12 October 2019

Consultation response:

A new deal for renting: resetting the balance of rights and responsibilities between landlords and tenants

Our response to the consultation by MHCLG regarding the implications of the proposed repeal of section 21 of the Housing Act 1988

Summary of key points:

- In April 2019, the Government announced plans to repeal section 21 of the Housing Act 1988. Repealing section 21 would mean that landlords would only be able to end an assured tenancy by demonstrating at least one of the normal grounds for possession in court. All assured tenancies, whether in the housing association sector or the private rented sector, would therefore be 'lifetime'. The assured shorthold tenancy would cease to exist.
- This proposal is driven by issues arising in the private rented sector, but it would also affect housing associations who use assured shorthold tenancies as a probationary regime for new tenants. The fixed-term tenancy regime operated by some associations is also a form of assured shorthold tenancy, while many types of supported and specialised housing use assured shorthold tenancies.
- The Federation agrees that the abolition of section 21 should extend to all users of the 1988 Act, including housing associations. While this may present some operational issues for associations, it would be unacceptable for housing association tenants to have less statutory protection than private sector tenants. This means that probationary tenancies for new housing association tenants would no longer exist.
- There are some forms of supported housing, along with certain other categories of specialized provision, where no-fault possession is legitimately required. We therefore propose changes to the Housing Act to cover these special cases.
- We also propose that consideration be given to a form of short tenancy, such as that used in Scotland, which could be used instead of probationary tenancies in certain circumstances.
- We support the proposal for specialist housing courts, although if they are to improve possession processes it is essential that they be properly resourced.

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

1. Introduction

On 15 April 2019, the then Housing Secretary James Brokenshire MP announced the Government's intention to repeal section 21 of the Housing Act 1988. The Government set out its plans in more detail in a consultation paper, A New Deal for Renting: Resetting the Balance of Rights and Responsibilities between Landlords and Tenants, which was published in July with a response deadline of 12 October. The consultation paper makes it clear that the Government is committed to the repeal of section 21, so it does not seek views on the principle involved. It does, however, raise a number of issues about the implications of the repeal, alongside some other issues about the operation of assured tenancies.

Although the decision to repeal section 21 arose from concerns relating to the private rented sector (PRS), this response focuses on the implications for the housing association sector, and potentially on local authority housing as well. The response addresses specifically the questions raised in the paper, not the principle of repealing section 21.

We agree completely about the importance of striking the right balance between landlords and tenants in all sectors. The Federation's Together with Tenants plan also seeks to build a stronger relationship between housing association landlords and residents through embedding a culture that values the voice and experience of residents.

2. Outline of consultation paper

The consultation paper sets out the aim of allowing landlords to manage their properties effectively while at the same time recognizing that tenants need security in their homes. It identifies the end of a tenancy as a critical point at which the law must strike the right balance between the rights and interests both of landlords and of tenants.

It stresses that the great majority of assured tenancies end amicably and without dispute. Where the landlord and tenant are at odds, however, the current law provides that if the tenancy is assured shorthold, the landlord need only serve two months' written notice (a 'section 21 notice') in order to be certain of gaining possession without having to demonstrate any breach of tenancy or other fault on the part of the tenant (hence, 'no-fault possession').

An important consequence of this lack of security is that the possibility of eviction may deter tenants from seeking to enforce their legal rights, for instance to have repairs carried out or gas fittings checked for safety.

The consultation paper acknowledges that the repeal will render meaningless the current distinction between full assured tenancies and assured shortholds. In practice (and probably also in theory, depending exactly how the legislation is framed), all will be fully assured, and this will apply from the very outset of the tenancy (i.e. there will be no 'introductory' or 'probationary' stage).

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

The consultation paper proposes some modifications to the grounds for possession, including new mandatory grounds allowing landlords to regain possession, without showing fault, if they wish to sell the property or move into it.

The paper also asks whether the repeal of section 21 should apply across the board to all landlords that use assured tenancies, including housing associations; and it seeks views on circumstances in which no-fault possession may be appropriate. These are issues of particular importance to the housing association sector and are considered in detail in this response.

