NATIONAL RESIDENTIAL
LANDLORDS ASSOCIATION

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Tuesday 3rd May 2022

Polly Neate CBE
Shelter
88 Old Street
London
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Dear Polly,

I write following the publication of Shelter's research: *"Every seven minutes a private renter is served a no-fault eviction notice despite government promise to scrap them three years ago."*

As you know, there are many issues around homelessness and the private rented sector on which Shelter and the NRLA can agree. However, this publication presented a disappointingly one-sided picture, which has the potential to create needless anxiety for tenants that their landlord is about to evict them for no reason.

In fact, official data shows that it is only in a small minority of cases where tenancies are ended by either a landlord or letting agent. The most recently available English Housing Survey data on the issue, from 2019/20, shows that amongst those private renters whose tenancy ended over the previous year, 91.9% were ended by the tenant themselves rather than by being asked to leave by their landlord or letting agent[1].

This all demonstrates that, as we hear from our members, far from looking for ways to evict tenants, the vast majority of landlords much prefer to sustain tenancies and keep tenants in their homes.

There are, as we know, a small number of irresponsible landlords who have no place in the market and bring the wider sector into disrepute. Your press release, however, gives the misleading impression that most landlords fall into this category which is far from the case. For example:

- A private renter being served a Section 21 notice every 7 minutes would amount to around 75,000 over the course of a year, representing just 0.7% of the 11 million private renters Shelter itself says live in England.

- Regrettably the press release failed to point out that the number of possession cases brought to court following a Section 21 notice being issued is actually falling. According to the Ministry of Justice[2], between 2019 and 2021 the number of Section 21 possession claims brought to court fell by 56%, from 19,042 in 2019 to 8,402 in 2021. This fall was not simply because of the repossession ban implemented during the pandemic. The number had already reduced by 50% from 2015 to 2019.

[1] MHCLG, *English Housing Survey, 2019 to 2020 private rented sector report*,8th July 2021, Annex Table 3.7 at: English Housing Survey
[2] Ministry of Justice, *Mortgage and Landlord Possession statistics: October to December 2021*, February 2022, Table 7, available at: Mortgage and Landlord Possession statistics.

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- As you know, but did not make clear, many landlords using a Section 21 route to repossess a property do not do so because they have no reason to seek repossession, but because the alternative Section 8 route is not working as it should. For example:

  - At present, the Section 8 ground for anti-social behaviour is all but impossible to use properly. Where neighbours and fellow tenants are suffering as a result of such behaviour, as things stand now Section 21 is the only viable option to take swift action against people causing problems.

  - Ministry of Justice data shows that using a Section 8 notice can take a landlord almost a year between an application to repossess and obtaining possession[3]. When landlords have a legitimate reason to repossess a property, this is simply too long, particularly as rent arrears can be building throughout this time for landlords who may be hard pressed for money themselves.

- Shelter's press release also failed to explain the restrictions that are currently placed on the ability of landlords to issue a Section 21 notice. As you know, Section 21 notices are invalid in the following circumstances:

  - If a landlord has failed to protect a tenant's deposit in an approved scheme.
  - If a landlord has failed to obtain a licence for a property as is legally required.
  - The landlord has not issued the tenant with a How to Rent booklet.
  - The landlord has not issued the tenant with an Energy Performance Certificate.
  - The landlord has not maintained the gas safety record for the property since the tenancy began.
  - The landlord has not used the required Form (6A) to issue the notice.

  In addition:

  - Measures in the Deregulation Act 2015 protect tenants from eviction when they raise a complaint about the condition of their home.
  - Tenants can also challenge in a tribunal any rent increase they deem to be unfair, which provides protection against excessive rent increases being used as a way of forcing tenants out of a property.

The NRLA is not opposing the Government's decision to end Section 21 and has been at the forefront of discussing and proposing a viable alternative. The private rented sector has increased significantly in the past ten years and is being asked to house people for whom the PRS was never intended. However, as our proposals for a new system make clear[4], Section 21 cannot simply be scrapped without the associated reforms needed to ensure that a new system is fair and workable for both tenants and landlords. This has got to include clear and comprehensive grounds whereby landlords can repossess their properties with a legitimate reason – as most landlords do as present.

[3] Ministry of Justice, *Mortgage and Landlord Possession statistics: October to December 2021*, February 2022, Table 6, available at:
Mortgage and Landlord Possession statistics.

[4] NRLA, *A New Deal for the Private Rented Sector*, August 2021, available at:
A New Deal for the Private Rented Sector

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I know and welcome that Shelter agrees with this, as noted in the comments made to the Public Accounts Committee earlier this year[5] by Policy Manager, Ruth Ehrlich, who stated that Shelter, *"completely understand and recognise that, with scrapping section 21, there will need to be reforms to section 8."* She went on to note that removing Section 21 would mean, *"the grounds for possession will need to be expanded."*

In a post Section 21 environment there will be a need to address situations in which tenants have built disproportionate rent arrears. NRLA also wants to ensure that support is in place to prevent rent arrears in the first place. This must include unfreezing the Local Housing Allowance, making enhancements to the broken Universal Credit system and doing more to boost the supply of all types of housing including those for private rent. However, where tenancies fail there has to be a sensible way for landlords to regain possession of their properties.

Speaking to the Public Accounts Committee Ruth Ehrlich also noted that: *"We would not want to see any changes to a mandatory rent arrears ground."* We assume from this that Shelter has appropriately distanced itself from suggestions that rent arrears should only be a discretionary ground to repossess a property. This would send a dangerous message that somehow paying rent should be optional, which would not be acceptable in any other walk of life.

I hope this letter sets out clearly why NRLA has found your publication to be such an unbalanced account of what is happening now, and what needs to happen if Section 21 is to be abolished.

Rather than sensationalising the issue, we would welcome discussion about how you would propose tackling these important matters, particularly the problem of anti-social behaviour perpetrated by tenants. Simply continually calling for the abolition of section 21 without any discussion of the delicate issues associated with its removal, as articulated here, does nothing to advance the debate.

Given the interest in this matter, and in order to provide much needed balance to the report, we will be making this letter publicly available. I look forward to hearing from you.

Yours sincerely,

Ben Beadle
Chief Executive

[5] Public Accounts Committee, *Oral evidence: Regulation of private renting, HC 996*, 31st January 2022, available at:
Oral evidence: Regulation of private renting, HC 996