: Restoring control

The Government should prohibit landlords from stopping tenants making limited cosmetic improvements to their private rented homes, such as hanging pictures and altering the wall colours. This should be on the condition that 'reasonable' parameters are agreed at the beginning of the tenancy – for example, the acceptable colour palette.

Acknowledgements

We thank all those who submitted evidence and contributed to this report, John Stewart (Residential Landlords Association), Hannah Slater (Generation Rent), Alexandra Morris (MakeUrMove), Hiten Ganatra (Visionary Finance), Brighton Oasis Project, MHCLG, Kate Ivens (Real Action), Rhian Coekin (ComRes), Miranda Foster (Homes England), Liza Parry (Helping People, Building Communities), Sharon Whitehurst (Canopy Housing). Special thanks go to the members of the CSJ Housing Commission Working Group, Francis Salway (Town and Country Housing Group), Nicholas Boys Smith (Create Streets), Hannah Gousy (Crisis), Steve Rance (Capsicum Re), Lynsey Sweeney (Give Us a Chance), John Clark (Plymouth Community Homes), its Chair, Lord Best (Crossbench Peer), and the CSJ team.

We would like to thank the sponsors of this report.



Please note that the proposals made in this report should not be construed as representative of the views of individuals or organisations listed above.

Introduction

The CSJ Housing Commission has called on the Government to dramatically increase the number of truly affordable homes delivered in the years ahead.² But just as urgent is ensuring that struggling families have enough security in their homes, today, to build prosperous lives and escape poverty.

In this report the attention of the Commission turns to the private rented sector – a housing sector that has experienced rapid growth in the last two decades, with now some 4.5 million households renting in England. In the decade to 2017 alone, the number of renting households with children increased by just shy of one million. The number of renters on below average incomes increased by 1.5 million. And the number of older renters (aged 65+) increased by almost 150,000.

The liberalisation of the private rental market in the 1980s breathed new life into a stagnant sector and introduced new powers for landlords. Many of whom, beforehand, could count on few legal rights to gain possession of the properties they owned. The new regime also meant that more of the people most likely to rent privately and benefit from its flexibility – that is, students, travelling workers and young people – could take advantage of the increased dynamism (but overall reduction in security of tenure) in the sector.

Yet this context has since profoundly changed. The decline in homeownership and scarcity of new social housing has seen the private rented sector explode in size – household types that could traditionally rely on the security and control granted by owner occupation or a social tenancy now live in housing where once the fixed term of their tenancy has finished (this being typically six to twelve months), they can face having to uproot their lives and look for a new home at just two months' notice. Simultaneously, the processes private landlords rely on to limit costly void periods and to gain possession of their property in legitimate circumstances have grown unfit for purpose.

The rules governing the sector have simply not adapted to the seismic demographic changes it has experienced. And the prevailing culture of insecurity has harmed both landlords and tenants alike.

Meanwhile, independent polling conducted by ComRes for the CSJ Housing Commission finds that there remains desire among private renting households for the security, control and sense of ownership provided by more secure tenures. But while approaching two thirds of renters agree that it is important for them to feel a sense of ownership over their home, only one in five currently do so.

² J Shalam, *A Social Justice Housing Strategy: Increasing the supply of truly affordable homes*, Centre for Social Justice, Oct 2018 [www.centreforsocialjustice.org.uk/core/wp-content/uploads/2018/10/CSJJ6574-Housing-Commission-2-Housing-Supply-181025-WEB.pdf]

The Government is, thankfully, increasingly alive to these developments. It has subsequently run several consultations advancing proposals for wide ranging reform to private tenancy in England, as well as to the court system through which housing cases are settled.

In this report we examine the impact of insecurity on the lives of those already struggling. We explore the appetite among renters to feel in control of their homes, tracing the decline of people living in tenures which offers this. And we set out our vision for a new Standard Tenancy in England, providing much more security for families while retaining the beneficial flexibility of the sector, but also establishing fairness for the thousands of good landlords who are currently let down by the housing justice system.

The CSJ Housing Commission strongly welcomes the Government's interest in this area and believes that the proposals outlined in this report will help it achieve its ambition to help renters put down roots and build stronger communities.³

3 MHCLG, 'Longer tenancy plans to give renters more security, Press release, 2018
[www.gov.uk/government/news/longer-tenancy-plans-to-give-renters-more-security]

part one

Losing control

Housing insecurity

The last few decades have seen dramatic changes to housing in England. As we demonstrate in this chapter, thousands more families experience higher levels of housing insecurity today than in the recent past. Far fewer are able to feel in control of their lives when their housing conditions deny them the stability to put down roots in a community or raise their children in one area, let alone have a meaningful say in the appearance of their living space. And this lack of control has made it harder for many families to fight the root causes of poverty: unemployment and low pay, educational failure, addiction, family breakdown and serious personal debt.⁴

In response, the Government has made restoring dignity, security and control to both private and social renters an important part of its housing policy agenda.⁵ Yet there remains much more to be done. Compounding all of this is clear impetus for change: new CSJ Housing Commission polling finds there to be desire among private renters for the control and security traditionally achieved through homeownership. Here, we outline these trends and examine the impact of insecurity.

1.1 Tenure, control and security

That place you call home, no matter where or what type it is, should offer you security and dignity.⁶

‘Tenure’, though historically a term referring to the privileges and duties relating to land ownership, now refers to the rights, responsibilities and obligations involved in occupying a dwelling. There are three main types of tenure in England: owner occupation; private renting; and ‘social’ renting (this including both renting from local councils or Private Registered Providers of social housing). Within these categories fall further subdivisions with subtle but significant differences – for example, both those owning their homes outright, as well as those owning their homes via a mortgage, are regarded as owner occupiers.

Recent decades have seen the introduction of several new housing ‘products’, with these sometimes blurring traditional tenure boundaries. For example, those purchasing a 25–75 per cent equity share of a home through Shared Ownership schemes are considered

4 See CSJ library: www.centreforsocialjustice.org.uk/library

5 See, for key examples, the government consultations on tenancy reform and the housing justice system discussed in Part 2, as well as the social housing green paper cited below.

6 MHCLG, *A new deal for social housing*, 2018 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733605/A_new_deal_for_social_housing_web_accessible.pdf]

owner occupiers yet continue to pay rent on the share of the property they do not own, and often remain liable for maintenance costs (unlike private renters). Likewise, councils' use of 'temporary accommodation' to house statutorily homeless families for longer periods of time has, arguably, blurred the conventional rights and obligations of social and private renters, as even though households may expect the support of the council in relation to maintenance costs, their accommodation is often let by a private landlord.

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The key focus of this report is restoring families' control of housing and ensuring they have the security of tenure needed to thrive

The key focus of this report is restoring families' control of housing and ensuring they have the security of tenure needed to thrive, both of which, as discussed later in this report, we believe to be an important weapon in the fight against the root causes of poverty. Before this is possible, however, it is worth briefly examining the key differences between the main housing tenures in this respect.

Owner occupiers

Owner-occupiers who own their home outright may enjoy the security of never being evicted from their property,⁷ while those owning via a mortgage may find their home repossessed if they do not meet the payments set out in the terms of their mortgage. Freeholders of the land beneath (and the air above) a property maintain total control of their home, forever, while leaseholders with a 'long lease' lasting over 21 years (these are typically 99 or 125 years) are entitled to certain statutory rights in addition to the security of tenure granted by the lease itself.⁸ For example, they have the right to extend the lease or purchase the freehold under the Leasehold Reform Act 1967.

Long leaseholders are called owner occupiers, even though they usually pay a small 'ground rent' every year to a landlord who can, in theory and 'limited circumstances', gain possession of the property once the lease has ended.⁹ (The Government is consulting on implementing limits to ground rent payments per its 2017 manifesto commitments to 'crack down on unfair practices in leasehold, such as escalating ground rents').¹⁰

Shared Owners, as noted above, are conferred many of the benefits of homeownership. Though many have been found to be confused about their exact rights (for instance their ability to move),¹¹ and rates of repossession are generally higher than other tenures,¹² Shared Owners are in fact entitled to much of the same security as leasehold owner occupiers who own via a mortgage. This is despite the continuing tenant/landlord relationship with the Private Registered Provider, which owns the remaining share of the property until the tenant acquires 100 per cent of the equity. It is worth noting, however, that Shared Owners may not enjoy all of the security rights of conventional owner occupiers; they are not, for example, entitled to the right to purchase the freehold as per the provisions of

7 Except for in the relatively rare circumstances that the local authority acquires the property through a Compulsory Purchase Order, for which the owner receives compensation.

8 See Shelter, 'What is leasehold?' [http://england.shelter.org.uk/legal/home_ownership/leasehold_property/what_is_leasehold]

9 Ibid

10 Conservative Party manifesto 2017 [<https://s3.eu-west-2.amazonaws.com/conservative-party-manifestos/Forward+Together+-+Our+Plan+for+a+Stronger+Britain+and+a+More+Prosperous....pdf>]

11 Aster Group, *Another way Part Two: Helping Shared Ownership Thrive*, 2018 [<https://s3.eu-west-1.amazonaws.com/aster.co.uk/IMAGES/SO18/Another-way-part-2.pdf>]

12 Property Industry Eye, 'Repossessions and arrears higher in shared ownership than private rented sector', 2018 [www.propertyindustryeye.com/repossessions-and-arrears-higher-in-shared-ownership-than-private-rented-sector/]

the Leasehold Reform Act 1967, and are subject to the same rules of repossession from the landlord if falling into rent arrears as Assured Shorthold Tenancy (AST) holders in the private rented sector.

Owner occupiers are free to decorate the interior of their homes as they please and keep pets. Unless otherwise established in the terms of their Shared Ownership home, owner occupiers are fully liable for the maintenance costs of their homes that accompany repairs. (Owners living in accommodation with communal areas, such as a garden or entrance area are liable to pay a service charge to cover the costs of the maintenance of these).

Private renters

While tenants in the private rented sector enjoy greater flexibility, they are entitled to much less security. As 'tenants', individuals are afforded certain legal rights, including 'security of tenure' – that is, the right not to be evicted from one's home without due process, such as a court order obtained by a landlord – as well as the 'quiet enjoyment' of the premises, meaning landlords cannot enter without notice or carry out building work that would cause disturbance to the tenant. The basis for, and process of, a landlord gaining possession of a property varies depending on renter's tenancy status. The majority of renters in the private rented sector do so via Assured Shorthold Tenancies (AST), which became the default tenancy in 1998.¹³ ASTs were originally introduced under the Housing Act 1988, as part of a package of measures deregulating the (then much smaller) private rented sector, which were designed to encourage investment in the sector by establishing shorter tenancies as the norm.

The AST allows for a minimum fixed term tenancy of six months, although there is no legal limit as to how long an AST can be, so it is possible to negotiate longer fixed terms. In 2016 the Government produced a Model Agreement in order to support 'tenants who want to negotiate a longer fixed term period at the start of the tenancy'.¹⁴ The document highlights increased desire among renters for longer minimum fixed terms, and proposes two or more years as the default option. Yet, as the Model Agreement also notes, there is 'no legal requirement to use this particular agreement'.

The Government recognises that there is growing interest in tenancies that have a longer fixed period – e.g. three years. Such agreements can give tenants – particularly families with children – greater certainty and stability to plan for the future. Entering into longer tenancies is also beneficial to landlords as it offers greater certainty on rental income, minimises periods when the property is vacant and avoids the costs associated with finding new tenants. It also means that neither tenants nor landlords need to pay fees to renew a tenancy.¹⁵

Remaining in place, however, is legislation introduced by the Housing Act 1988 which provided landlords with far stronger powers of repossession over their properties and eviction of tenants. Section 8 of the Act provides landlords with a mechanism to evict a tenant during the term of an AST. To serve a Section 8 'notice to quit', landlords must state the grounds the tenant has breached as per Schedule 2 of the Act.