The consultation paper also considers the operation of the courts in possession cases, and how they can be made faster and more effective.

3. Use of section 21 by housing associations

Housing associations meet the landlord condition in the 1988 Housing Act and therefore use assured tenancies. In most cases, their assured tenancies are 'lifetime' (i.e. non-shorthold), which means the landlord can end them only by showing in court one of the grounds for possession listed in the 1988 Act, such as rent arrears or anti-social behaviour. However, housing associations, like any other landlord within the scope of the 1988 Act, are also legally free to use assured shorthold tenancies allowing no-fault possession under section 21. Although the great majority of housing association tenancies are full assured, associations have used shortholds in a number of significant areas.

3.1 General needs social housing

3.1.1 Fixed-term tenancies

The Localism Act 2011 incorporated provisions allowing the use of fixed-term tenancies by social landlords. The rationale for this is that a fixed-term tenancy allows the landlord to reassess the tenant's circumstances every few years (typically, five). Such a system, however, currently relies for its effectiveness on the availability of no-fault possession if the tenancy is deemed no longer to be needed.

In practice, the principal application of fixed-term tenancies would be in cases where family-sized housing has come to be underoccupied because the size of the tenant's household has diminished over time; typically because children have grown up and left home.

If the tenant is below pension age the social housing size criteria will provide an incentive to downsize. However, this cohort of tenants is one of the least likely to receive benefits: Housing Benefit and/or Universal Credit is claimed by only 42.5% of childless households underoccupying by two bedrooms or more with a head aged 45-64, compared with 59% for working-age housing association tenants overall). For tenants not affected by the size criteria (because they either are not receiving benefits, or are above pension age) the

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

flatness of housing association rents means there is very little material incentive to downsize.

Housing associations have to manage the challenge of allowing tenants to remain securely in their home, while ensuring homes are used as effectively as possible to meet pressing housing need. The Federation's view is that each landlord is best placed to decide whether to use fixed-term tenancies (FTTs) as a mechanism allowing the most effective use of its homes; and a significant minority of housing associations, particularly those operating in areas of severe housing pressure, have chosen to use FTTs in this way.

Given the proposed abolition of section 21, **we therefore propose the creation of a new, mandatory ground for possession available in cases where the property is larger than is reasonably required by the tenant's household**. However, this ground would be available only if (a) notice had been given before the start of the tenancy that the ground might be used, and (b) the landlord offered, or had secured an offer of, suitable alternative accommodation. This would help social landlords to use scarce social housing as effectively as possible while ensuring that the needs of existing tenants continue to be met.

3.1.2 Probationary tenancies

The most extensive use of assured shorthold tenancies by housing associations is for probationary purposes. That is, before receiving a lifetime (or fixed-term) tenancy, a new tenant is granted an assured shorthold, typically twelve months. This allows the housing association and the tenant to assess if the home and tenancy are working well and meeting the tenant's needs. If, after consultation and support, a tenant is not able to maintain the tenancy, section 21 is sometimes used at the end of the probationary period.

The use of introductory and probationary tenancies is very common practice by local authority landlords and housing associations. In the housing association sector, some 84% of new tenants in general needs housing (excluding transfers) have had a probationary tenancy. Many housing associations believe strongly that they are a helpful and important way to ensure that the tenant is in a home that they will be able to maintain and that meets their needs for the long term. However, once section 21 has been repealed, private sector tenants will enjoy full statutory security from the very outset of the tenancy and it is our view, following consultation with our members, that it would be invidious and unfair if the same protection did not apply in our sector.

We therefore agree that the abolition of section 21 should apply in all cases where assured tenancies are used, and we do not seek any special exception for social landlords. This means that probationary tenancies will cease to be available and that new tenants will enjoy full statutory protection from the outset.

In addition, if housing association tenants are no longer to be subject to probationary arrangements, the question arises of why local authority tenants should be subject to the

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

very similar introductory regime. Although the technical provisions for local authorities are different (being located in section 124 of the Housing Act 1996), the policy concerns are identical and it seems logical that a single approach should be taken to probationary and introductory tenancies in both the housing association and local authority sectors.

