



## **A NEW DEAL FOR RENTING – Resetting the balance of rights and responsibilities between landlords and tenants**

### **About the DCN**

The District Councils' Network (DCN) is a cross-party member led network of 191 district councils. We are a Special Interest Group of the Local Government Association (LGA), and provide a single voice for district councils within the Local Government Association.

District councils in England deliver 86 out of 137 essential local government services to over 22 million people - 40% of the population - and cover 68% of the country by area. District councils have a proven track record of building better lives and stronger economies in the areas that they serve. Districts protect and enhance quality of life by safeguarding our environment, promoting public health and leisure, whilst creating attractive places to live, raise families and build a stronger economy.

The District Councils' Network welcomes the opportunity to respond to the consultation on "A New Deal for Renting". The District Councils have statutory responsibilities that involve working directly with Registered Providers, private rented sector landlords and tenants across a range of issues. These include homelessness (both prevention and relief), social housing allocations and the enforcement of housing standards. The proposals put forward in the consultation paper will directly impact on all of these areas of service undertaken by District Councils.

### **Consultation Response**

The majority of the questions put forward in the consultation are on specific details of the proposals or are seeking statistical feedback. The DCN Member local authorities will respond individually to these.

The DCN's response will address the broader Questions 45 to 49 in the section entitled "Wider impact".

#### **45. Do you think these proposals will have an impact on homelessness?**

For many District Councils, a Section 21 Notice accounts for the highest proportion of clients who approach them for homelessness assistance under Part 7 of Housing Act 1996. Consequently, the DCN broadly welcomes the proposed abolition of Assured Shorthold Tenancies as it will potentially reduce the number of households who are made homeless from rented accommodation and who subsequently have to seek homelessness assistance from the local housing authority.

However, there are concerns that the abolition of ASTs in isolation will not of itself significantly reduce homelessness. The impact will be limited if the changes result in landlords becoming more risk averse with regard to who they will offer tenancies to (because the perceived safety net of a "no fault" eviction is no longer available to them). The knock on effect of this would be that potential tenants who are seen to be vulnerable and/or high risk

(e.g. due to previous tenancy problems) may find it harder to access rented housing and may end up having to approach the local housing authority for assistance instead.

There are also concerns that there could potentially be a temporary upturn in “no fault” evictions ahead any abolition of ASTs if some landlords decide to use Section 21 notices while they are still able to do so (e.g. in order to free up their property for re-letting or sale).

In order for the abolition of ASTs to have the intended effect to reduce homelessness, it needs to be accompanied by:

- effective changes in the law and procedures around possession action to ensure a fair and timely repossession process,
- sufficient high quality advice and support services being available for landlords and tenants and
- a review of LHA (Local Housing Allowance) rates to ensure that households on benefits are able to access sufficient help with housing costs to be able to afford local private rented housing.

This will help to ensure that landlords in particular continue to have confidence in the tenancy arrangements and continue to make tenancies available to a wide range of households.

These issues are covered in further detail in our subsequent answers below.

#### **46. Do you think these proposals will have an impact on local authority duties to prevent and relieve homelessness?**

As mentioned above, the proposals could result in a reduction in the number of households presenting to District Councils for homelessness assistance. However, for many District Councils, partnership working with private sector landlords and the availability of tenancies for clients forms a key part of their strategy to prevent or relieve homelessness. The nature of the statutory homelessness service means that a significant proportion of clients seeking assistance will have vulnerabilities, complex needs, poor tenancy history and/or limited household income. If private landlords become more risk averse as a result of the abolition of “no fault” evictions (as suggested in our response to Question 45), then District Councils may find that landlords are less willing to offer tenancies to clients who are homeless or threatened with homelessness. This in turn may make it harder for District Councils to fulfil their homelessness prevention and relief duties. One outcome may be that some landlords seek a greater financial contribution from District Councils up front before agreeing to offer a tenancy to a homeless client (in order to offset the perceived increased risk). These increased costs will have an impact on the Council’s budgets and available funding.

This could potentially be a short term issue while landlords get used to the new arrangements. Good communication with landlords both nationally and locally will be crucial to ensure that they fully understand both the changes that are being introduced and the measures that are being put in place to ensure that they can still secure possession of their properties in a reasonable and timely manner.

It is also possible that the abolition of “no fault” evictions could encourage landlords to work more closely with District Councils to work in partnership to address or resolve tenancy issues. Many District Councils already work pro-actively with private landlords to support them with tenancy management issues and to resolve any potential tenancy breaches

without recourse to eviction. District Councils could potentially look at expanding this work in response to the abolition, although this will have resource implications with the need to fund additional officers.

Overall, as highlighted above, the proposals are likely to result in an increased workload burden for District Councils and this should be reflected by increased funding from Government to help resource this.