¹³ www.gov.uk/government/news/longer-tenancy-plans-to-give-renters-more-security

¹⁴ MHCLG, 'Model agreement for a shorthold assured tenancy', 2014 [www.gov.uk/government/uploads/system/uploads/attachment_data/file/695944/Model_Agreement_for_an_Assured_Shorthold_Tenancy_and_Accompanying_Guidance.docx]

¹⁵ Ibid

Grounds for gaining possession are split into two categories, 'mandatory' and 'discretionary', with the key grounds summarised below in Box 1 (note that the full list of grounds is set out in Appendix 1). These cases are then usually assessed by the nearest county court to the landlord.¹⁶

Box 1: Grounds for gaining possession

Mandatory grounds

If one of these grounds is proven a court must grant possession to the landlord. These include:

- (Ground 1) the landlord previously lived in the property or bought it for their retirement and now wants to live in or sell it (if prior notice was given);
- (Ground 2) The mortgage lender on the property has served notice to foreclose;
- (Ground 6) The landlord wants to demolish and reconstruct, or redevelop all or part of the property. The tenant needs to have refused to live in all or part of the property while work is carried out for this ground to be feasible. If granted the landlord is required to pay all reasonable moving costs to the tenant;
- (Ground 7) conviction for a serious offence or anti-social behaviour that has been proven in another court;
- (Ground 8) The tenant has incurred serious rent arrears – that is, failing to pay more than eight weeks rent in the case of weekly payments, two months in the case of monthly payments or one quarter in the case of quarterly payments.

Discretionary grounds

Landlords are only granted a possession order in these cases if the court is satisfied that it is reasonable to do so. These include:

- (Ground 9) Suitable accommodation of the same type and quality has been offered to the tenant and refused. The landlord is required to pay all reasonable removal costs if possession is granted;
- (Grounds 10 and 11) The tenant has incurred less serious arrears or has repeatedly paid late;
- (Ground 12) The tenant has breached a term of the tenancy agreement other than rent, for example by keeping a pet;
- (Ground 13) The tenant has damaged or neglected the property or furniture;
- (Ground 14) The tenant is causing a nuisance or annoyance.

After an AST's fixed term, tenancies usually become 'periodic' and roll on a month-to-month basis (or for another specified length). The law also contains provisions so that landlords can evict tenant without any grounds after a certain period. This is activated via Section 21 of the Housing Act 1988 and has become known by some as a 'no fault' eviction notice, although some landlords would argue that this is a misnomer as Section 21 is widely used for many of the 'faults' covered by Section 8's mandatory grounds. The practical use of Section 21 is examined in further detail in Part 2 of this report.

¹⁶ This process is explored in more detail in section 2.2.4.

As specified in the Deregulation Act 2015, landlords may only serve a Section 21 eviction notice after six months, and must also be able to provide tenancy deposit information, proof of a gas safety certificate, an energy performance certificate and that the tenant received the Government's *How to Rent* guide. Once a Section 21 notice has been served, landlords may gain possession of the property after two months. Landlords do not *need* to prove anything in court, as long as correct procedure is observed.

Private renters are allowed to make improvements to their home and/or keep pets only at the discretion of their landlords. Most landlords are, however, responsible for maintaining the property and supplying adequate furniture as set out in the terms of the tenancy agreement.

Social renters

Social renters generally receive a much higher degree of housing security. Most people living in social housing today have tenancies with lifetime security of tenure.¹⁷ Such residents can stay in their social home indefinitely as long as they keep to the conditions of their tenancy agreement. In light of the (much continuing) pressures on social housing, the Housing and Planning Act 2016 outlined requirements on local authority landlords to grant tenancies on a fixed term, rather than lifetime, basis – reviewing residents ongoing eligibility for social housing near the end of each term. The requirements, however, were never introduced and the Government has decided ‘not to implement the provisions in the Housing and Planning Act 2016 at this time.’¹⁸

While most social housing tenants enjoy lifetime security of tenure, tenants may be evicted if they breach many of the mandatory or discretionary grounds discussed in Box 1, as well as if they break any other of the terms in their tenancy agreement. It should be noted, however, that many social housing providers provide additional support for tenants who find themselves in a position where they are likely to be evicted.

Social tenants require permission from their landlord to carry out significant improvements, such as renovating a kitchen, or smaller improvements such as mounting a new cabinet if this is specified in their tenancy agreement. However, social renters are usually responsible for decorating and furnishing their homes and do not require landlord approval to adjust their living space. Landlords are responsible for repairs, although tenants may also carry minor repairs on their own accord.

‘Security’ and ‘control’ are, of course, shaped by factors well beyond the obvious remit of housing tenure: unemployment and low pay, family breakdown, addiction, and serious personal debt can all play a role – individually or combined – in creating the circumstances in which people face eviction, move involuntarily, or suffer from homelessness.¹⁹ However, as shown above, each tenure varies significantly in the security it provides households, with implications for the levels of stability suitable for reversing these drivers of poverty and, indeed, preventing them from occurring in the first place.

17 MHCLG, *A new deal for social housing*, 2018 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733605/A_new_deal_for_social_housing_web_accessible.pdf]

18 Ibid

19 See CSJ library: www.centreforsocialjustice.org.uk/library

Before proceeding it should be emphasised that the flexibility of the private rented sector is highly beneficial to certain groups. Students, young people without children, and travelling workers all gain from the freedom to improve their lives by being less tied down than they would be living in other tenures.²⁰ Indeed, the AST was designed in a context where the proportion of private renters was much smaller and primarily enjoyed by these types of households. That context has since profoundly changed.

1.2 Changes in the profile of housing have seen thousands lose control

Homeownership has more than once been called a English obsession. To some European observers, the widespread desire to borrow large sums of money to purchase a property (with the hope that this will one day generate a return for its owner), is a feature of English society worthy of curiosity – even scorn. Others diagnose it as a national ‘hysteria’.²¹

But the idea that the England is uniquely a nation of homeowners is hard to maintain in 2018. Indeed, when comparing the rate of homeownership in England to other advanced economies, England falls below many of its European and international counterparts. As has been pointed out recently, England has a lower rate of ownership than Australia, the USA and Canada – and is the fourth lowest when ranked alongside EU27 countries.²²

Table 1: International rates of homeownership²³

Poland	84.2
Spain	77.1
Italy	72.4
EU28	70.0
Netherlands	69.4
Canada ²⁴	67.8
Australia	67.0
France	64.4
USA ²⁵	64.4
England	63.5
Germany	51.4

20 For example, one recent survey found that 59 per cent of Millennials said the clearest benefit of renting was the ability to move easily if circumstances change. Get Living, Millennial Living in 2018: Insights for the UK Build-To-Rent Sector, 2018 [https://corporate.getliving.com/pdfs/get_living_millennial_living_in_2018_report_first_look.pdf]

21 Guardian, ‘Why are Brits so obsessed with buying their own homes?’, 2016 [www.theguardian.com/money/2016/jan/14/why-are-brits-so-obsessed-with-buying-their-own-homes]

22 A Morton, From Rent to Own: How to restore home ownership by turning private renters into owners, Centre for Policy Studies, 2018 [www.cps.org.uk/files/reports/original/181015101703-FromRentToOwn.pdf]

23 Unless otherwise cited, figures come from Distribution of population by tenure status, type of household and income group – EU-SILC survey, Dec 18 [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_lvho02&lang=en]

24 Statistics Canada, Housing Highlight Tables 2016, 2017 [www12.statcan.gc.ca/census-recensement/2016/dp-pd/hltfst/housing-logement/Table.cfm?Lang=E&T=11&Geo=00&SP=1&view=2&dwelling=1]

25 US Census Bureau, Quarterly Residential Vacancies and Homeownership: Third Quarter 2018, 2018 [www.census.gov/housing/hvs/files/currenthvspress.pdf]

It is true, nonetheless, that by the end of the twentieth century English society had transformed from one made up overwhelmingly of private renters into one of ‘mass homeownership’. The historian Robert Tombs has argued that this development was born of the wartime rent controls introduced in 1915, which as ‘perhaps the most significant piece of social and economic legislation in the first half of the twentieth century ... had the unintended long-term consequence of turning the middle classes from renters into homeowners’.²⁶ As shown in Figure 1, the majority of households in England continue to live as owner occupiers (63.5 per cent).²⁷

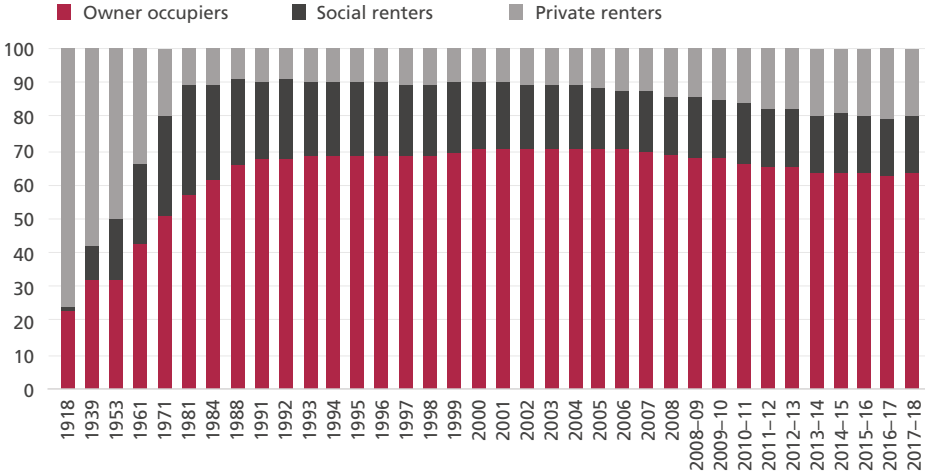
What’s more, owner occupancy persistently remains people’s preferred choice of tenure. The 2014 British Social Attitude Survey shows that, given a free choice, 86 per cent would buy their home rather than rent.²⁸ This compares to 87 per cent in 1999 and 84 per cent in 1996.²⁹

The response is perhaps unsurprising. Homeownership can provide households with a wide range of financial, social and emotional benefits: for example, the security enabling families to plan and invest in their future; the ability to grow an asset; and the stability to build social networks and emotional ties to a community.³⁰ The perceived benefits of homeownership are explored in light of new CSJ Housing Commission polling in section 1.3.

Yet, against this preference, the composition of housing tenure in England has changed significantly in the decades to 2019. While comprising two-thirds of all households (and despite a small uptick recorded in 2018), owner occupancy has declined to historically low levels – with young people finding themselves far less represented in the sector than in the (not too distant) past.

“ Owner occupancy persistently remains people’s preferred choice of tenure. The 2014 British Social Attitude Survey shows that, given a free choice, 86 per cent would buy their home rather than rent

Figure 1: Trends in tenure in England



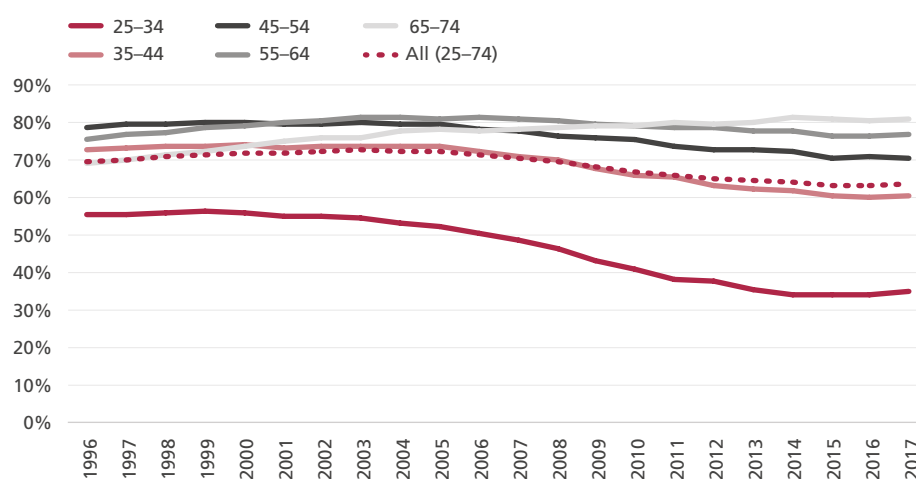
Source: MHCLG, English Housing Survey, 2019

26 R Tombs, *The English and their History*, London: Penguin Books, 2014
 27 English Housing Survey 2017–18
 28 NatCen, *British Social Attitudes Survey, 2014* [http://www.bsa.natcen.ac.uk/media/38952/bsa28_8housing.pdf]
 29 Ibid
 30 See, for example, W M Rohe and M Lindblad, ‘Reexamining the Social Benefits of Homeownership after the Housing Crisis’, *Joint Centre for Housing Studies*, 2013 [www.jchs.harvard.edu/sites/default/files/hbtl-04.pdf]

The key reason for this decline, highlighted by the Institute for Fiscal Studies, is the sharp rise in house prices relative to incomes: average house prices were 152 per cent higher in 2016 than in 1996 after adjusting for inflation, while the real net family incomes of those aged 25–34, for example, grew by only 22 per cent in the same period.³¹ Further constraining factors include restricted access to mortgages and difficulty saving given the cost of private rents and other rising living costs.