Instead of probationary tenancies, we recommend that consideration be given to a form of 'short' tenancy such as that used in Scotland. The short Scottish secure tenancy was introduced when no-fault possession was abolished in Scotland. It resembles an assured shorthold tenancy in that the landlord may end it without grounds by serving two months' notice (provided the tenancy runs for at least six months overall), but the key difference is that it can be used only in specified circumstances, and the tenant has the right to go to court to have the tenancy converted to a full Scottish secure tenancy. The short Scottish secure tenancy can be used, for instance, if the tenant has previously been evicted for anti-social behaviour or if the tenant or a member of his or her family is subject to an ASBO. So the short Scottish secure tenancy lacks the ubiquity of the assured shorthold and cannot be used for new tenants in general.

We believe it would be useful to introduce something similar in England, although it need not follow the Scottish precedent in detail. Nor should its use be limited to Registered Providers, since it might also be useful to other public-benefit bodies such as unregistered housing associations or charities that let property in furtherance of their aims. However, the circumstances in which such a 'short' tenancy may be granted should be carefully limited by statute so that its use remains very much the exception.

3.1.3 Demoted tenancies

In a case where it has been established in court that grounds exist for ending the tenancy because of anti-social behaviour, housing associations sometimes ask the court, as an alternative to eviction, to 'demote' the tenancy: that is, to convert it to shorthold form so that the landlord can later end it using section 21 if the anti-social behaviour problems are not resolved. Demoted tenancies thus raise similar issues to probationary tenancies, but with one key difference: demotion does not compromise security of tenure because before a tenancy can be demoted, a court must be satisfied that there are grounds for possession because of anti-social behaviour. This gives the tenant a degree of protection that does not currently apply to a probationary tenancy. Although relatively little use is made of demotion, it can be a useful tool of tenancy management in circumstances where, if it were not available, eviction would have been the likely outcome. We therefore urge that it be retained, although in the absence of section 21 a new mechanism is needed to allow the landlord to end the tenancy if necessary. This could be based on s143D of the Housing Act 1996 for ending local authority demoted tenancies.

3.2 Supported housing

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

Housing associations use assured shorthold tenancies, and no-fault possession, in some types of supported (as opposed to sheltered) housing. The principal cases are listed below.

Loss of support

Some types of supported housing rely on the delivery of support, either directly or by means of financial provision, from an external agency. If this is withdrawn, for reasons that may be entirely beyond the control of the housing association, the housing cannot be sustained and section 21 is used to end the tenancy.

Ending of need for support

A further case is where supported housing is supplied in circumstances where the need for it may cease to apply at some future point. An example would be short-term supported housing, where the home is intended for tenants who require support for a limited period before moving on into general needs housing.

Need for rapid possession

Some associations argue that it is important for the effective management of certain schemes for very challenging client groups that no-fault possession be available so that the landlord can, in the last resort, evict a tenant without having to go through the onerous and time-consuming process of demonstrating grounds in court. This may apply, in particular, to properties involving a substantial shared area.

3.3 Other special cases

Temporary housing

There are many cases where housing is clearly intended to be temporary. This arises, for instance, where the housing association has only a lease of a property for a certain number of years, at the end of which it must be restored to the freeholder with vacant possession. Another example would be property that is unavailable for permanent living because of 'planning blight' (e.g., it is in the path of HS2). In this situation no-fault possession is clearly unavoidable; the alternative would be to leave the property empty.

Young people, key workers, temporary housing for homeless people

There are other cases such as housing intended for young residents (e.g. under 25) or for key workers, where if the purpose of the scheme is to be maintained it is essential to use no-fault possession if the tenant ceases to meet the qualification.

Temporary housing for homeless people, pending determination of their case by the local authority or the offer of permanent housing, is already excluded from statutory security by section 209(2) of the Housing Act 1996.

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

Intermediate rent leading to ownership (including London Living Rent)

A number of housing associations operate schemes at intermediate rents, aimed at tenants on middle incomes, in the expectation that within a few years the tenant will be able to progress to some form of purchase such as shared ownership. The London Living Rent (LLR) scheme takes a similar approach. The schemes typically use fixed-term tenancies (three years in the case of LLR) and envisage that renewal of the tenancy, if sought by the tenant at the end of the fixed term, will be on the understanding that the tenant will be able to enter upon some form of ownership within a reasonable time. Once section 21 is repealed, schemes of this type will not be able to continue in their current form unless specific legislative provision is made for them.

