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Public Bill Committee

RENTERS (REFORM) BILL

Second Sitting

Tuesday 14 November 2023

(Afternoon)

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Saturday 18 November 2023

The Committee consisted of the following Members:

Chairs: † Yvonne Fovargue, James Gray

† Aiken, Nickie *(Cities of London and Westminster)* (Con)
† Amesbury, Mike *(Weaver Vale)* (Lab)
† Bailey, Shaun *(West Bromwich West)* (Con)
† Britcliffe, Sara *(Hyndburn)* (Con)
† Buck, Ms Karen *(Westminster North)* (Lab)
† Firth, Anna *(Southend West)* (Con)
† Glindon, Mary *(North Tyneside)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† McDonagh, Siobhain *(Mitcham and Morden)* (Lab)
† Mohindra, Mr Gagan *(South West Hertfordshire)* (Con)
† Morgan, Helen *(North Shropshire)* (LD)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
† Russell, Dean *(Watford)* (Con)
† Russell-Moyle, Lloyd *(Brighton, Kemptown)* (Lab/Co-op)
† Spencer, Dr Ben *(Runnymede and Weybridge)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
† Young, Jacob *(Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities)*

Simon Armitage, Sarah Thatcher, *Committee Clerks*

† attended the Committee

Witnesses

Ben Twomey, Chief Executive, Generation Rent

Sue James, Chair, Renters' Reform Coalition

Francesca Albanese, Director of Policy and Social Change, Crisis

Ian Fletcher, Director of Policy (Real Estate), British Property Federation

Kate Henderson, Chief Executive, National Housing Federation

Dr Henry Dawson, Senior Lecturer in Housing and Public Health, Cardiff Metropolitan University, representing the Chartered Institute of Environmental Health

Dr Julie Rugg, Senior Research Fellow, Centre for Housing Policy, University of York

Professor Ken Gibb, Professor in Housing Economics, University of Glasgow

Fiona Rutherford, Chief Executive, JUSTICE

Professor Christopher Hodges OBE, Emeritus Professor of Justice Systems, Centre for Socio-Legal Studies, University of Oxford

James Prestwich, Director of Policy and External Affairs, Chartered Institute of Housing

Public Bill Committee

Tuesday 14 November 2023

(Afternoon)

[Yvonne Fovargue *in the Chair*]

Renters (Reform) Bill

Examination of Witnesses

Ben Twomey and Sue James gave evidence.

2 pm

The Chair: We will now hear evidence from Ben Twomey, director of Generation Rent, and Sue James, chair of the Renters' Reform Coalition. For this panel, we have until 2.30 pm. Can the witnesses please introduce themselves?

Ben Twomey: Good afternoon, everyone. I am Ben Twomey, the chief executive of Generation Rent. We are a campaign group campaigning for private renters across the UK to make sure that every renter lives in a safe, secure, affordable and quality home.

Sue James: I am Sue James, chair of the Renters' Reform Coalition, which is a coalition of 20 organisations, including national charities, national organisations, think-tanks, renters and unions. My background is as a housing lawyer for 30 years, and I have been at the coalface of the possessions duty scheme for that time. I have worked out that in the past 10 years I must have represented on at least 5,000 cases, so I come with some experience of the courts system as well. At the moment, I am the chief executive officer of the Legal Action Group, a national charity that campaigns on access to justice.

The Chair: Thank you very much.

Q38 Matthew Pennycook (Greenwich and Woolwich) (Lab): Thank you to the witnesses for coming to give evidence to us. I want to start off with possession grounds. We have heard from the Government, and from a number of the witnesses this morning, about the need to strike the right balance between the interests of landlords and the interests of tenants. What are your views on the new and revised possession grounds in that regard, and specifically the ones we have heard some concerns about: grounds 1, 1A, 6, 7, 8A and 14?

Ben Twomey: Thank you, shadow Minister. On the grounds, it is important to think about the question of what actually changes for the renter experience if the Bill passes in its current form. We welcome the Renters (Reform) Bill and think it is an important piece of legislation, but on some key areas not much will change.

The Government promised to abolish no-fault evictions. The Bill does not do that. It removes section 21 no-fault, or no-reason, evictions but introduces new no-fault grounds. Particularly on grounds 1 and 1A, which are where a landlord can move a family member in or may sell the property, it is important that we put ourselves in the renter's shoes when that happens. A no-fault notice is given. That could happen to me or any renter across England. Right now, I could go home and find one of those notices on my doorstep. I would have to be out of my home within two months. Given the current economic climate, it is going to be difficult for me to find a new home quickly, so the risk of homelessness—no-fault evictions are one of the leading causes of homelessness—is very great.