In 2003, 59 per cent of 25- to 34-year-olds were homeowners.³² By 2018 this had fallen to 38 per cent.³³ Homeownership rates among young families with children, too, fell steadily from 2003–16.³⁴ And while figures released in December 2018 showed that young families' homeownership rates experienced their first sustained rise in 30 years (since 2016, they rose from 25 to 28 per cent),³⁵ longer-term analyses expose stark intergenerational changes. A smaller proportion of people born between 1981 and 2000 are homeowners at this stage in their lives than for any generation since 1926.³⁶

Figure 2: Homeownership by age in the UK



Source: IFS, 2018

Meanwhile, as noted in previous CSJ research, the decline in homeownership and scarcity of new social housing (among various other developments, such as the rise of buy-to-let mortgages since the late 1990s) has fuelled the rapid growth of the private rented sector over two decades.³⁷ This growth has also been marked by an influx of poorer households into the sector.

31 J Cribb, A Hood, J Hoyle, *The decline of homeownership among young adults*, Institute for Fiscal Studies, 2018 [www.ifs.org.uk/uploads/publications/bns/BN224.pdf]

32 www.ifs.org.uk/uploads/publications/budgets/gb2018/GB9%20-%20housing%20pre-release%20-%20final%20from%20Judith.pdf

33 English Housing Survey 2017–18

34 Ibid

35 Resolution Foundation, 'Home ownership is rising, but the crisis is far from over', 2018 [www.resolutionfoundation.org/media/blog/home-ownership-is-rising-but-the-crisis-is-far-from-over/]

36 A Corlett and L Judge, *Home Affront*, Resolution Foundation, 2017 [www.resolutionfoundation.org/app/uploads/2017/09/Home-Affront.pdf]

37 J Shalam, *A Social Justice Housing Strategy: Increasing the supply of truly affordable homes*, Centre for Social Justice, Oct 2018 [www.centreforsocialjustice.org.uk/core/wp-content/uploads/2018/10/CSJJ6574-Housing-Commission-2-Housing-Supply-181025-WEB.pdf]

The proportion of the population living in the private rented sector doubled since 2000, now comprising 19.5 per cent of all households.³⁸ In 1988, just 9.1 per cent lived in the sector.³⁹



Many analysts have illustrated stark and significant changes in the distribution of the population within the different housing tenures. Historically, private renting has been the tenure preferred by younger people, whose requirements in life are often better suited to the flexibility the sector provides. But recent years have seen the number of young people renting rather than owning grow significantly.

Over four in ten 30-year olds live in private rented accommodation today, compared to one in ten 50 years ago.⁴⁰ In the last decade alone the growth in the proportion of households living their late 20s and 30s in the private rented sector has been rapid. In 2007, 28 per cent of those aged 25–34 lived in the private rented sector.⁴¹ By 2017 this increased to 46 per cent.⁴² Over the same period, the proportion of 25–34 year olds in owner occupation decreased from 59 per cent to 37 per cent.⁴³

Arguably even more significant has been the growth of families with dependent children living in the private rented sector. Nine per cent of all young families (aged 25–34) lived in the private rented sector in the late 1980s.⁴⁴ This has more than trebled to 34 per cent today.⁴⁵

38 English Housing Survey 2017–18

39 Ibid

40 A Corlett and L Judge, *Home Affront*, Resolution Foundation, 2017 [www.resolutionfoundation.org/app/uploads/2017/09/Home-Affront.pdf]

41 English Housing Survey 2017–18

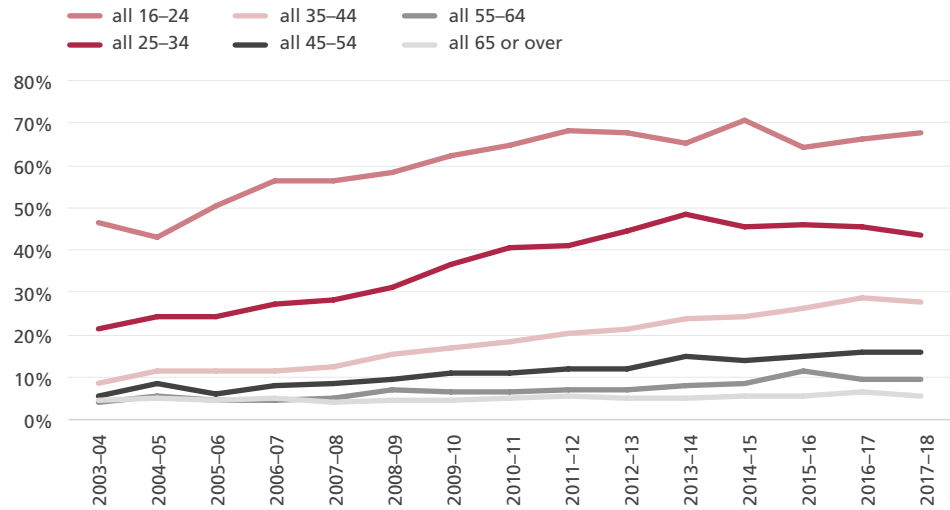
42 Ibid

43 Ibid

44 Resolution Foundation, 'Home ownership is rising, but the crisis is far from over', 2018 [www.resolutionfoundation.org/media/blog/home-ownership-is-rising-but-the-crisis-is-far-from-over/]

45 English Housing Survey 2017–18

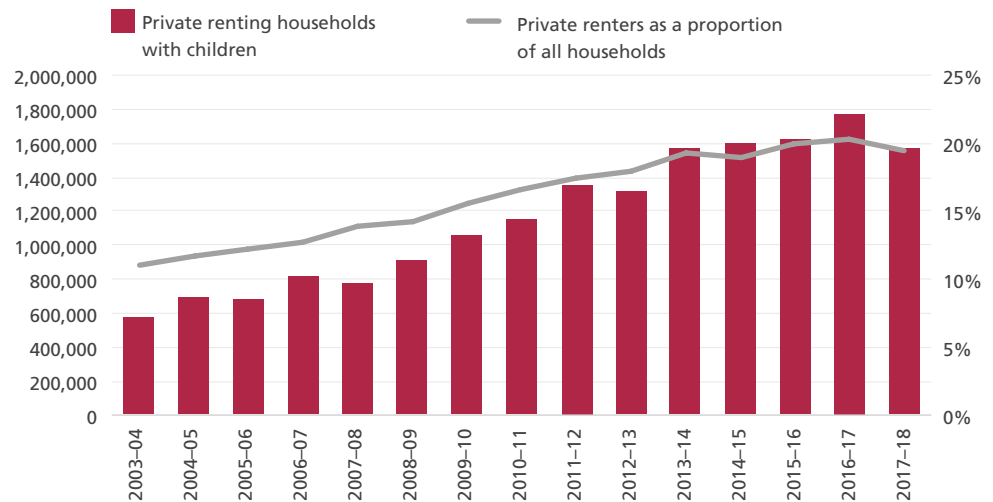
Figure 3: Proportion of households that are private renters



Source: MHCLG, English Housing Survey, 2019

In just the decade to 2017, the number of households with dependent children in the private rented sector increased by approximately 966,000.⁴⁶ And twelve per cent of all young families (aged 25–34) are now sharing their homes with others in the sector, an increase from just three per cent in the late 1980s.⁴⁷ These developments have given profound currency to the term ‘generation rent’.

Figure 4: Private renting households with children



Source: MHCLG, English Housing Survey

Often forgotten amid the growing recognition of ‘generation rent’, however, is the rise of older people living in the private rented sector.

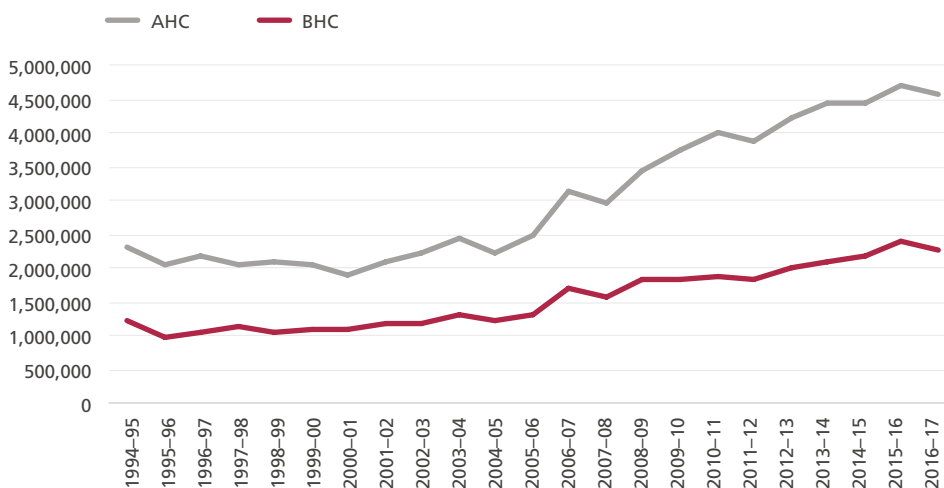
⁴⁶ Ibid

⁴⁷ Resolution Foundation, ‘Home ownership is rising, but the crisis is far from over’, 2018

Approximately 380,000 older households (that is, containing members aged 65+) are privately renting.⁴⁸ This is almost 150,000 more than there were a decade ago.⁴⁹ The Local Government Association (LGA) forecasts that older households will comprise approximately 60 per cent of projected household growth between 2008 and 2033.⁵⁰ This, paired with the long-term decline in the availability of social housing (see CSJ Housing Commission's second interim report) means that the expansion of older households renting privately is highly likely to continue in the future.

Overall, the private rented sector now houses some 4.5 million households, compared to just over 2 million in 2000.⁵¹ Amid this growth, the number of poorer households living in the private rented sector has also risen rapidly. Department for Work and Pensions (DWP) Households Below Average Income (HBAI) data shows how individuals living in 'relative low income' – that is those living below 60 per cent of median income (factoring in housing costs) – grew from 2.3 million in 2000 to 4.5 million in 2017.⁵²

Figure 5: People in the private rented sector in relative low income, before and after housing costs are factored in



Source: CSJ Housing Commission analysis of DWP, HBAI, 2019

Indeed, the private rented sector is now the sector containing the most people living in relative low income. CSJ analysis finds that the proportion of people in relative low income living in the private rented sector grew from 15 per cent to 36 per cent between 2000–17. In the same period, the proportion of people in relative low income in the social rented sector fell from 50 to 39 per cent, and 34 to 24 per cent in the owner occupant sector. Households in the bottom third of incomes across all tenures make up 38 per cent of the PRS.⁵³ And the number of households claiming housing benefit in the private rented sector now stands at 1.2 million.⁵⁴

“
In 2007, 28 per cent of those aged 25–34 lived in the private rented sector. By 2017 this increased to 46 per cent. Over the same period, the proportion of 25–34 year olds in owner occupation decreased from 59 per cent to 37 per cent

48 English Housing Survey 2017–18

49 Ibid

50 S Arthur, A Christie and R Mitchell, *Independent Age, Unsuited, insecure and substandard homes: The barriers faced by older private renters*, Independent Age, 2018 [<http://thinkhouse.org.uk/2018/oldrent.pdf>]

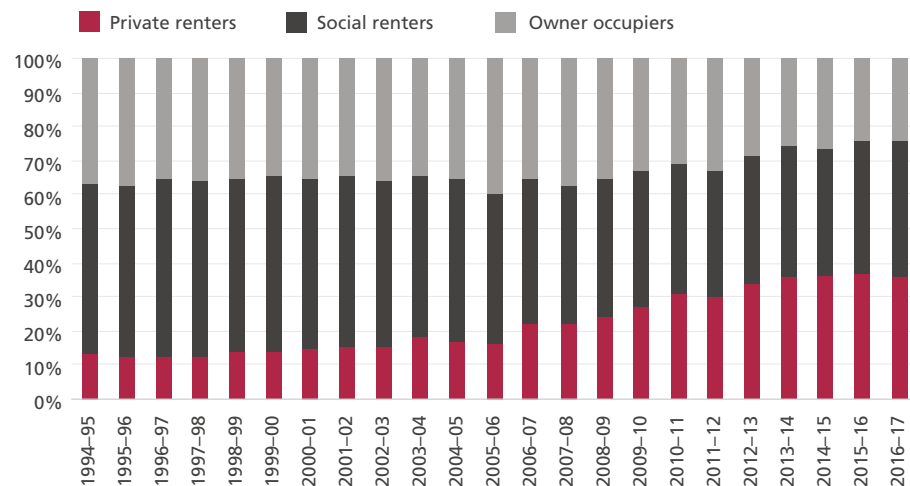
51 English Housing Survey 2017–18

52 CSJ Housing Commission analysis of Department for Work and Pensions (DWP) Households Below Average Income data, Stat X-plore, 2019 – note that these figures cover the whole of the UK.