Termination of a superior lease

Housing associations sometimes acquire housing under leasing arrangements that, typically, require the property to be returned with vacant possession on the termination of the lease. In order to comply with this requirement, the association will let the premises on a shorthold tenancy so that section 21 may be used to terminate the tenancy as the end of the lease approaches.

With regard to existing leases, entered into by associations in the expectation that section 21 would be available, it would be reasonable to seek a specific legislative exemption to allow no-fault eviction as the end of the lease approaches.

However, applying the same approach to new leases, as opposed to existing ones, raises more difficult issues. We do not support a blanket rule allowing no-fault possession near the end of a superior lease because this would open up a possible avoidance mechanism allowing continued access to no-fault eviction. However, for some associations leasing schemes make an important contribution to their ability to meet housing need so it would be desirable to allow no-fault possession towards the end of new or existing leases entered into for specified charitable or public-benefit purposes. We should welcome discussion with MHCLG about how to define these categories of lease.

3.4 Possession in supported and specialised housing

We think it is essential that no-fault possessions should be retained in a small number of instances, particularly to deal with the examples set out above. We believe there are two ways of achieving this.

- Exclude the tenancy from assured status, and therefore from statutory security, by adding it to the list of exclusions in Schedule 1 to the 1988 Act, meaning that it can be ended by simple notice to quit.
- Add new mandatory grounds for possession to Schedule 2 to the 1988 Act.

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

If certain categories of tenancy are excluded from assured status, they will become so-called 'bare' or 'contractual' tenancies, which will mean they lose not only security of tenure but certain other statutory rights as well, such as that of challenging rent increases. They will, however, still be subject to the landlord's repairing covenant and fitness duty, because these do not depend on assured status.

We therefore think the better approach is to create one or more new mandatory grounds. If the route is taken, these grounds may (depending on the circumstances in which they are available) have certain special conditions attached, for instance that the tenant was formally notified before the start of the tenancy that this ground might be used, or that the landlord has offered, or secured an offer of, suitable alternative accommodation.

We believe removing assured status from tenants should be avoided wherever possible and that the number of mandatory grounds should be kept to a minimum. We therefore recommend that these approaches should be applied only to a limited number of special cases in which the housing in question can be narrowly and precisely defined.

If a case is made in respect of any particular category of housing, either for creating a new mandatory ground or for excluding it from assured status altogether, it is suggested that this should be generally available and should not be restricted to registered providers. This is to protect the interests of unregistered housing associations as well as of other socially-minded landlords such as charities that let homes in furtherance of their aims. The types of property that might qualify for continued no-fault possession are unlikely to be let by for-profit private landlords.

A feature common to many (but not all) of the cases cited above is that the housing is intended, from the outset, to be only of a temporary or short-term nature. It will have been made explicit that the tenancy is not intended to provide a secure long-term home. **We therefore propose that a mandatory ground for possession should be available for these temporary tenancies**. It would only be available if the landlord had served a statutory notice before the start of the tenancy to specify why the tenancy is temporary and the circumstances in which no-fault possession may be sought. This would cover housing where:

- the landlord holds the property under a superior lease requiring vacant possession on termination, possession was sought within a reasonable time (perhaps six months) of the expiry of the superior lease, and provided that the superior lease was either (a) granted for statutorily specified charitable or public-benefit purposes, or (b) granted before a set date;

- the tenancy is granted because certain characteristics that are not necessarily permanent or long-term in nature apply to the tenant or a member of the tenant's household;

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

- the sustainability of a tenancy is contingent on the availability of support and the engagement by the tenant with that support, and the support is no longer available or the tenant has failed to engage; or
- the property was being let on the basis that it is available only temporarily because it is due for demolition or change of use, subject to 'planning blight', etc.