In the current wording, that situation does not change for renters, and their experience does not change. A renter receives a no-fault notice and is out within two months. We think there should be better protections there. It should go to four months instead, to give the renter time to make the savings, look around and find somewhere to live. That saves the Government money because they do not then have to support people who are in temporary accommodation or are otherwise homeless. That is one of the key areas we want to change in respect of the grounds.

Similarly, I currently have a fixed-term contract that will move under the Bill to a rolling tenancy. The minimum fixed term is six months, and as soon as that ends I can receive a no-fault eviction. Within the rolling tenancy, under the wording of the Bill, once the six-month protected period ends, again, a renter can receive a no-fault eviction. It is important that there are better protections so that there is more security for renters. We say that period should move to two years instead.

Finally, on the no-let period, if the grounds are to be introduced, they need to be enforced. It needs to be clear that they cannot be abused by some landlords. At the moment, if someone says that they are moving a family member in or that they are going to sell the property, there are three months during which the property cannot be re-let. We think that should move to one year to make sure we rule out the idea that some landlords could still do retaliatory evictions or abuse the grounds in other ways. By moving that, we make sure that tenants have that greater protection and can enforce where local authorities may not be able to. If we can put that information on the property portal in the Bill, which we welcome, it will be much easier for tenants to play a role in the enforcement and scrutinise what is happening.

As I said, I could go home today and receive a no-fault eviction. The Bill could pass and I could go home and find one and the same thing could happen. I would be out within two months and it could happen after six months of my having a tenancy. That is a big problem. If you want to reduce one of the leading causes of homelessness and save the Government money in doing so, you need to address those factors.

Sue James: What we are talking about today is someone's home. Over the past 20 years we have seen a huge increase in families who are living in the private rented sector, and we are talking about having enough protection for them. The private rented sector has doubled in size, so we do need to pay attention to it.

At the moment, the new grounds are all mandatory grounds, and we say they should be discretionary grounds. We want the court to make an order that will take into account the circumstances of the tenant and of the landlord. Grounds 1A and 1B, as they are currently written in the Bill, will essentially be a back door for section 21. I agree with what Ben said about improving the notice periods that are outlined in the Bill.

We also have a problem with grounds 1A and 1B in relation to the evidence. At the moment, it does not look like the landlord will have to provide much evidence. We want that to be strengthened so that you would have to have evidence that the landlord required the property for a member of their family or wanted to sell it.

The problem also is that once a landlord takes possession on that basis, or tells the tenant that they are going to seek possession on that basis, you have just a three-month period in which they are not allowed to let. That needs to be much longer—at least a year—in order to protect the tenant from unscrupulous landlords taking back their premises. Three months is not a very long time at all.

The other issue relates to enforcement. Currently, that rests with the local authority and the ombudsman. The tenant must have the right to challenge that and to take action against the landlord, including when the landlord has taken possession in court, because at the moment it is only if the tenant voluntarily leaves. It needs to be a bit more joined up in terms of having that protection.

The biggest problem is ground 8, and ground 8A in particular. I know you heard some evidence on that this morning. It is a particular problem: basing it on three times in three years when someone is at least one day in arrears is going to cause grave hardship. It has a perverse incentive, because the final time that the tenant is in arrears, a possession order will be made and they will not have an incentive to make that payment. That seems really perverse. All of that needs to be discretionary. The court absolutely has to have a look at that.

Q39 The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Jacob Young): Thank you to the witnesses. You have mentioned aspects of the Bill that need to be strengthened; what aspects do you welcome or think of as helpful? How do you think the private rented sector supply might be impacted by the reforms?

Ben Twomey: We absolutely welcome the end of section 21 no-fault evictions—it could not come soon enough. We were promised it some time ago. For renters, that is one of the biggest insecurities we face. That is why I talk about the experience needing to change for renters. In Generation Rent, we love it when renters are aware of their rights and when they know what the system is like, yet those renters who discover they have received a section 21 suddenly become aware that the rights they have do not mean much at all, because they will be out in no time and there is not much they can do to challenge it.

One of the saddest things I have heard from renters we support is that insecurity follows them into the next home. Even when they are trying to feel settled and comfortable and to build their lives again, they are in constant fear that another no-fault eviction notice could come. It needs to be really clear that the new no-fault grounds do not keep that insecurity in the system.

We welcome the end of section 21 and we welcome the property portal. It will be really good to finally have a register of landlords. We hope to be able to put things into that portal that are not yet in the Bill: we hope that we will be able to track evictions, so that they are enforceable around the no-let grounds, and that we will be able to look at actual rents and properly monitor what goes on. One of the big advantages of ending section 21 will be that finally a reason is given for every eviction, so we can understand when things start to go wrong that lead to homelessness. At the moment, quite a lot of guesswork is happening to prevent that problem.