53 J Rugg and D Rhodes, *The Evolving Private Rented Sector: Its Contribution and Potential*, University of York, Centre for Housing Policy 2018 [www.nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf]

54 DWP, Housing Benefit Caseload Statistics, 2018 [www.gov.uk/government/uploads/system/uploads/attachment_data/file/733352/housing-benefit-caseload-data-to-may-2018.ods]

Figure 6: Proportion of the population in relative low income by housing tenure



Source: CSJ Housing Commission analysis of DWP, HBAI, 2019

Meanwhile, the proportion of households living in social housing has shrunk considerably since the 1980s. At its peak in 1981, nearly a third of all households rented in social housing. However, the sector remains accountable for 17.1 per cent of all homes – representing some roughly 3.9 million households made up of 9 million people.⁵⁵



Households in England in temporary accommodation rose by 47 per cent over the last five years

The decline of new social housing, paired with the growth of the private rented sector (and the well-documented affordability issues found therein),⁵⁶ has in part contributed to a growth in the number of households placed by councils in temporary accommodation, as is their duty to find accommodation for homeless households. Households in England in temporary accommodation rose by 47 per cent over five years: there are currently 82,000 families living in temporary accommodation, up from 56,000 in June 2013.⁵⁷

1.3 People seek the security and control that comes with homeownership

The changes observed above show how thousands of families have moved into living arrangements that offer them less security than they would have received in the past. Given the historical decline in owner occupancy (against the persistent preference for it as a tenure across the population) multiple governments have developed policies with the stated aim of widening access to homeownership.⁵⁸ There is much to be commended in this, even if they have not all been entirely effective; meanwhile, providing new social homes has (until

55 MHCLG, *A new deal for social housing*, 2018

56 The proportion of PRS tenants paying at least one-third of net income on rent increased from 34 per cent in 2000/01 to 38 per cent in 2015/16; in Greater London the proportion increased from 48 per cent to 56 per cent. See J Rugg and D Rhodes, *The Evolving Private Rented Sector: Its Contribution and Potential*, University of York, Centre for Housing Policy 2018 [www.nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf]

57 MHCLG, *Households in temporary accommodation*, 2018 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764357/TA_Tables.xlsx]

58 See, for example, the Help to Buy equity loan scheme discussed in J Shalam, *A Social Justice Housing Strategy: Increasing the supply of truly affordable homes*, London: CSJ, 2018

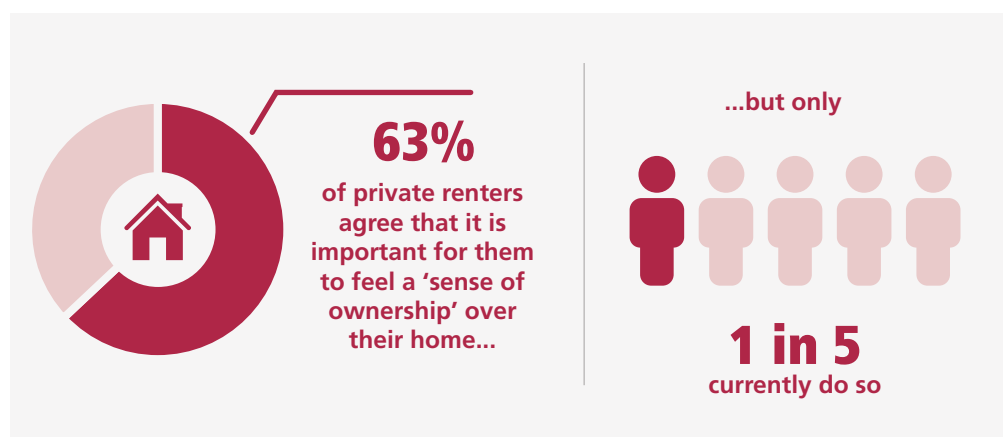
recently) fallen down the list of the Government's priorities.⁵⁹ Increasingly, innovative policy solutions have been advanced to support more private renters to move onto the housing ladder (if they can afford it) by incentivising landlords to sell on to their tenants.⁶⁰

Nevertheless, it remains the case that a significant proportion of the population – particularly poorer households – will continue to rent privately for the foreseeable future. According to the most recent English Housing Survey, 43 per cent of households in the private rented sector say that they do not expect to move into homeownership.⁶¹ It should be just as important in establishing, in the words of the Government, 'security and dignity' for private tenants as it is for those living in other tenures.

The CSJ Housing Commission commissioned some new independent polling to explore these issues. The survey of 2,002 GB adults, carried out by ComRes in December 2018, finds that many people value a *sense* of ownership over their homes, even if not full financial ownership. Large proportions of adults living in the private rented sector, furthermore, associate the benefit of control – over living space, home décor, and moving – with homeownership, which, as we have seen, is a tenure that has grown increasingly out of reach for thousands of families.

Our survey found that three quarters of GB adults agree that it is important for them to feel a 'sense of ownership' over their home (74 per cent), compared with only four per cent who disagree.⁶²

Yet there remains a clear imbalance between the privately renting respondents and those living in other tenures. Two thirds (63 per cent) of private renters agree that it is important for them to feel a 'sense of ownership' over their home. But only one in five (20 per cent) say they *currently* do so. This compares to owner occupiers, of whom 87 per cent say that feeling a sense of ownership is important and 85 per cent currently do.



59 Ibid

60 For example, A Morton, *From Rent to Own: How to restore home ownership by turning private renters into owners*, Centre for Policy Studies, 2018 [www.cps.org.uk/files/reports/original/181015101703-FromRentToOwn.pdf]

61 English Housing Survey 2017–18

62 Methodology: ComRes for the CSJ Housing Commission surveyed 2,002 British adults online between 10th and 11th December 2018. Data were weighted to be representative of all British adults aged 18+ by age, gender and region. ComRes is a member of the British Polling Council and abides by its rules. Full tables at www.comresglobal.com

Meanwhile, many private renters feel like they are living without the benefits associated with owning their homes. Less than two thirds of private renters, for example, say they feel in control of their living space (61 per cent), compared to 88 per cent of homeowners. Indeed, approaching one in five (18 per cent) renters say they *do not* feel in control of their living space, making them nine times more likely to say they do not feel in control of their living space than owner occupiers.

“

According to the most recent English Housing Survey, 43 per cent of households in the private rented sector say that they do not expect to move into homeownership

In order to understand in more detail what it is that individuals associate with a sense of ownership, we asked what people considered to be the main ‘non-financial’ benefits of owner occupation. We found that, of the private renters we surveyed: 41 per cent associated control over their home décor as one of the main benefits of homeownership; 31 per cent associated being able to keep pets if they wanted to as one of the main benefits; and 42 per cent associated having private space as one of the tenure’s main benefits.

These findings highlight the factors beyond the real and perceived financial benefits of owner occupancy. They suggest that many of the advantages homeowners and some social tenants enjoy with regards to the control they feel over their homes are also important to renters. And they chime with the findings of other recent surveys. Shelter, for example, have found that 85 per cent of social renters say they feel their house is their home, in comparison to just 57 per cent of private renters.⁶³ In a YouGov survey the Council of Mortgage Lenders asked people what they considered to be the main benefits of homeownership; the most common choice was the control to be able to ‘do what you want’.⁶⁴ Respondents to the CSJ Housing Commission poll also shed light on the less tangible advantages of security and control in verbatim answers to the question of the main non-financial benefits of homeownership:

... subject to law, planning, and good neighborliness, there are few constraints on what I do ...

... not asking for permission before doing something in your home ...

... owning my own space ...

... control over every aspect of the property ...

... no fear of eviction ...

Some perhaps less delicately put but just as indicative advantages were also referenced, such as ‘[n]ot having to be near humans’ and feeling able ‘to shut out the world’ – others, even more frankly, highlighted the freedom to be ‘able to walk about naked’ as a main

63 Shelter, *A Vision for Social Housing*, 2019 [https://england.shelter.org.uk/__data/assets/pdf_file/0005/1642613/Shelter_UK_-_A_vision_for_social_housing_full_interactive_report.pdf]

64 B Pannell, Home-ownership or bust? Consumer research into tenure relations, Council of Mortgage Lenders, 2016 [www.cml.org.uk/documents/home-ownership-or-bust/20161017-home-ownership-or-bust.pdf]

benefit. While it is difficult to gauge the extent of these impulses accurately, given the high levels of sharing and comparative insecurity in the private rented sector, it is perhaps unsurprising that people feel as though their basic instincts to liberty and privacy are better suited to a tenure which offers them more security and control.

Homeownership may always be the preferred tenure of choice. However, it may also always be the case that a significant proportion of the population, in particular those on lower incomes, will be unable to access it. It is against the view of the CSJ Housing Commission that those locked out of homeownership should be denied a sense of ownership over their homes – nor, even more importantly, the control and security of tenure that (when absent) can contribute to people falling into poverty. As we explore below, the negative impact of insecurity on some people's lives is hard to exaggerate.

1.4 The impact of insecurity on private tenants

With these trends in view it is possible to explore some of their consequences. A key consequence has been the increase in the number of households living in private rented accommodation which is leased on a minimum fixed term of six to twelve months. As noted above, when this period ends tenants have little security of tenure, with only two months' security guaranteed before a landlord has legal entitlement to gain possession of their property via a Section 21 eviction notice.

A small number of renters (six per cent), according to the charity Shelter, cite that the main reason they are renting privately is because they like the freedom and flexibility that renting gives them.⁶⁵ However, as the sector has become increasingly populated by older households and families with children, the length of renters' stay in their property has increased. For example, the proportion of households living in their private rented property for three to five years increased from 18 per cent to 30 per cent between 2008 and 2016.⁶⁶ Today, the average stay for renters across the sector is just over four years.⁶⁷ Yet the majority of renters (81 per cent) continue to do so via an AST with a fixed term between six and twelve months.⁶⁸

This stands in sharp contrast to nine comparable European countries where tenants are entitled to the ability to stay indefinitely and only face eviction if breaking the law (such as incurring rent arrears or behaving antisocially), or the terms of their tenancy agreement – most recently including Scotland.⁶⁹ Landlords may also gain possession of their properties, it should be noted, if they display proof that they are selling up or if they need to move in. Three countries, such as Ireland, provide tenants with security of tenure between three and ten years.⁷⁰

65 Shelter, *A Vision for Social Housing*, 2019

66 J Rugg and D Rhodes, *The Evolving Private Rented Sector: Its Contribution and Potential*, University of York, Centre for Housing Policy 2018 [www.nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf]

67 English Housing Survey 2017–18

68 MHCLG, 'Longer tenancy plans to give renters more security', Press release, 2018 [www.gov.uk/government/news/longertenancy-plans-to-give-renters-more-security]

69 Shelter, *Time for reform: How our neighbours with mature private renting markets guarantee stability for renters*, 2016 [https://england.shelter.org.uk/_data/assets/pdf_file/0005/1289615/Time_for_reform_FINAL.pdf]

70 Ibid

Of all tenancies in England, one in ten end every year because of a landlord giving notice to gain possession of the property, rising to 13 per cent for renters with children.⁷¹ This is usually carried out through the so-called ‘no fault’ eviction mechanism – (note that this does not mean the tenants are physically evicted, but that a landlord has legal grounds to give tenants notice to leave, using force if necessary). Evidence submitted to the CSJ highlights the impact of this level of insecurity on people’s lives.

One of the biggest problems for families on short term tenancies is the constant fear of being moved. Parents simply do not know where they will be living from month to month, so they have no means of putting their roots down anywhere, getting to know their neighbours, and ensuring that their children are settled in. With no place to call “home”, it is impossible to provide their children with the stability they need.

FACES Bedford, in evidence to the CSJ

People find it really hard when they are on six-month tenancies, not knowing whether they will be where they are in a few months’ time, whether they will be able to pay the rent or if the landlord will want them out. It’s difficult to focus on the future.