With specific regard to victims of domestic abuse, it is not clear that the proposals put forward will have any impact in preventing or relieving homelessness. The proposal to extend Ground 14 A to the private rented sector raises a number of issues and concerns:

- It is not clear how often Ground 14A has been used to date by social housing landlords to successfully evict perpetrators. There should be a full review of how effectively this possession ground has been to date before it is extended to other providers.
- It is not clear how a private landlord would be expected to access evidence and information in order to inform a possession action against a perpetrator in the landlord's property. District Council landlords and Registered Providers will have data sharing protocols with other agencies which are not available to private landlords.
- Privates landlords may also be reluctant to take action under Ground 14A if they fear reprisals from the perpetrator.

#### **47. Do you think these proposals will impact landlord decisions when choosing new tenants?**

Our comments on the potential for landlords to become more risk averse when choosing tenants are set down in response to earlier questions and we will not repeat them here.

Looking specifically at Registered Providers, it should be noted that a number of District Councils nominate tenants to Registered Providers who offer Starter Tenancies (typically for 12 months) using Assured Shorthold Tenancies. If ASTs are abolished as proposed, it is possible that some Registered Providers may refuse more nominations because they see the tenant as a potential risk and they no longer have the option of a Starter Tenancy as a safety net. We are already seeing examples of Registered Providers refusing nominations of tenants where there are concerns about affordability or a poor tenancy history. An increase in the rate of refusals will have a significant knock-on effect on District Councils and, in particular, on those Councils who have undertaken stock transfers and are wholly reliant on Registered Providers to deliver social housing tenancies in their area.

Ultimately, the proposals need to ensure that landlords have a smoother and less expensive process for applying for possession so that they have the confidence that they can get their property back when they have genuine grounds to do so. This is essential to balance the abolition of ASTs and ending of "no fault" evictions. However, the proposals must also ensure there is adequate protection for tenants where they do have a defence to the possession action. We cannot have a situation where the ending of Section 21 notices is simply replaced with an array of other easy ways for the tenants to lose their home.

With this in mind, it is essential that:

- The re-possession and legal process (including the Court system) works in way that allows speed and flexibility for landlords while also being fair to tenants.

- Both landlords and tenants have access to the necessary advice and support to assist them in undertaking and responding to possession action. While there is a large amount of information available on-line, the quality and accuracy of this can be variable. The Government needs to ensure that a range of properly resourced agencies are in place to provide the level of one-to-one support that landlords and tenants will need. This includes ensuring the adequate provision of Court Desks to support tenants facing re-possession action.

It is also important to recognise that landlord decisions on choosing tenants are not solely determined by the type of tenancy that is available to be offered. There are a range of factors that will inform a landlord's decision. The experience of many District Councils is that affordability and associated welfare reforms are often over-riding considerations. The continued failure of LHA (Local Housing Allowance) rates to keep pace with market rent levels is a key factor that means many landlords will not take households on low incomes because benefit payments will not be sufficient to cover the housing costs. This is exacerbated by concerns about the Universal Credit system and how a landlord will access rent payments when there are delays, suspensions and other issues arising. Overall, the current welfare benefits system and LHA rates means that Landlords will often perceive households on benefit as being too high risk and will not rehouse them.

**48. Do you have any views about the impact of our proposed changes on people with protected characteristics as defined in section 149 of the Equality Act 2010?**

In general, the proposals would seem to offer increased protection to people with protected characteristics by abolishing "no fault" evictions and requiring landlords to go through a formal possession process. However, it is possible that the proposals could have a negative impact where the protected characteristic means that the person requires advice, support and/or advocacy in order to respond effectively to any action being taken by a landlord to secure possession on the new grounds that are being put forward. A number of District Councils have expressed concerns that the availability of locally accessible independent housing and legal advice has become increasingly limited due to cuts in funding for advice and support agencies. This includes a reduction in the availability of Court desks who can directly advise persons attending hearings.

Without good quality advocacy and advice services, vulnerable tenants may not be in a position to properly defend themselves against possession proceedings. The lack of an adequate defence increases the risk of vulnerable persons facing eviction even where the landlord may not be acting correctly and not have good grounds for possession.

This is also relevant in respect to the District Council role as enforcer of housing standards. Currently, one of the enforcement tools available for District Councils is to render Section 21 notices invalid in order to prevent retaliatory evictions. This sanction will no longer be available once ASTs are abolished. The consultation advises that tenants will instead have the protection of a legal possession action and a court hearing. However, again, this protection is dependent on the tenant being able to access the appropriate advice and support to challenge the landlord's possession action. Without this help for the tenant to defend their position, there is a strong chance that the landlord will succeed in securing possession even if the landlord is actually taking action for retaliatory reasons.

**49. If such an impact is negative, is there anything that could be done to mitigate it?**

Classification: OFFICIAL

The Government needs to ensure that extensive and accessible advice, support and advocacy services are available to all landlords and tenants who need them in order to properly engage with the legal re-possession process.

**End**

Classification: OFFICIAL