We also welcome an ombudsman coming into the sector, to have an equivalence with the social housing sector. As much as possible, in any way we can, we think renters should have the same rights across social housing and private renting. When the experience can be very similar, and the risks, insecurity and unaffordability are still factors across the piece, there is no reason to have a two-tier system. In fact, I would go further and say that we will have reached our goal only when homeowners start to kick themselves and say they wished they were renting because there are so many rights available, so much security of tenure and so much flexibility, and because they have organisations such as mine and Sue's to inform people. We look forward to working with the Government to see how that ambition can happen.

Sue James: I agree. The property portal has such potential if we get the information in there right so that there is transparency around renting. That would be amazing. We absolutely love the fact that this has been brought in. There are some changes that we think need to be made. The fact that you are looking at delaying action on section 21 is something I would love to talk about, if you would like to hear that.

Q40 Lloyd Russell-Moyle (Brighton, Kemptown) (Lab/Co-op): I will ask two different questions, then. I will ask Sue about the delay that the Government propose with the courts. Earlier, we heard from the housing ombudsperson that he is willing to cover all of this, if the Government agreed, and that he could step in with transitional measures immediately on Royal Assent, so he was unclear about why there would need to be a delay on the abolition of section 21. Perhaps you could tell us why that is the case.

With Ben, I would like to probe no-fault evictions, which are very expensive for the person who is not at fault. They have to pay for removal costs, a new deposit and, very often, a month's rent up front, which is very difficult for people. Are there any ways that could be ameliorated when it is no fault and the tenancy is being curtailed early, within two months?

Sue James: Shall I go first? You also heard this morning that the Government need to hold their nerve, and I absolutely reiterate that. The Bill has been a long time coming, and we have a crisis out there. Colleagues of mine who are at law centres have queues of people coming to see them because of this, and we absolutely need to get it right.

The county court is not the experience I have been hearing about in some of these conversations. You heard this morning that the county court is pretty much getting it right: it is not one of the courts with a huge backlog of hearings and stuff like that. When you start a possession claim, there are fixed rules around that. The case has to be listed within eight weeks, and it is usually listed in six to eight weeks. You then have a hearing before a judge, so it is not actually taking that long. You have the hearing and the court has to apply

strict criteria on whether it is just and proportionate, and whether there is a reasonable defence that can be pursued.

In the court, we have a fantastic duty solicitor regime that has just been improved to include benefits advice beforehand. So you already have judges who are experienced in housing, you have duty advisors who are very experienced in housing, and then you have income officers who are at the same courts all the time. You build these relationships, and as duty solicitor, you are working out a plan where you can get the arrears paid off and get the stuff sorted out. We now have crisis navigators in law centres, and they resolve the benefit issues that are sitting behind it. Of the rent-arrears cases I have ever seen, I would say that probably about 60% to 70% have been a benefit-related problem. I think those issues are different from the issues around the court.

The only thing that you could invest more in—well, obviously if we invested more in the court that is brilliant, but I do not think we need to wait for that—is the bailiffs and the end period. Sometimes, with a bailiff's work, it can take up to eight weeks to fix a date. That is just about money. If you address that, you do not have these problems. That is why I am saying that discretionary is the way to go, because it provides fairness.

You already have a housing court sitting there. It could do with some tweaking, but you are already there with that. I think we are good to go. Given that section 21 is the biggest cause of homelessness, you would rebalance in the way that you want to, so I would say, "Hold your nerve and go with it."

Ben Twomey: I have two very quick points on the court reform before I go into your other question, Lloyd. First, in quarter 3, the latest data from the Ministry of Justice shows that the median time it took for a repossession case was about 22 weeks in both section 21 and in section 8. The idea that section 21 is much quicker is not true. With section 21, more people move out beforehand because there are fewer ways in which you can legitimately challenge it. There is a problem if you are setting up the court system to say that we want to basically stop tenants having their rights and a way in which they can challenge an eviction. That is a really important point: it does not actually lengthen the time that will be taken. That is not true.

Secondly, I will talk quickly about Jasmine, a renter who very recently challenged an eviction because she could not move in time. She was given two months to move under a section 21, but she could not move in time, so she challenged it and it took up the court's time instead. If you extend the notice period to four months, that challenge would potentially never happen, the court never has to see Jasmine, she finds a new place and is comfortable and able to move out in good time. She is happy, and potentially the landlord is happy too.

On the cost of no-fault evictions for renters, we estimate that the average cost to a renter of an unwanted move is £1,700. For a renter to be able to save, it is really important that they are able to find some way in which, when the move is through no fault of their own, they can make those savings quicker in order to be out of the home. We think the best way to do that—rather than, for example, thinking about repayments from the landlord—is just to say that the final two months of renting will have no rent cost attached. The tenant then has time in that space to save in order to find a deposit and the first month's rent, for example, and they are able to move out with the savings they have made because of the two months' lack of rent.