To guard against possible abuse, statute should put clear limits on the circumstances in which such a notice allowing use of this ground may be validly served: the general effect should be to confine its use to purposes that only social landlords and other public-benefit bodies are likely to pursue.

For the specific case of temporary housing for homeless persons, or persons whose claims to assistance under homelessness legislation are being investigated, we suggest revision to the existing terms of s209(2) of the Housing Act 2004 to reflect evolving practice in providing homelessness assistance. The effect is to allow tenancies covered by this provision to be ended by simple notice to quit.

Finally, there are some types of provision for people with very high support needs where the tenancy is intended to be long-term or indefinite, but where it may sometimes be necessary to evict the resident at very short notice for the protection of other residents. Currently assured shortholds tend to be used in this situation because although the use of section 21 is not an ideal solution, it has the advantage of certainty and relative speed compared with normal possession action. Some providers have made use of injunctions but these can be difficult to obtain and enforce. We would be happy to support dialogue between MHCLG and relevant providers to identify a basis for occupancy that offers as much security as possible to very vulnerable residents whilst also allowing the landlord to respond effectively when necessary to protect other residents and the scheme as a whole.

4. A Housing Court

Even if mechanisms are put in place retaining no-fault possession in certain categories of housing, the loss of section 21 will inevitably increase pressure on the courts to improve processing of possession cases. This will apply particularly in the private rented sector, where landlords dealing with cases of rent arrears or anti-social behaviour will be reliant on showing grounds in court.

In commenting to the Federation on the proposed abolition of section 21, members have provided some alarming accounts of shortcomings in court processes, ranging from inordinate delays in dealing with relatively straightforward cases to the use of judicial discretion in a manner that effectively authorises tenants to remain indefinitely in clear breach of their tenancy. We can make these accounts available if required.

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

Earlier this year we made the case for a dedicated, properly resourced housing court in our submission to the MHCLG call for evidence on the subject (22 January 2019). This remains our position: indeed, the case becomes even stronger if section 21 is abolished because of the increased use that will be made of the 'section 8' grounds such as rent arrears and anti-social behaviour. The existing system is already showing unmistakable evidence of strain; unless significant additional resources are made available, preferably in a specialist housing court, it is likely to be overwhelmed by the increasing number of section 8 possessions resulting from the abolition of section 21.

5. Other questions raised by the consultation paper

The consultation paper asks 50 specific questions about the proposed repeal of section 21. The first of these questions is about whether the proposed repeal should extend to bodies such as housing associations, an issue that is addressed in the body of this response above. The remaining 49 questions reflect the consultation paper's general focus on the private rented sector; the answers, however, are likely to affect all landlords covered by the 1988 Housing Act, including associations.

Our initial response to the issues raised is as follows.

- **Fixed terms and break clauses:** Fixed-term tenancies and break clauses rely on the availability of section 21 as an enforcement mechanism. Consequently we expect that there will be much less interest in these mechanisms once section 21 is repealed (Q2 and Q3).

- **Rent increases:** We note that the Government does not propose to introduce rent controls. The paper does, however, propose technical legislative changes to prohibit excessive rent increases in circumstances where section 13 of the Housing Act 1988 is not available to protect the tenant against rents above market level. We suggest that the Government should go further and amend section 13 so that it is available in the event of any proposed rent increase, regardless of whether the tenancy is periodic or fixed-term, and including an increase on the grant of a fresh tenancy of the same property to the same tenant. In addition, it should no longer be possible for any term in assured tenancy agreement to have the effect of ousting the statutory framework for rent increases in sections 13 and 14 (the issue of rent increases is addressed in paragraphs 2.24 to 2.27 of the consultation paper, although no corresponding question is asked.

- **Ground 1 (landlord formerly resident):** Ground 1 applies only to tenancies where the landlord formerly lived at the property. As this has no application to housing associations, we do not express a view on the issues involved (Q4 – Q11).

- **Intention to sell:** We support the creation of a new mandatory ground when the landlord intends to sell the property, subject to safeguards to show that the intention is genuine. We agree that two months' notice is reasonable. While we agree that this ground should extend

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

to housing associations, we expect that any association invoking it against a social tenant would offer suitable alternative accommodation (Q12 – 16).