Jobcentre Plus (JCP) Adviser, in evidence to the CSJ

As the CSJ has long argued, family breakdown is a key driver of poverty in Britain. New stresses have been placed on families as they have experienced the relative instability and insecurity of the private rented sector in greater number. A network of 200 grassroots charities working to address child poverty in London surveyed its members on the impact of insecurity in the private rented sector and concluded that the ‘transient and unstable nature of housing affects every aspect of family life’, as it ‘undermines the health and wellbeing of children and their parents.’⁷² Four in five of the voluntary and community sector organisations it surveyed reported that insecurity was harmful to families and our local communities.⁷³ Wider polling commissioned by the charity Shelter is also revealing:

- in the last five years, one in five of all families renting privately have moved at least three times;
- in the last five years, one in ten families say that a private landlord or letting agent has thrown their belongings out and changed the locks; and
- nearly half (44 per cent) of renting parents worry that they are going to lose their current home.⁷⁴

Moving is indeed much more common in the private rented sector than other tenures: according to government data, over a quarter (25 per cent) of current private renters moved in the last year.⁷⁵ Private renters are therefore six times more likely than owner-occupiers and three times more likely than social renters to move (4.3 and 8.4 per cent respectively).⁷⁶

71 MHCLG, English Housing Survey, Private Rented Sector report 2016–17 [www.gov.uk/government/uploads/system/uploads/attachment_data/file/723885/Private_Rented_Sector_Chapter_3_Figures_and_Annex_tables.xlsx]

72 4in10, *London’s VCS: Picking Up The Pieces*, 2018 [www.4in10.org.uk/userfiles/files/resources/4in10_PickingupthePieces.pdf]

73 Ibid

74 Shelter, *A Vision for Social Housing*, 2019

75 MHCLG, Demographic characteristics of moving households, 2018 [www.gov.uk/government/uploads/system/uploads/attachment_data/file/724669/FA4121_demographic_characteristics_of_recent_movers.xlsx]

76 Ibid

Notably, churn – that is, moves within the sector – has increased over the last two decades from 465,000 households in 1996–97 to 860,000 in 2017–18.⁷⁷ Churn now accounts for a much larger proportion of private rented sector moves than 20 years ago (70 per cent in 2017–18, compared with 57 per cent in 1996–97).⁷⁸

While mobility is undoubtedly a positive option for some families, this level of movement can have a significant impact on children’s life prospects. An estimated 65,000 parents had to move their children’s school when they last moved rented home.⁷⁹

Some of our students’ ability to perform at college has been severely limited by shorter term tenancies. Those who have had to re-settle every six months or every 12 months are faced with constant upheaval, moving around a variety of different living arrangements during their time at Kingston College. It almost goes without saying that this has a negative impact on their ability to perform well academically.

Peter Mayhew-Smith, Principal of Kingston College, in evidence to the CSJ

A study analysing data from 19,162 children in the US found that children who moved schools several times suffered from reduced levels of achievement in maths and reading, as well as less positive social skills and higher rates of emotional and behavioural issues.⁸⁰ Research by the Royal Society of Arts in 2013 found that just 27 per cent of pupils who move schools three times or more during their secondary school career achieved five A* to C GCSEs, compared to the (then) national average of 60 per cent.⁸¹ Results in English and maths for children dropped 12 per cent following one move within the school year, 17 per cent for two moves and 25 per cent for three moves.⁸²

Given the rate of moving in the sector, it is perhaps no wonder that two-thirds of renting parents (65 per cent) say that they wish their children did not have to live in a privately rented home.⁸³

What’s more, moving is expensive. While the Government should be commended for banning letting fees and limiting deposits to six weeks’ rent,⁸⁴ the costs associated with moving, such as finding a new deposit or arranging removal services – that is, before the time sacrificed to find and secure a new tenancy is even considered – can make life very difficult for renters having to repeatedly move. Indeed, these pressures often push lower income families who are ‘just about managing’ into debt.⁸⁵

77 English Housing Survey 2017–18

78 Ibid

79 Shelter, *Unsettled and insecure: The toll insecure private renting is taking on English families*, 2017 [https://england.shelter.org.uk/_data/assets/pdf_file/0005/1343390/unsettled_and_insecure.pdf]

80 R L Coley, M Kull. ‘Cumulative, Timing-Specific, and Interactive Models of Residential Mobility and Children’s Cognitive and Psychosocial Skills’, *Child Development*, 2016

81 Royal Society of Arts, *Between the Cracks*, 2013 [www.thersa.org/globalassets/pdfs/reports/education-between-the-cracks-report.pdf]

82 Ibid

83 Shelter, *A Vision for Social Housing*, 2019

84 MHCLG, ‘Government action to end letting fees’, Press Release, 2018 [www.gov.uk/government/news/government-action-to-end-letting-fees]

85 Telegraph, ‘Half of renters forced into debt to start new tenancies’, 2018 [www.telegraph.co.uk/money/consumer-affairs/half-renters-forced-debt-start-new-tenancies/]

The rise in older people living in insecure housing has been highlighted by Age UK. While many older renters are entitled to much greater security if they were granted a 'regulated tenancy' before the Assured Shorthold Tenancy was introduced (that is, fewer than an estimated 30,000 households currently), entrants to the sector since the late 1990s have faced the same levels of insecurity as younger, working households. Indeed, older renters who moved in the last three years are three times more likely to have moved at the demand of their landlord than the average across all ages.⁸⁶ As others have argued, this lack of stability is particularly worrying given that older households are less likely to have a way of boosting their income beyond that provided by the state pension, and are more likely to be seeking a 'home for life'.⁸⁷

For renters of all ages, the relative ease with which a landlord may evict them through Section 21 has implications for the quality of their living space, too. Many tenants report that they feel unable to challenge poor property standards or ask for the repairs they are entitled to for fear of the landlord retaliating by evicting them. Over one in five families (23 per cent) have reported that they have avoided asking for repairs or improvements for fear of eviction.⁸⁸ And understandably. Data collected by Citizens Advice suggests that 57 per cent of tenants who received a Section 21 eviction notice had made some kind of complaint or request for repairs in the six months before receiving it.⁸⁹

“

Many tenants report that they feel unable to challenge poor property standards or ask for the repairs they are entitled to for fear of the landlord retaliating by evicting them

Tenants' reluctance to raise concerns about property standards is particular cause for concern in light of the concentration of lower quality properties in the private rented sector compared to other tenures: 25 per cent of privately rented homes, for example, fail to meet the Decent Homes Standard, a minimum quality standard for property used by the Government, whereas in the owner-occupied sector this falls to 19 per cent and 13 per cent in the social rented sector.⁹⁰

Political and community engagement can come under pressure from the insecurity of private renting. One measure of this is the rate of local political engagement; private renters are, notably, much less likely to serve as local councillors in their area.⁹¹ While the political frustrations of renters are increasingly registered in the media and, to a growing extent, by political parties, renters' engagement in national politics remains lower overall than homeowners: for example, in the General Election 2017, turnout was 53 per cent for private renters, compared to 76 per cent for owner occupiers.⁹² The transient nature of renting can also make it difficult for renters to lay down roots in their area: just 39 per cent in a recent survey said they felt part of their local community, with less than half saying they and their neighbours looked out for each other.⁹³

In the worst cases, the insecurity of the private rented sector can be a contributory factor to people becoming homeless. Attributing the cause of homelessness and rough sleeping to any one factor alone belies the often highly complex circumstance in which people end up without a home. For example, among rough sleepers in the London CHAIN

86 English Housing Survey 2017–18

87 Age UK, 'Potential Progress for Private Renters', 2018 [www.ageuklondonblog.org.uk/2018/07/06/potential-progress-private-renters/]

88 Shelter, *A Vision for Social Housing*, 2019

89 Citizens Advice presentation to Office for National Statistics Housing Policy Forum, 2019

90 English Housing Survey 2017–18

91 Generation Rent, forthcoming

92 British Election Study, Face to face post-election 2017 survey

93 Shelter, *A Vision for Social Housing*, 2019

rough sleeper database, 46 per cent were recorded as having a mental health problem, 43 per cent had an alcohol support need and 31 per cent had a drugs support need.⁹⁴ Beyond substance misuse, forthcoming research from the CSJ sheds light on the extent to which family breakdown in childhood is a factor linked with homelessness in later life.⁹⁵ Highlighting the number of voluntary moves in the private rented sector and role of Local Housing Allowance rates,⁹⁶ others indeed argue that the 'short term and insecure nature of assured shorthold tenancies do not, at least on their own, seem to explain the changing levels of homelessness in the private rented sector.'⁹⁷

However, as argued by the Government⁹⁸ and represented in official data, the loss of a privately rented home has become the leading trigger of statutory homelessness nationally over the course of a decade.⁹⁹ This has risen significantly as the sector has grown. The number of people accepted as statutorily homeless increased by 16,580 between 2010 to 2018, of which more than two thirds (10,920) of this increase were those made homeless as a result of the end of a private rented tenancy.¹⁰⁰ This is a continuing trend, with the proportion of total homelessness acceptances resulting from the loss of a tenancy in the private rented sector representing 25 per cent of all cases.¹⁰¹ In London, where the demand for private rented accommodation is particularly high, this proportion rises to 30 per cent.¹⁰² The rise in homelessness is, increasingly, affecting families and older people as the sector expands with these types of households: the number of people aged 60+ accepted as homeless by their local authority doubled between 2010–2017,¹⁰³ and the most recent data suggest that there are 65 per cent more statutorily homeless children than in 2010.¹⁰⁴

There is evidence to suggest that the loss of a home in the private rented sector is a driver of rough sleeping. The London CHAIN rough sleeper monitoring data shows that, in the last year, 54 per cent of rough sleepers reported their last settled base as being some form of long-term accommodation, with 39 per cent of all rough sleepers coming from private rented housing.¹⁰⁵ There is often a complex interplay between the structural drivers of homelessness and an individual's support needs. Indeed, instability in the private rented sector can, in turn, make it harder for people to tackle the obstacles holding them back. In the course of this research, for example, the CSJ Alliance charity Brighton Oasis Project, a substance misuse service for women and families, told us that such 'instability means [their clients] are unable to address the other issues in their lives such as drugs and alcohol'.¹⁰⁶

94 H Gousy, *Housing First: Housing-led solutions to rough sleeping and homelessness*, Centre for Social Justice 2017 [www.centreforsocialjustice.org.uk/core/wp-content/uploads/2017/03/CSJJ5157_Homelessness_report_070317_WEB.pdf]

95 CSJ Family Policy Unit, forthcoming

96 The CSJ Housing Commission addresses the nature of housing support in the private rented sector in: J Shalam, *A Social Justice Housing Strategy: Increasing the supply of truly affordable homes*, Centre for Social Justice, Oct 2018 [www.centreforsocialjustice.org.uk/core/wp-content/uploads/2018/10/CSJJ6574-Housing-Commission-2-Housing-Supply-181025-WEB.pdf]

97 Dr C O'Leary, Dr S O'Shea and K Albertson, *Homelessness and the Private Rented Sector*, 2018, PERU Manchester Metropolitan University, Residential Landlord Association [https://research.rla.org.uk/wp-content/uploads/MMU-Homelessness-and-the-private-rented-sector.pdf]

98 MHCLG, *Overcoming the Barriers to Longer Tenancies in the Private Rented Sector*, 2018 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721556/PRS_Longer_Tenancies_Consultation.pdf]

99 MHCLG Live Table 774

100 Ibid

101 Ibid

102 Ibid

103 Ibid

104 MHCLG, Live Table 781, Table 775_England

105 GLA, *Chain Annual Report 2017/18*, London: GLA, 2018

106 Per evidence submitted to the CSJ

As highlighted in the CSJ Housing Commission's second interim report, the lack of available social housing to catch a households when their private tenancy has been terminated has seen a rise in the use of temporary accommodation to house homeless families. These are, in themselves, a source of profound insecurity, with serious implications for households' wellbeing. Over half the respondents to a survey of families who had moved into temporary accommodation, for example, said that their health or their family's health had suffered as a result.¹⁰⁷ As many as 123,000 children currently live in temporary accommodation – a rise of 65 per cent since 2010.¹⁰⁸ This environment can have a profoundly negative impact on a child's prospects: children lose an average of 55 school days a year due to the disruption caused by temporary accommodation.¹⁰⁹ Moreover, children living in temporary accommodation are more likely to sleep rough in later life.¹¹⁰

1.5 Conclusion

In conclusion, in the space of a few decades, thousands of families have lost control of housing in England. With owner occupation out of reach and social housing supply restricted, families with children, households on lower incomes, and older people are now living much more extensively in the private rented sector. Meanwhile, official data and CSJ commissioned polling shows that individuals seek the security, control and *sense* of ownership that comes with owner occupancy. This is perhaps unsurprising given the significant impact of insecurity in the private rented sector on the life chances of children and the additional difficulty individuals face addressing the challenges which can, at best, prevent them from living happy and fulfilled lives, and at worst, lead them into poverty.