It potentially means two months out of pocket for the landlord who has chosen to do a no-fault eviction, but if it is a no-fault eviction for a sale, they are potentially getting a big windfall through that anyway. The two months out of pocket can be balanced against the fact that otherwise it would be two months in which the tenant is likely to find themselves as one of the record number of homeless people we have at the moment. It is an important balance to strike, and that is one of the ways in which you could do it.

Q41 Mike Amesbury (Weaver Vale) (Lab): Does the amendment to ground 14, the ground for possession for antisocial behaviour, strike the right balance? Or is this potentially another backroom approach to no-fault evictions?

Ben Twomey: Thank you, shadow Minister. On the point about being "capable of causing" a nuisance, the previous language in the Housing Act 1988 was "likely to cause" a nuisance. It would be difficult for me to prove that you are "likely to cause" a nuisance, but it would be a lot easier to say you are "capable of causing" a nuisance—as it would be for me, you or anybody else here. I think that change in language is potentially dangerous, particularly when you think about antisocial behaviour being relatively difficult to define.

I know that others in these sessions have expressed serious concerns about domestic abuse victims, how domestic abuse could be mischaracterised as antisocial behaviour, and how that may be a reason for eviction. Obviously I do not need to emphasise how difficult that would be—having the punishment of homelessness potentially layered on to a domestic abuse situation, where that is happening. It is important that we differentiate between criminal justice matters and housing matters.

However, the need to deal with antisocial behaviour, when it causes a real a nightmare for neighbours and other tenants, is important, but the local authority has a duty to prevent homelessness as well. They enact that duty with two months' lead-in time. You cannot do that if the ground says that a tenant could be out of their home in two weeks. Within those two weeks, the possession proceedings can begin immediately as well. The approach does seem reckless. Are we just talking about moving a problem, which is currently in a home, on to the streets rather than addressing the fundamental issues? Is it going to catch within it some serious victims of domestic violence?

Sue James: I would agree with all of that, but I add that I have dealt with many antisocial behaviour cases in my time as a solicitor and they are complicated. They are not quite so straightforward, and there is often a mental health issue or a vulnerability at the heart of them. I think we absolutely need to keep the original language rather than change it. And I agree with Ben on the importance of the domestic abuse issues; there are going to be women facing eviction and having to experience that as well.

Mike Amesbury: Thank you.

Q42 Nickie Aiken (Cities of London and Westminster) (Con): What are your views on the property portal that is being proposed?

Sue James: We think it is a great idea.

Nickie Aiken: Good.

Sue James: But it needs more.

Ben Twomey: I would add that it lacks detail at the moment, and we are very keen to see that detail. I mentioned that we are particularly interested in eviction notices and the outcomes of evictions being logged there; otherwise, there is not really much improvement in the way you monitor and enforce against abuse of some of the new no-fault grounds. So eviction notices are really important. Getting the rents charged on there will be really important, and we should think about energy performance certificates going on to the portal so that they can be enforced. When I talk about enforcement, I think it is really important that local authorities are empowered and have the necessary resources to enforce against bad practice—the kind of practice that can lead to people being unsafe in their homes.

It is also about having a place for tenants to access this information, as they have a vested interest in what happens afterwards. The only way to give them a vested interest is to have an incentive, and we think that is through rent repayment orders. We would encourage the portal to be made accessible to tenants. For example, where they can see that no-let periods have been abused, there should be a rent repayment order. If the landlord is not compliant with the portal, there should be a rent repayment order. Also, if the landlord is not compliant with minimum energy efficiency standards, we think that there should be a repayment—you would equalise it in that way. At the moment, where licensing schemes exist, for example, and the local authority pursues landlords for a fine, often that money does not actually get back to the person who has lost out—the tenant. It is important that rent repayment orders go directly to the tenant wherever possible.

Sue James: I totally agree, and I would like to pick up on the issue around the basic requirements of gas safety and stuff. At the moment, that is a huge protection in section 21; a landlord cannot get a possession order unless they have all those protections, and that does not appear in the Bill. We absolutely need to have them included, and the portal could be a place to put them. We would then have transparency; a tenant knows when they are looking in the portal that this is a good landlord and that they have complied with everything. I think that is so fundamental to changing the nature of the private-rented sector.