- **Ground 8 (mandatory rent ground):** The consultation paper suggests a restructuring of ground 8 (the mandatory rent ground). We do not agree with this change, which will have the effect of allowing mandatory possession even when the arrears have been partly paid off by the time of the hearing. We suggest that the ground is retained unchanged. Discretionary grounds 10 and 11 are available in less serious rent arrear cases (Q17).

- **Anti-social behaviour:** The consultation paper raises a number of issues about grounds 7A, 12 and 14, which deal with anti-social behaviour. We welcome dialogue with the Government about ensuring that these grounds allow landlords to deal promptly and effectively with ASB, whilst also protecting the interests of tenants (Q18 – Q23).

- **Domestic abuse:** We also support reviewing ground 14A to ensure it is as effective as possible in dealing with domestic abuse (Q23 – Q27).

- **Landlords' right of access:** We agree it is important that landlords should be able to gain access to tenanted property, at reasonable times and subject to reasonable notice. We agree that failure to provide this access, without a reasonable excuse, should be a discretionary ground of possession. However, we do not agree with the suggested approach of tying this to the existing ground 13, because this ground relates to waste, neglect or default on the part of the tenant. In practice, the circumstances in which landlords reasonably require access extend well beyond the instances specified in ground 13, so we suggest that any new ground should relate to landlords' duties in relation to repairs, fitness, safety checks and maintenance, as well as to waste, neglect and default (Q28).

- **Possession without a formal hearing:** A hearing should always be available when the tenant has a realistic prospect of arguing that the ground has not properly been made out (Q29).

- **Circumstances where no-fault possession may be needed:** The consultation paper sets out a number of special cases in which no-fault possession may be appropriate: letting to students; short-term lets; properties required for a religious worker; certain types of agricultural tenancy; build-to-rent. While we agree, as sent out in this briefing, that there may be a number of cases where no-fault possession is needed, we do not think that the categories suggested by the consultation paper adequately address the issue (Q30 – Q36).

- **Landlords' experiences of possession action:** These questions are not applicable to the Federation, which is not a residential landlord in its own right (Q37 – Q44).

- **Wider impact of repealing section 21:** Regarding the wider impact of the change, it is being brought forward at a time when, for a range of other reasons (including but not limited

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk

to the recent changes in the tax treatment of private landlords), private renting is arguably becoming a less attractive prospect. Anecdotal evidence suggests that significant number of private landlords are now opting to leave the market. If the effect is to tilt the private housing sector away from private renting and toward owner occupation, there will be winners and losers. Some groups currently reliant on private renting, either directly or indirectly, are likely to find it harder to access, and local authorities may find it more difficult to meet their housing duties through the use of properties in the private rented sector. For the Government, this represents a substantial policy challenge but it is one that goes beyond the scope of the present consultation (Q45 – Q50).

6. Conclusion

The proposed repeal of section 21 represents the most fundamental change to the assured tenancy regime since it was introduced in 1989. Its effect is that the assured shorthold tenancy, as a distinct form of assured tenancy, will cease to exist.

While the great majority of housing association tenants have full assured tenancies, the sector has used assured shortholds in a range of circumstances. It is important to recognize that housing associations (along with some other public-benefit landlords) deliver certain types of housing that are unlikely to be found in the private rented sector. These forms of housing include provision for certain very vulnerable persons requiring high levels of support or specially adapted properties; and for persons undergoing some form of crisis requiring emergency short-term accommodation or support. It has not previously been necessary to make special provision for these forms of housing because they have been able to make use of assured shorthold tenancies. But without assured shortholds, associations will find it very much more difficult, and in some cases impossible, to offer these forms of housing unless satisfactory alternative mechanisms are set up. In this paper, we have set out proposals for achieving this.

In general, however, we agree that the abolition of section 21 should extend to all users of assured tenancies, including housing associations.

Contact name: John Bryant
Job title: Policy Leader
Direct line: 020 7067 1082
Email: john.bryant@housing.org.uk

Lion Court
25 Procter Street
London WC1V 6NY

info@housing.org.uk

www.housing.org.uk