As we shall see, the Government clearly recognises this changing context. However, it must now be bold in introducing genuine reform to equip families with the security they need to thrive, while also recognising the concerns of landlords and establishing a fairness in the sector. It is to this reform that this paper now turns.

107 F Mitchell, J Neuburger, D Radebe and A Rayne, *Living in limbo: Survey of homeless households living in temporary accommodation*, Shelter, 2004 [england.shelter.org.uk/__data/assets/pdf_file/0020/66404/Living_in_limbo.pdf]

108 MHCLG, Live Table 775_England

109 House of Commons Committee of Public Accounts, *Homeless households*, House of Commons, 2017 [publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/462/462.pdf]

110 P Mackie, *Nations Apart? Experiences of single homeless people across Great Britain*, Crisis, 2014 [www.crisis.org.uk/media/20608/crisis_nations_apart_2014.pdf]

part two

Improving security for renting families and private landlords

A new Standard Tenancy

It is deeply unfair when renters are forced to uproot their lives or find new schools for their children at short notice due to the terms of their rental contract.

Being able to call your rental property your home is vital to putting down roots and building stronger communities.

That's why I am determined to act, bringing in longer tenancies which will bring benefits to tenants and landlords alike.

Secretary of State for Housing, Rt Hon James Brokenshire MP

When Assured Shorthold Tenancies were introduced in 1988, just 9 per cent of households rented privately.¹¹¹ This has since more than doubled.¹¹² In light of this shift and other developments in the sector, the Government has introduced a number of welcome reforms, notably including the Tenant Fees Bill (which bans letting fees to make moving less expensive), and is currently consulting on even more significant changes to the 'tenancy regime' in the private rented sector.

In this chapter, we outline proposals we believe will help the Government to fully achieve its mission, as described above by the Secretary of State for Housing, to help families lay down roots and build stronger communities. Critically, we believe that this can also be a way to provide individuals with the tools they need to escape poverty and bring about social justice.

111 MHCLG Live Table FT1101

112 Ibid

Here, we advance the need for a four-year Standard Tenancy in place of the meagre six months' security that many renters receive today. We propose a new regime which allows families in the private rented sector to take greater control of their lives while retaining the sector's benefits of flexibility and mobility. And we call on the Government to be bold in abolishing Section 21 of the Housing Act 1988 so that it is no longer possible to evict tenants on the basis of a 'no fault eviction' with just two months' notice.

But we also remember that, far from the picture painted by some, the vast majority of landlords are decent, fair-minded people using their resources efficiently to support their families and provide housing. In order to create the environment in which stable, longer tenancies can function as the norm for those who need them, we support the introduction of a specialist Housing Court to ensure that conflicts are resolved speedily and efficiently, as well as new mandatory grounds for landlords to gain possession of their properties when they need to.

2.1 Political context: towards longer tenancies

Tenancies that have a longer fixed term can give tenants greater certainty and stability to plan for the future.¹¹³

As we have seen, the impact of insecurity in the private rented sector is no longer a marginal issue, now affecting thousands more families, older households and people on low incomes. The Government has recognised this clearly, accepting that 'the change in size and make up of the private rented sector has led to growing need for longer, more secure tenancies than the minimum six months offered by the assured shorthold tenancy regime.'¹¹⁴

Previously, the Government has attempted to incentivise the establishment of longer tenancies voluntarily through 'soft' measures such as the Model Tenancy document referenced in section 1.1. Yet it has also accepted that barriers remain which may have discouraged substantially wider take-up of longer tenancies since the Model Tenancy's introduction.

For example, many landlords prefer the flexibility of being able to gain possession of their property speedily, such as in the case of rent arrears, through Section 21 once the fixed term of a tenancy has ended (which in turn incentivises the use of shorter fixed term tenancies). In 2017–18, 62 per cent of landlord evictions resulted from rent arrears, according to a survey of landlords by the Residential Landlord Association (RLA).¹¹⁵ At the same time, many landlords appreciate having longer tenancies with good tenants, as these reduce costly void periods and the fees associated with re-letting a property. But confidence in the court system, as is explored in section 2.2.4, is sufficiently low that landlords may understandably prefer letting through a rolling periodic tenancy so that Section 21 is possible.

113 MHCLG, *Overcoming the Barriers to Longer Tenancies in the Private Rented Sector*, 2018 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721556/PRS_Longer_Tenancies_Consultation.pdf]

114 Ibid

115 T J Simcock, *The Impact of Taxation Reform on Private Landlords*, Residential Landlords Association, 2018 [<https://research.ria.org.uk/wp-content/uploads/impact-taxation-reform-landlords-2018.pdf>]

Another barrier highlighted is constrained mortgage conditions. The RLA has found that 44 per cent of landlords have mortgage conditions stipulating tenancy length, although it should be noted that only 34 per cent of landlords had at least one buy-to-let mortgage.¹¹⁶ The rest either owned outright the properties they were letting, or they were financed through other means. Research indicates, however, that mortgages for longer tenancies have become increasingly available: by 2017, around 60 per cent of lenders allowed tenancies of more than one year, including 'key lenders' such as Lloyds and Nationwide.¹¹⁷

The levels of real demand for longer tenancies has also been questioned. A survey of landlords published by the Council of Mortgage Lenders found that over a third of landlords already offer leases longer than 12 months on at least some of their properties, and most of those who do not cite inadequate demand as the reason for this.¹¹⁸ But many surveys polling tenants on whether they would like longer tenancies do not, it should be noted, suggest that tenants would retain the same flexibility they currently enjoy under a new regime. As the Government notes, Get Living London, one of the largest Build to Rent developments in the UK, offers three year tenancies and found there to be a lack of understanding among its customers about the nature of a longer tenancy. Once this had been explained (that is, rent rises in line with the Consumer Price Index after year one and year two and, critically, a rolling break clause for tenants should they want to leave), take-up increased significantly: to 69 per cent in 2017 and 77 per cent in 2018.¹¹⁹

In the face of these barriers, the Government has undertaken a wider review of private tenancy in England. In its consultation, the Ministry for Housing, Communities and Local Government suggests a new default tenancy based on the framework set out in Box 2. (Note that, naturally, the specifics of each of the elements below are subject to the Ministry's analysis of the evidence submitted to the consultation, including the means through which a new framework would be implemented).

Box 2: The MHCLG's suggested 'longer tenancy framework'

Length

The default tenancy would be for a fixed term of three years.

Break clause

The new tenancy contains a break clause at six months, providing both the landlord and the tenant with an opportunity to end the agreement after the initial six months if dissatisfied. If both landlord and tenant are happy, the tenancy can continue for a further two and a half years.

Flexibility

Once the initial six months have passed, the tenant can end the tenancy whenever they choose during the fixed term, on the condition that they provide the landlord with a minimum of two months' notice in writing. This *does not* apply, however, to the landlord (except if they secure legal grounds as specified in the next row).

¹¹⁶ Ibid

¹¹⁷ MHCLG, *Overcoming the Barriers to Longer Tenancies*

¹¹⁸ K Scanlon and C Whitehead, *The profile of UK private landlords*, Council of Mortgage Lenders, 2016 [www.cml.org.uk/news/press-releases/cml-research-survey-of-uk-landlords/]; Shelter, 'Facts are facts. 7 in 10 renters want longer tenancies', 2015 [<http://blog.shelter.org.uk/2015/11/facts-are-facts-7-in-10-renters-want-longer-tenancies/>]

¹¹⁹ See evidence cited in MHCLG, *Overcoming the Barriers to Longer Tenancies*

Gaining possession

Landlords can recover their property during the fixed term only if they have reasonable grounds. These would be in accordance with the existing grounds in Schedule 2 of the Housing Act 1988 (see Appendix 1 for the full list), including antisocial behaviour and rent arrears. Landlords must give the tenant notice (which would follow the notice set out in section 8 of the Housing Act 1988 for the ground or grounds used).

Further to this, new mandatory grounds would allow landlords to gain possession of the property if they are selling it or moving back in, on the condition that they provide the tenant with two months' notice.

Section 21 remains intact in the new framework, meaning that after the fixed term has ended, landlords remain able to serve so-called 'no fault' eviction notices.

Rents

Proposed annual rises in rent should be clearly advertised by landlords and subject to negotiation at the beginning of a tenancy.

Exemptions

Exemptions should be put in place for tenancies which could not realistically last for three years, for example, accommodation let to students or holiday lets.

2.2 Establishing a new Standard Tenancy

In view of the analysis presented in Part 1, we believe there to be convincing reasons to establish a new standard for private tenancies in England. Providing households with the security they currently lack in the private rented sector would equip families, households on lower incomes and older renters with another weapon to fight the root causes of poverty. It may therefore be seen a significant advancement in the cause of social justice.

Pointing towards the 43 per cent of households in the private rented sector saying they do not expect to move into homeownership, the 35 per cent of households with dependent children (who are 'likely to want greater security to provide stability for their children in school'), and the six per cent of all households over 65 in the sector, the Government itself has advanced a compelling case for reform.¹²⁰ And tenants largely agree. Over two thirds of all renters (70 per cent) have said that a longer tenancy (importantly, with both the *option* to stay for three to five years and to leave with two months' notice), would improve the experience of renting.¹²¹

However, while the CSJ Housing Commission supports the intention to establish a new tenancy regime, some key changes are needed to the framework suggested by MHCLG to ensure that this is effective in fulfilling its purpose. Critical, moreover, is ensuring that any new system is fair for landlords while the sector is updated to account for the profound demographic changes outlined earlier in this report.

The key issues observed by the CSJ Housing Commission, and indeed others in their responses to the consultation, are as follows:

¹²⁰ English Housing Survey 2017–18

¹²¹ YouGov for Shelter, base: all renters 3792; renters with children: 784. Survey conducted between 22nd June and 13th July 2015. Online, weighted. See <https://blog.shelter.org.uk/2015/11/facts-are-facts-7-in-10-renters-want-longer-tenancies/>

1. The suggested tenancy framework is not necessarily mandated by law, meaning that the new system would only benefit those for whom the landlord has been 'generous' enough to extend it to.
2. Three-year fixed term tenancies fall slightly short of the average tenancy length, which is 4.1 years currently and 3.9 years averaged over a longer period.
3. Section 21 of the Housing Act 1988 remains in the suggested framework, meaning that tenants will, in practice, be subject to same levels of insecurity as they currently feel under the Assured Shorthold Tenancy regime once the fixed term is over.
4. Landlords (and tenants) remain encumbered by a slow and ineffective courts process.
5. There remain ways to help foster a 'sense of ownership' and control among tenants who would have, until recently, enjoyed these in other tenures.

In this section, we explore these points and outline measures that we believe will overcome the aspects of the proposed framework that have the potential to limit or negate the improvements to security for both renting families and private landlords.

2.2.1 Implementation

In the consultation document, the Government suggests a number of potential ways to implement the new framework. Before we describe the changes that we think are necessary for the new tenancy regime to restore control to families in England, it is worth considering the implications of these different options. The Government suggests voluntary measures, financial incentives and mandatory measures as three potential routes.

Experience suggests that voluntary measures for the implementation of longer tenancies will not work in practice. For example, the Model Tenancy introduced in 2013 (and mentioned in the *How to Rent* guide tenants are legally required to receive at the beginning of their tenancy) has not translated into substantially higher numbers of renters being offered longer tenancies. Only seven per cent of tenants said they were aware of the Model Tenancy in 2016, indicating that the culture of expectation among renters has not developed since its introduction.¹²² This is compounded by landlords resisting the new Model, with half of tenants never having been offered a tenancy of over just 12 months.¹²³ As for financial incentives, research carried out by the Cambridge Centre for Housing and Planning Research found that tax incentives, for example, would only produce a small increase of landlords offering a three year contract – from just under a third currently to almost half.¹²⁴ And like voluntary measures, the groups who would most benefits from the control provided by longer tenancies are at the mercy of finding landlords who offer them.

Unless the new tenancy regime is introduced through mandatory measures the Government's good intentions risks creating a two-tier rental market. Voluntarily measures have previously failed to bring about meaningful change. On the condition that landlords receive greater protections (outlined in Section 2.2.4), the Government should introduce the new Standard Tenancy on a legal basis as the fairest option.