Q43 Matthew Pennycook: As we have you here and you have unique access to residents and organisations that represent residents, I wonder whether I could push you on some areas that are not covered in the Bill. Some of them were flagged in the White Paper and some were not, but they are a problem for renters every day—at least on the basis of my postbag—and we might deal with them in the Bill. I am thinking of things like guarantors, advanced rent and bidding wars, which we are hearing a lot about at the moment, particularly in the part of London that I represent. Could you speak about some of the potential solutions that we might look to work into the Bill?

Ben Twomey: The question of guarantors is really important. Usually, there would be a guarantor if you are not earning a certain amount to cover the rent—usually, you should have an income that is two and a half times the rent and, if not, you require a guarantor. For younger people, for people on low incomes, that can be quite difficult, so they would need a guarantor.

We have been working with the National Youth Advocacy Service to look at the barriers facing care leavers when they access private rented homes. This has been a major barrier for care leavers. At the moment, 60% of local authorities do not offer people the ability to be a guarantor for care leavers. Local authorities are the corporate parent for care leavers, so they are basically taking on parenting duties. We think that is a big problem. The 40% that offer the guarantor scheme in principle vary in the way that they do so. We think that it is for the Government to step in and say, "If, as a state, you are going to take on parental responsibility, you should be a guarantor to make sure that young people who are care-experienced are not being locked out of rented accommodation, compared with their peers." That would be a major step forward.

To touch on bidding wars, we have found in our research at Generation Rent that there are seven times more bidding wars than there were just five years ago. We have gone up from 3% of tenants experiencing this to 21%, from our research. I experienced it when I moved down to London relatively recently. I was asked how much more I would want to give and how much longer I would want to stay in the property as a fixed-term tenancy. It is very, very common now. We think that the issue needs to be addressed. There is nothing in the Bill at the moment, but there should be some consideration given to this. When a landlord offers a price for rent, they are almost, by definition, offering a rent that they are comfortable with. Just because of the changes in market forces—that is a change not to their costs, but to the number of people queuing round the block for them—it should not be that they can then increase the rent as they please and encourage others to enter into these kinds of bidding wars, which basically pit tenant against tenant. The only one who is benefiting from this is the landlord.

Sue James: To pick up on that point, this is not in the Bill, but the position of the Renters' Reform Coalition is that, at the moment, unless you restrict the amount that landlords can put up rents, you potentially have an economic eviction, and we would suggest that you restrict that to the lowest of either inflation or wage growth.

To touch on what is in the Bill, section 14 of the 1988 Act allows the tenant to apply for the tribunal to have a look at the rent. Originally, it was restricted to whatever the landlord was requesting, but in the Bill it is now the market rent. That would potentially have a chilling effect on tenants who want to challenge the rent that has been set. As an adviser, I might say, "It is limited to what your landlord has suggested," but at the moment, with the way Bill is, that could be the market rent if the landlord has asked for less than that. Does that person then challenge it? That could have a chilling effect. When thinking about rents and, as Ben said, bidding wars, that absolutely needs to change, because it is really difficult. There are queues of people for every tenancy and the protection needs to be there, so thoughts around that would be really welcome.

The Chair: I call Helen Morgan. This will have to be the last question, I am afraid.

Q44 Helen Morgan (North Shropshire) (LD): Briefly, you mentioned the possibility of the attractiveness of longer-term tenancies without the six-month break point at which you can be evicted. Will you expand on that?

Ben Twomey: It is really important, if you are thinking about a private rented sector that is attractive to tenants, rather than something that we feel trapped in. It needs to be something that recognises that there are 11 million private renters across England, and that, for many of us, we are here to stay in the private rented sector. It is no longer just a quick in and out—a temporary thing—while we save enough money to buy our own home. The protection is important, knowing that you can be in your home for a certain period of time—unless, of course, you do something seriously wrong, in which case there are protections in the grounds for landlords to act on that. At the moment, there is only a six-month protected period in which you are safe from a no-fault eviction, within the Bill's wording. As I said, that does not really change the situation we are currently in, so it is not actually ambitious towards a fairer private rented sector.

We believe that the period should be two years. That would mean the landlord—if they are taking housing seriously and recognising that homes are the foundation of our lives—would be comfortable knowing that they can hold off selling the property and moving a family member in for two years. If they need to do some of those things afterwards—which would be a great shame, because the tenants are probably enjoying the property—they can still do that after that period. Six months feels far too short; it treats it like temporary accommodation—

The Chair: Order. I am afraid that brings us to the end of the time allotted to the Committee to ask questions. I thank the witnesses, on behalf of the Committee.

Examination of Witness

Francesca Albanese gave evidence.

2.30 pm

The Chair: We will now hear oral evidence from Francesca Albanese, director of policy and social change for Crisis. We have only until 2.45 pm for this panel, so please can we have short questions and shorter answers? Please can the witness introduce herself for the record?

Francesca Albanese: I am Francesca Albanese. I am the executive director of policy and social change at Crisis, the national homelessness charity.

Q45 Mike Amesbury: Does the abolition of shorthold tenancies with section 21 no-fault evictions give the protection that renters need? Is that sufficient?

Francesca Albanese: We welcome the abolition of section 21. I think we have heard from others giving evidence today that it is one of the leading causes of homelessness, so that is definitely welcome. However, there are still some areas of the Bill that cause us concern with regard to homelessness. One is not automatically carrying over some of the areas of section 21 into the new ground 8. That would decouple the link around automatically triggering a homelessness prevention duty, which is currently in the Homelessness Reduction Act. We are concerned about that area—if we abolish section 21, we do not want to then disproportionately increase the risk of homelessness in other areas.

There is also an issue about the repetition of some of the rent arrears grounds. Ground 8 covers fault evictions, but ground 8A also looks at rent arrears. We do not see the reason for having both; there are suitable protections just in ground 8. The other area—which we have heard about from previous evidence—is antisocial behaviour, and making sure that the wording is tightened so that it does not cause further issues for more vulnerable tenants, and does not affect them disproportionately.

Q46 Mike Amesbury: It does seem very vague. We in this room are all seemingly, according to that definition, capable of "causing anti-social behaviour". On section 21, the Government are kicking the can down the road at the moment, and are talking about reforming the justice and court system. What is your assessment of that?

Francesca Albanese: We at Crisis recognise that changes do need to be made to the courts. Obviously, that is one of the central themes in this Bill and it is about making sure we get that right. But the problem is that if you bring in the court reforms first and then make the changes around abolishing section 21, you are effectively creating a two-tier system. For us, that does not protect tenants in the right way, so we would argue that both need to be brought in at the same time.

Q47 Jacob Young: I would be grateful for your views on abolishing fixed-term tenancies.

Francesca Albanese: To clarify, are you referring to ASTs, and their length?

Jacob Young: Yes.

Francesca Albanese: We would welcome longer-term tenancies. We know through our services—this is increasingly so at the moment—that people come to us who may have had their tenancies shortened for a reason that is not of their making. Being able to have longer-term tenancies in the private rented sector gives more stability for tenants. Equally, if you look at where rent increases can happen, this also manages that part of the market—making sure that there is proportionality in terms of when rent increases are made, as well as stability for tenants through longer-term tenancies.

Q48 Jacob Young: Would you say that the reforms we are making give renters more confidence when looking to take out a new tenancy?

Francesca Albanese: I think they certainly help. If we are looking at longer-term tenancies, I suppose it is about having more emphasis on longer-term tenancies being used more regularly. Going back quite a lot of years of working in this space, I know that there are ways you can do that now, but it is not the norm. Most tenancies that are given are six or 12 months with a rolling period or a fixed term.

I would also go back to the points made at the beginning: this is helpful, but there are other areas that we are concerned about, such as ensuring that people getting served notice on the kind of grounds that were under section 21 and which will now go over to section 8

are protected sufficiently. Even though longer-term tenancies can give tenants more protection, from the perspective of Crisis, which works with people at the lower end of the private rented sector market, where there is often a higher turnover of tenancies, we would want to make sure that those protections are still in place so that we do not end up pushing more people into homelessness as an unintended consequence.

Q49 Lloyd Russell-Moyle: The Government said in the King's Speech that they wanted to bring forward amendments to prevent what is often called "No DSS" discrimination—"no benefits" discrimination. First, what are your thoughts on how that could be done effectively? Secondly, many people scrabble around to find a rent that is within local housing allowance, only to find that it goes above local housing allowance within a year. Should that be taken into account in the rent tribunal process to ensure that rents that were within local housing allowance remain within local housing allowance, so that people are not economically evicted?

Francesca Albanese: I might make a broader point first and then come back to that. At the moment, as you will all be aware, the local housing allowance does not meet rents. It has not done so for a long time, and it has been frozen since 2019. That decoupling of rents from local housing allowance levels is causing huge problems. We did some research six months ago—I would say the situation has probably got worse since then—that shows that only 4% of the market in England is affordable to people on local housing allowance. In some areas of the country, that drops to 1%, so it is a massive issue. That needs to happen now, and it is something that the Government can do now. They can give broader access to the private rental market. There is obviously a longer-term issue: we need more social housing. Where private rental sits within the broader housing market is really important.

On the point about discrimination, we do not want tenants to be discriminated against because they are in receipt of welfare benefits. Anything that prevents that is welcomed. The problem at the moment is that quite a lot of tenants are not getting anywhere near properties within the private rented sector. We are seeing record levels of people trapped in temporary accommodation and local authorities are very stretched. The point about the private rented sector is that quite a lot of people are not even getting access to it, let alone being discriminated against because of being on welfare benefits.