122 Shelter, Shelter submission to MHCLG: Overcoming the barriers to longer tenancies in the private rented sector, 2018 [https://england.shelter.org.uk/_data/assets/pdf_file/0003/1591815/Shelter_submission_to_MHCLG_-_Overcoming_the_barriers_to_longer_tenancies_FINAL.pdf]

123 Ibid

124 A Clarke et al, *The effects of rent controls on supply and markets*, Cambridge Centre for Housing & Planning Research, 2015 [<https://www.cchpr.landecon.cam.ac.uk/Projects/Start-Year/2015/The-effects-of-rent-controls-on-supply-and-markets/Project-Report/Report>]

Recommendation 1

In its consultation on establishing longer tenancies in the private rented sector, the Government explored three ways to introduce the new tenancy regime it proposes: through voluntary measures, financial incentives, or on a mandatory basis.

In order to avoid a two-tier rental market, the Government should introduce a new tenancy regime on a mandatory basis. However, exemptions should be made to support the operation of specific markets, such as student rental properties and holiday lets.

As the Government advances on these reforms to tenancy, it should consider whether tax incentives should be reintroduced to maintain investment in the sector (see below, section 2.2.3).

2.2.2 Standard Tenancy length

The Government's suggested framework for three year tenancies represents a step change in the security tenants receive compared to the existing regime. The greater security, sense of ownership and control provided by the new tenancy framework, we believe, would allow many households to better plan for their future and address the challenges that drive people into poverty.

But while this represents a marked improvement on the six to twelve months' security tenants receive under the existing AST model, the Government should be more ambitious in providing the security that families need to thrive. It could look elsewhere, for example in Scotland where since 2017 private tenancies have been made indefinite, to assess the viability of even longer-term securities for renters in the sector. But it should also be relatively gradual in introducing longer tenancies as standard, allowing the sector time to adjust. As a compromise, the Government could go further than three years suggested in the consultation to mirror the average tenancy length as recorded in last year's English Housing Survey of 4.1 years. (The average over the last eight years is 3.9 years).¹²⁵

Critical, however, is ensuring that tenants retain the beneficial flexibility offered by the sector – so households can move for that better paying job, to be nearer to family or a good school. The new Standard Tenancy should include a rolling break clause for tenants to leave at two months' notice, and the introduction of the new regime should be accompanied by target communications to ensure that renters are aware of their ongoing flexibility in the sector.

As for rises in rent, it has been argued by some that the Government's suggested system of the rate of annual rent rises being agreed at the beginning of the tenancy could lead to tenants facing higher rents than they do under existing arrangements, as:

Many landlords currently do not increase rents on periodic tenancies, where they feel they have good tenants who they want to keep in the properties. These landlords are often willing to charge below the market rent in order to keep good tenants and avoid void periods.¹²⁶

125 English Housing Survey 2017–18

126 <https://landlords.org.uk/response/nla-response-the-consultation-overcoming-the-barriers-longer-tenancies-in-the-private>

While tenant flexibility should be preserved, a mechanism should therefore remain allowing landlords to incentivise good tenants to stay for the whole four-year tenancy (and beyond). It would be unfair for landlords to be able to raise rents at a rate higher than that agreed at the beginning of the four-year tenancy, as this risks being gamed as a way as pushing tenants out within the fixed term of the new Standard Tenancy. However, landlords should be able to delay, or waive altogether, the rises to rents agreed at the initiation of the tenancy. This retains the means to incentivise good tenants to stay and limit void periods.

Recommendation 2

The Government should introduce legal requirements for a new Standard Tenancy with a fixed term of four years, to mirror the average tenancy length as recorded in the English Housing Survey of 4.1 years (the average over the last eight years is 3.9 years).

Tenants should be able to exit the tenancy with two months' notice once the initial six months have passed, retaining the advantage of flexibility of the private rented sector.

Proposed annual rises in rent should be clearly advertised by landlords and subject to negotiation at the beginning of a tenancy, as per the Government's suggested new framework, however over a four year period. Landlords should also be able to delay or waive rent rises to incentivise good tenants to stay.

2.2.3 Abolishing Section 21 and reforming Section 8

The ease with which landlords may serve Section 21 eviction notices is a cause of profound insecurity in a sector dominated by six to twelve month tenancies. In light of the evidence discussed in Part 1, there is clear need for this aspect of the tenancy regime to be updated to reflect the different needs of the hundreds of thousands more families, poorer households and older households now living in the sector.

Yet an issue left largely undiscussed in the longer tenancy consultation document is what happens at the end of the suggested three year tenancy. It is unclear, for example, whether the landlord and tenant would be expected to negotiate a new longer tenancy or whether it would become a statutory periodic tenancy, as most ASTs do currently. Unless this is addressed tenants could, under the suggested new framework, continue to experience the same insecurity they do now when their fixed term is drawing to a close and landlords gain the ability to serve a Section 21 eviction notice. This could fundamentally undermine the aims of the Government's proposed reforms to tenancy.

Section 21 notices, though dubbed by some 'no fault evictions', are actually used in many cases for serious 'faults' and when a tenant has breached the terms of their contract. Indeed, there is compelling evidence to suggest that it is being used in many cases to regain a property where the Section 8 process should be more appropriate. For example, as noted earlier, more than half of landlords said that they have had to serve a Section 21

notice because their tenant was in rent arrears, grounds which (when serious) are covered by Section 8.¹²⁷ The reasons for the propensity to use Section 21 instead of Section 8 are examined in the following subsection.

Other evidence indicates that Section 21 notices are widely used for grounds currently not covered by Section 8. Official data suggests that the majority (62 per cent) of Section 21 eviction notices are served for the purposes of landlords wishing either to sell their property or to move in themselves.¹²⁸ Understanding landlords' needs to regain possession of their properties in these circumstances is essential to establish fairness in any significant reforms to private tenancy in England – and, in particular, those which remove their ability to do so via Section 21.

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Understanding landlords' needs to regain possession of their properties in these circumstances is essential to establish fairness in any significant reforms to private tenancy in England

While calls have been made for the abolition of fixed terms and a reversion to a model recalling the 'regulated tenancies' seen more widely before the introduction of the AST, this could cause an imbalance in the landlord-tenant relationship such that there is significant divestment in the private rented sector. Some argue that there are reasons for this not being a wholly negative outcome, following the logic underpinning the tax changes in 2015 that shrinkage of the sector would release homes into the first-time buyer market and direct more private investment into productive assets.¹²⁹ But a rapid reduction in investment could, according to others, drive up the price of rent in the sector, potentially harming households already struggling on lower incomes.¹³⁰ Meanwhile, the case has also been made that the resulting movement into the owner occupant sector would reduce demand in the private rental market, undermining any potential changes to the balance of supply and demand and therefore keeping rent levels broadly static.¹³¹

In light of this debate, as well as the need to update the tenancy regime fairly, we propose that the new Standard Tenancy ends automatically after four years if a new agreement has not been reached, as well as significant reforms to the existing Section 8 grounds so that landlords are able to retain the flexibility they need to gain possession of a property for legitimate reasons – during the four year fixed term. These should be amended as follows:

- Currently, Ground 1 in Schedule 2 allows landlords to gain possession if they require the property as their main residence, but only if notice is given prior to the tenancy commencing. This should be reformed so that landlords are able to gain possession for this purpose throughout the tenancy.
- New grounds should be added to Schedule 2 so that landlords are able to gain possession of their property should they wish to sell it.
- New grounds should be introduced allowing landlords to receive an accelerated possession order to rapidly gain possession of properties where the tenant has incurred serious rent arrears of more than three months.

127 Property118, 'Section 8 delays cause 56% of Landlords to use Section 21 instead', 2019 [www.property118.com/section-8-delays-cause-56-landlords-use-section-21-instead/]

128 D Baxter and L Murphy, *Sign on the Dotted Line? A New Rental Contract*, 2019 [www.ippr.org/files/2019-01/sign-on-the-dotted-line-jan19.pdf]

129 As George Osborne stated in the 2015 budget, the reduced tax relief landlords would receive aimed to 'create a more level playing-field between those buying a home to let, and those who are buying a home to live in.' [www.gov.uk/government/speeches/chancellor-george-osbornes-summer-budget-2015-speech]

130 See, for example, David Cox, the managing director of the Association of Residential Letting Agents in BBC, 'UK faces critical shortage of homes to rent, says Rics', 2016 [www.bbc.co.uk/news/business-37547912]

131 D W Crow, *Do measures that discourage buy-to-let investment increase rents?*, 2018 [https://d3n8a8pro7vnm.cloudfront.net/npto/pages/6563/attachments/original/1539956761/PRS_size_and_rents_19_Oct_2018.pdf?1539956761]

With these reforms, the new tenancy regime would provide greater security for renters while also balancing the needs of landlords. Notably, as widening access to longer tenancies has become a clear part of the current Government's housing agenda, landlord representative organisations have diverted their campaigning activity towards calls for a reassessment of the above mentioned tax changes introduced in 2015 – that is, the phased in restriction of mortgage interest relief to the basic tax rate; taxing landlords turnover rather than profit; the three per cent tax duty on new homes to rent; and the exclusions of residential property from the reduction in capital gains tax to 20 per cent – as these are what many perceive to be the main barrier to continuing private investment in the sector.¹³² Indeed, some have argued that tax reform is essential to the successful introduction of a longer tenancy regime.¹³³

As the Government advances on its reforms to tenancy, it should monitor these concerns carefully, as well as the overall fragility of the market, and consider whether tax incentives should be reintroduced to maintain healthy levels of investment in the sector.

Recommendation 3

The Government should abolish Section 21 of the Housing Act 1988, meaning that households can live with the security of not facing 'no fault' evictions and having to move with two months' notice. The Standard Tenancy ends automatically at the end of the four year fixed term; however, tenants finishing their tenancy should be entitled to another four year term if rents are successfully negotiated with the landlord. The Government should look elsewhere, for example in Scotland where since 2017 private tenancies have been made indefinite, to assess the viability of even longer-term securities for private renters.

Meanwhile, the Government should update the mandatory grounds covered by Section 8 of the Act so that landlords can gain possession of their property during the fixed term for a wider range of reasons, such as if they need to sell or move into the property (on top of the existing mandatory grounds for antisocial behavior and rent arrears). 'Accelerated grounds' should also be introduced for when a tenant has incurred serious rent arrears of more than three months.

As the Government advances on these reforms to tenancy, it should consider whether tax incentives should be reintroduced to maintain investment in the sector.

2.2.4 Introducing a specialist Housing Court

Resistance to longer tenancies has often been attributed to landlords fearing the consequences of relinquishing their ability to gain possession of their property swiftly.¹³⁴ This is underpinned by low levels of confidence in the court system which provides legitimate legal means for landlords to gain possession when serious grounds have been breached. Indeed, one recent survey found that just 25 per cent of landlords said they had confidence in the court system.¹³⁵

¹³² See, for example, the budget submission of the Residential Landlord Association

¹³³ Ibid

¹³⁴ MHCLG, Overcoming the Barriers to Longer Tenancies

¹³⁵ Shelter submission to MHCLG: Overcoming the barriers to longer tenancies

Many good landlords, it has been argued, rely on Section 21 to remove tenants who are in breach of their contract because alternative routes, such as Section 8, are lengthy and costly. Case studies submitted to the CSJ Housing Commission illustrate issues landlords experience going through the Section 8 process.

Lily, an accidental landlord from Staines upon Thames, inherited a property and decided to rent it out to generate a small amount of extra income whilst working. Her first tenant passed employment checks and appeared trustworthy, stating that they were looking for a long-term rental with no problems. Two weeks rent and a deposit were paid in advance.

The tenant paid no further rent, and after several months, Lily issued a Section 8 notice. After many more months, Lily was owed £8,000 in outstanding rent and was put off renting out her property. The tenant has only very recently moved out of the property.

Private landlord in London, submitted in evidence to the CSJ¹³⁶

Maurey rented out her London flat to a tenant who was refused at first due to a CCJ [County Court Judgment] for £600. However, after receiving detailed reports of bank statements and being informed that the CCJ was an admin error, the tenant moved into the property in December 2017.

After paying the first month's rent late, and only partially paying the second month, the tenant stopped paying rent altogether.

Maurey issued a Section 8 notice, but due to the lengthy process and the tenant refusing to vacate the property until May 2018, Maurey is now owed £4.5k in rent and paid at least £1,000 in court fees to evict the tenant. She believes she was penalised for simply being kind to a tenant.