On the more specific point about tribunals, that is not my area of expertise, so I do not want to comment on something where I would be giving an opinion rather than factual evidence.

The Chair: If there are no further questions from Members, I would like to thank our witness for her evidence. We will move on to the next panel.

Examination of Witness

Ian Fletcher gave evidence.

2.40 pm

The Chair: We will now hear oral evidence from Ian Fletcher, director of real estate policy for the British Property Federation. We have until 3 o'clock for this panel. Could you introduce yourself for the record, please?

Ian Fletcher: Hello. I am Ian Fletcher, a director of policy at the British Property Federation. Thank you very much for the invite this afternoon.

Q50 Matthew Pennycook: Thank you for attending, Mr Fletcher. I want to ask you about build to rent. In terms of supply, build to rent is mainly catering to—let's say—the top half of the market, rather than meeting mainstream supply. What do you think the impact of this Bill will be on the build-to-rent sector?

Ian Fletcher: Build to rent is something that started over the past 10 years. It is trying to encourage institutional investment into market rented housing. It is not pitched at high-income earners. We do a survey each year that looks at the demographics of the build-to-rent sector, and I would say it is catering for medium earnings—often key workers and people of that nature—and supporting our core cities particularly, as a lot of investment has gone into a number of the core cities across the UK.

In terms of impact, a lot of the things we very much welcome in the Bill have, to some extent, been pre-empted by the build-to-rent sector: a number of my members are already members of an ombudsman voluntarily; the build-to-rent sector has proudly been at the forefront of welcoming pets; and decent homes is not something that will trouble the sector. The portal is something I have been campaigning for since 2007. There is a lot to welcome in the Bill.

Some challenges that are specific to build to rent are things like the Government abolishing rent review clauses and the lack of any minimum tenancy length in the Bill for landlords, which means that there could be a danger, particularly in properties in core cities, of significant churn.

Q51 Jacob Young: You mentioned the decent homes standard. Could you elaborate on your thoughts on that?

Ian Fletcher: As I say, the stock of build to rent has been developed over the past 10 years, so it is unlikely not to be meeting the decent homes standard. Equally, the management of the property is done to a very high standard. That is something the sector is very proud of. I do not see any challenges in introducing decent homes into the sector from a build-to-rent perspective. We have sat around a number of tables with the Department as it has worked through the specifics of how the standard would impact the private rented sector, and I have not heard many dissenting voices in terms of this being introduced into the sector.

Q52 Ms Karen Buck (Westminster North) (Lab): When the Bill was first presented, the British Property Federation indicated some concerns about the relationship between a minimum tenancy period and the growth of the short lets sector and that this might be an additional boost to it, and I just wonder where that came from. What is your evidence for that? Indeed, have you conducted an analysis of the growth of short lets, the factors driving that and the connection between this and the legislative framework?

Ian Fletcher: It is something that we have been continually concerned about. In a London context, the removal of the planning constraints on the short lets market affects property across not only the rental sector but the leasehold sector.

It is a concern, I suppose, in terms of members. At the moment, you obviously have to take a minimum six-month tenancy, but what members often find is that you do not want to restrict subletting, because often that is helping the ultimate tenant, if they have to move for various reasons. You are finding that quite a lot of people are moving into these premises and then subletting to somebody who will take it on a short-let basis, so these are portals and things of that nature that, to some extent, are exploiting that situation.

Q53 Ms Buck: I appreciate that that is your view. Is it actually based on research that you have done, or on an evidence base, or is this mostly anecdotal? Do you have other ideas as to how the different sectors might be able to bear down on that problem, particularly the illegal element of it?

Ian Fletcher: Clearly, the Government are taking forward reforms, particularly planning reforms, and talking about licensing. In the context of this Bill, we would like to see a minimum tenancy length of six months—four months plus the two months' notice. However, we are mindful that there are good reasons why tenants might have to leave within that six months: they have been mis-sold a property or the property is substandard. In those circumstances, we suggested that the solution might be to allow them to appeal to the ombudsman to be able to break the tenancy.

Ms Buck: Sorry to gently push you, but I ask again: is your view based on an actual report or evidence base, or is this anecdotal?

Ian Fletcher: It is anecdotal; there is no empirical evidence that I can give you.

Q54 Eddie Hughes (Walsall North) (Con): I have visited probably only four build-to-rent sites, but it feels to me that you are pitching slightly above the median. It also feels to me that, exactly as you described, the quality of the product is pretty good and therefore the opportunity for there being any mis-selling of what you are getting feels more limited than in the rest of the market, where I have seen egregious cases of people being mis-sold something.