Private landlord in London, submitted in evidence to the CSJ¹³⁷

In the first case above, the landlord stated that she would have preferred to use a Section 21 notice, as the court process for Section 8 was time-consuming, extremely costly and in her view not fit for purpose. Data compiled by the National Landlord Association of its members show that the average Section 21 eviction took 104 days at the cost of £3,525, whereas an evictions owing to a tenant breaching grounds of Section 8 took an average of 145 days at the cost of £5,730.¹³⁸ Landlords' lack of confidence has, ultimately, deterred them for letting for longer terms: 70 per cent of landlords, according to the RLA, reported that improvements to the Section 8 process would encourage them to offer a longer tenancy.¹³⁹

Under the current system, housing cases are heard in a variety of settings. Usually this takes place in the county court and the First-tier Tribunal (Property chamber); for example, some 24,000 Section 8 possession cases involving private landlords were heard in county courts in the year to June 2018.¹⁴⁰ Some cases are heard at the magistrates court, and others are transferred to be dealt with by enforcement officers in the High Court.

136 Landlord testimonials submitted to the CSJ by MakeUrMove, national online letting agent for private landlords and tenant
137 Ibid

138 National Landlord Association presentation, ONS Housing Forum, 2019

139 T J Simcock, *The Impact of Taxation Reform on Private Landlords*, Residential Landlords Association, 2018 [<https://research.rla.org.uk/wp-content/uploads/impact-taxation-reform-landlords-2018.pdf>]

140 MHCLG, *Considering the case for a Housing Court: A Call for Evidence*, 2018 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/755326/Considering_the_case_for_a_housing_court.pdf]

Yet as has been argued forcefully by landlord representative organisations, the existing Section 8 process and court system is not working as it should. The latest figures show that repossession takes a median average of 47 weeks (although MHCLG analysis looking at the private rented sector in isolation finds this to be 17 weeks).¹⁴¹ This time can place sometimes extreme financial pressure on a landlord or lead to the landlord defaulting on other financial commitments tied to the property. Meanwhile, rent arrears are likely to continue to build, contributing to further and significant financial losses.

Thankfully, the Government has recognised the issues with the court system and has launched a consultation exploring the benefits of reform, so that ‘housing cases could be resolved in a different forum more cheaply and with less formality’ – and more speedily.¹⁴² The consultation sets out four options for reform:

1. Establishing a new, specialist Housing Court to bring all housing issues under a single forum
2. Making structural changes to the existing courts and property tribunals system, moving certain housing cases to more appropriate settings
3. Make changes to the enforcement process in the county court, such as providing more information for both tenants and landlords in relation to the process of eviction
4. No substantial changes to how cases are heard, but strengthening guidance to help users navigate the court and tribunal process.¹⁴³

The Government has said that its proposals aim to encourage private landlords to offer longer tenancies by ‘providing confidence for landlords to offer longer, more secure tenancies’.¹⁴⁴

However, for this to work, consistency and fairness in decision making is vital. Evidence submitted to the consultation suggests that a lack of specialist expertise in the existing system currently inhibits this. Shelter Legal, for example, report having to explain legal issues to judges that lack expertise in housing issues, with this inexperience sometimes leading to inconsistent decision making.¹⁴⁵ Other evidence indicates that ‘a lack of standards’ and poor court administration has made the processes complex, confusing and slow, with court users ‘frustrated by claims being thrown out of court due to technical flaws’.¹⁴⁶ Notable, however, is the improvement in the experience of landlords using the enforcement procedures of the High Court – where landlords were ‘generally happy’ with the process as it was more timely and effective at helping them gain possession than the county court system, despite associated costs of upgrading their case to a High Court Enforcement Officer.¹⁴⁷

A system better utilising specialised judges with expertise in the complexities of housing law and more efficient administration would much enhance the decision making of the courts, and would likely speed up the process for landlords. As the RLA have noted, ‘Landlords are more likely to rent property out to tenants for longer periods if they can more easily

141 Ibid and Ministry of Justice, Mortgage and Landlord Possession Statistics in England and Wales, July to September 2018 (Provisional), 2018 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/754480/Mortgage_and_Landlord_Possession_Statistics_Jul-Sep_18.pdf]

142 MHCLG, Considering the case for a Housing Court: A Call for Evidence

143 Ibid

144 MHCLG, ‘James Brokenshire unveils Housing Court proposals’, Press Release, 2018 [www.gov.uk/government/news/james-brokenshire-unveils-housing-court-proposals]

145 Shelter, Shelter submission to MHCLG: Considering the case for a housing court, 2019 [https://england.shelter.org.uk/__data/assets/pdf_file/0010/1677934/Housing_Court_Consultation_Response.pdf]

146 Arla, Consultation response: we consider the case for a Housing Court, 2019 [www.arla.co.uk/news/january-2019/consultation-response-we-consider-the-case-for-a-housing-court.aspx]

147 Ibid

regain possession of a home where tenants are not paying their rent or committing anti-social behaviour.¹⁴⁸ Tenants facing injustices, too, would benefit from greater expertise and rapidity in the system. As found by the Housing, Communities and Local Government Select Committee enquiry into the private rented sector in 2018, ‘a specialist housing court would provide a more accessible route to redress for tenants’.¹⁴⁹

The Government’s first proposed option is most likely, therefore, to achieve its ambitions which chime with our own: to provide tenants with greater control over their lives through the security of longer tenancies, while ensuring that landlords have effective means to gain possession of their properties in the legitimate cases they need to do so (which, it should be emphasised, dominate the majority of cases).¹⁵⁰

Recommendation 4

The Government should introduce a single Housing Court, staffed by judges with expertise in housing issues. All housing cases would then travel through a single body with the institutional insight needed to do this more quickly and effectively than the existing county court process.

2.2.5 Fostering a sense of ownership

As indicated by new independent polling carried out by ComRes for the CSJ Housing Commission, many private renters find it just as important to feel a ‘sense of ownership’ over their homes as those living in other tenures.¹⁵¹ But while approaching two thirds of private renters say it is important for them to feel a ‘sense of ownership’ over their home, only a fifth of them currently do.¹⁵²

There are many benefits for landlords having tenants who take pride in their rented properties. Tenants are, for example, more likely to report serious issues for repair at an earlier stage, saving landlord costs in the future. They are also more likely to reduce wear and tear in the property, and carry out low level maintenance on their own accord. This, too, contributes to the case for longer tenancies: nearly two thirds (64 per cent) of renters in England said in a separate recent survey that if they knew they were going to be staying in a private rented home for up to five years, they would be more likely to ask to carry out decorations or other improvements myself.¹⁵³

148 Residential Landlord Association, Manifesto call for new housing court, 2017 [<https://news.rla.org.uk/housing-court-manifesto-2017-launch/>]

149 Housing, Communities and Local Government Select Committee, *Private Rented Sector – Fourth Report of Session 2017–19*, 2018 [<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf>]

150 62 per cent of ‘no fault’ evictions are served to enable landlords to sell their property or to use the property themselves, according to D Baxter and L Murphy, *Sign on the Dotted Line? A New Rental Contract*, 2019 [www.ippr.org/files/2019-01/sign-on-the-dotted-line-jan19.pdf]

151 See section 2.2.3.

152 ComRes for the CSJ Housing Commission surveyed 2,002 British adults online between 10th and 11th December 2018

153 Shelter, Shelter submission to MHCLG: Overcoming the barriers to longer tenancies in the private rented sector, 2018 [https://england.shelter.org.uk/_data/assets/pdf_file/0003/1591815/Shelter_submission_to_MHCLG_-_Overcoming_the_barriers_to_longer_tenancies_FINAL.pdf]

But despite this, as revealed earlier, only 31 per cent of renters say that they felt supported by their landlord to feel a ‘sense of ownership’ over their home.¹⁵⁴ Indeed, 40 per cent of private renters think their landlord could do more to help them feel a sense of ownership over their home.¹⁵⁵ 74 per cent of private renters agreed that it is important for them to be free to decorate their homes how they like.¹⁵⁶

This could, in part, be improved by allowing private renters greater control over their living space. In our survey, renters were six times more likely to say they didn’t feel in control of their living space than home owners (two per cent vs 12 per cent).¹⁵⁷ Meanwhile, as many as 41 per cent of private renters attributed having control over their home décor as one of the main benefits of owning their own home.¹⁵⁸

The mass movement of households on lower incomes to the private rented sector in recent decades has seen thousands of individuals lose this control, with many now denied the freedom to make reasonable improvements to their living space. A new Standard Tenancy provides a valuable opportunity to change this.

Recommendation 5

The Government should prohibit landlords from stopping tenants making limited cosmetic improvements to their private rented homes – for example, hanging pictures and altering the wall colours. This should be on the condition that ‘reasonable’ parameters are agreed at the beginning of the tenancy – for example, the acceptable colour palette.

154 ComRes for the CSJ Housing Commission

155 Ibid

156 Ibid

157 Ibid

158 Shelter submission to MHCLG: Overcoming the barriers to longer tenancies

Appendix one

Summary of new Standard Tenancy

Box 3: The CSJ Housing Commission's proposed Standard Tenancy

Length

The default tenancy is for a fixed term of four years (more closely reflecting the average stay in a private rented home, which is currently 4.1 years and an average of 3.9 years over an eight year period).

Flexibility

Once the initial six months has passed, the tenant can end the tenancy whenever they like on the condition that they provide a minimum of **two months'** notice in writing.

This *does not* apply, however, to the landlord (except in cases specified in the next row).

Gaining possession

The new Standard Tenancy, unless renewed, would end automatically once the four year term had elapsed. Landlords can recover their property during the fixed term only if they have reasonable grounds. These would be in accordance with the grounds in Schedule 2 of the Housing Act 1988 and would include antisocial behaviour and non-payment of rent. Landlords must give the tenant notice (which would follow the notice set out in section 8 of the Housing Act 1988 for the ground or grounds used). New grounds would allow landlords to gain possession if selling the property or moving into it themselves. These grounds would require the landlord to provide at least two months' or 8 weeks' notice in writing.

Accelerated grounds would allow landlords to rapidly gain possession in the case of serious rent arrears of more than three months being incurred.

Rents

Proposed annual rises in rent should be clearly advertised by landlords and subject to negotiation at the beginning of a tenancy, as per the Government's suggested new framework, however over a four year period. Landlords should be able to delay or waive annual rent rises to incentivise good tenants to stay.

Exemptions

Exemptions should be put in place for tenancies which could not realistically last for three years, for example, accommodation let to students or holiday lets.

Implementation

The new standard tenancy should be introduced legislatively, making it mandatory for all new tenancies at the point of introduction except for those subject to exemptions where specific tenancies cannot last for three years; for example, accommodation let to students or holiday lets.

Appendix two

Summary of existing grounds for eviction (England)¹⁵⁹

Mandatory grounds

1. Landlord wants property to be own home or the property was previously their own home
2. Mortgage default
3. Off season holiday let
4. Vacation let of student accommodation
5. Minister/lay missionary property
6. Re-development
7. Tenancy inherited under a will or intestacy
8. Three months' rent arrears

Discretionary grounds

9. Suitable alternative accommodation available to tenant
10. Tenant served notice to quit but did not leave
11. Persistent delay in paying rent
12. Some rent unpaid
13. Breach of tenancy condition
14. Deterioration of the house or common parts
15. Nuisance or annoyance
16. Deterioration of condition of furniture
17. Ex-employees of the landlord

Summary of existing grounds for eviction (Scotland)¹⁶⁰

Mandatory grounds

1. Landlord intends to sell the let property
2. Let property to be sold by lender
3. Landlord intends to refurbish the let property
4. Landlord intends to live in let property
5. Landlord intends to use the let property for non-residential purpose
6. Let property required for religious worker
7. Tenant has a relevant criminal conviction
8. Tenant is no longer occupying the let property

¹⁵⁹ See the Housing Act 1988 c. 50 Schedule 2 [www.legislation.gov.uk/ukpga/1988/50/schedule/2]

¹⁶⁰ See Scottish Government, Private residential tenancy: information for landlords, Housing and Social Justice Directorate, 2017 [www.gov.scot/publications/private-residential-tenancies-landlords-guide/pages/grounds-for-eviction/]

Discretionary grounds

9. Landlord's family member intends to live in the let property
10. Tenant no longer needs supported accommodation
11. Tenant has breached a term of the tenancy agreement
12. The tenant has engaged in relevant antisocial behaviour
13. Tenant has associated in the let property with someone who has a criminal conviction or is antisocial
14. Landlord has had their registration refused or revoked
15. Landlord's HMO licence has been revoked
16. An overcrowding statutory notice has been served on the landlord
17. Grounds which could be mandatory or discretionary
18. Tenant is in rent arrears over three consecutive months
19. Tenant has stopped being – or has failed to become – an employee

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