It feels to me that it is likely that your tenants will stay and all the people who I have spoken to who provide this type of accommodation give me the feeling that the type of people that you are attracting and the type of property you are offering means that people do not walk in and walk back out again very quickly. I would imagine that lots of your tenancies last considerably—when I say "lots", I mean that a very significant percentage of your tenancies last over a year.

Ian Fletcher: You were very welcome when you visited a build-to-rent building in Newcastle.

Eddie Hughes: I loved it.

Ian Fletcher: There are things to encourage the sector to provide long-term tenancies at the moment as well. As you will know, national planning guidance suggests that build to rent should be providing at least a minimum of a three-year tenancy.

I suppose the concern is that these are, as you found out from the site in Newcastle, very metropolitan and very popular areas.

Eddie Hughes: Very.

Ian Fletcher: You could end up in a situation where somebody has taken a two-month tenancy and is just using that as an opportunity to earn some money for themselves by renting it out at weekends for hen parties or things of that nature; it is almost sort of hotel accommodation in some respects. That is the concern of the sector—that you end up with a lot of churn in that respect.

I think there is also another concern. We have heard, quite rightly, from Ben and other evidence givers about the costs of moving from the tenant's perspective. There are also significant costs from a landlord's perspective where you are setting up a tenancy and then that is churned very quickly.

Q55 Lloyd Russell-Moyle: In some of the evidence to the Levelling Up, Housing and Communities Committee, Grainger, a buy-to-let house builder, suggested that the triple-lock approach should be applied, whereby landlords are restricted so that they cannot raise rents by more than the lower of consumer price inflation or CPI, wage inflation or 5%. That was Grainger's official position at the time.

I wonder whether you would support an idea that there should be some sort of matrix that prevents landlords from increasing rents above a certain level—that was nationally known, as it were, and that could be published by the Secretary of State, so that everyone had some security about what that ceiling is.

Ian Fletcher: Those remarks are specific to a particular context.

Q56 Lloyd Russell-Moyle: What is the context?

Ian Fletcher: The context is that at the moment the way rents are often set in the build-to-rent sector is to give the tenants some certainty. They will typically be index-linked. The Bill abolishes the use of rent review clauses, so you are not allowed to do that in terms of setting a rent beyond a year. We think that is a pity. Often, tenants appreciate the certainty of knowing whether their income will meet the rental payments going forward. I would not want somebody to be tied into those sorts of rent review clauses forever and ever, because economic circumstances change significantly, but for a short period of time that should be acceptable.

Q57 Lloyd Russell-Moyle: Would you be against the idea of a nationally set ceiling?

Ian Fletcher: I would be. I think that that is starting to look like rent controls, and that then comes with some of the adverse consequences of rent controls in terms of the quality of the stock. You tend to find with rent controls that the sector shrinks down and does not attract—

Q58 Lloyd Russell-Moyle: So are you opposed to the Government's proposed ceiling on market rents?

Ian Fletcher: That is the market. I am supportive of the market.

Q59 Lloyd Russell-Moyle: The British Property Federation has said:

"The abolition of no-fault evictions needs to happen in tandem with…court reform."

What indicator explicitly do you think should be hit for court reform to be sufficiently achieved?

Ian Fletcher: I obviously saw the debate on Second Reading. I thought that the tests that the Secretary of State set out were relatively good ones. The thing that we have been particularly keen to see is the digitisation of the courts. That project has not advanced as quickly as I would have liked, but it will make a huge difference to the experiences of both tenants and landlords going to court.

A lot of the complaints that we hear about the courts are to do with communication and knowing where your case is in the system and how it is progressing, and digitisation will improve that significantly. I would like to see times coming down—obviously, it is at a 22-week median at the moment. I would like to see that come down to about 16 weeks.

Q60 Lloyd Russell-Moyle: Twenty-two weeks is for what, sorry?

Ian Fletcher: Twenty-two weeks is the median time that a case takes to go from claim to possession at the moment.

Q61 Lloyd Russell-Moyle: We have heard that within that period the court's part is actually relatively strict; the bailiff's part is the particular problem. Are you saying that it is the bailiff's part that needs reform?

Ian Fletcher: I think one of the Secretary of State's other tests was that bailiff recruitment would improve. The other thing I would say is that the Levelling Up, Housing and Communities Committee recommended that there should be some sort of key performance indicators and regular measurement of them, which would give us the confidence that the courts are delivering what they should be delivering: speedy and efficient access to justice.

The Chair: If there are no further questions from Members, I would like to thank the witness for his evidence. We will move on to the next panel.

Examination of Witness

Kate Henderson gave evidence.

2.53 pm

Q62 The Chair: We will now hear oral evidence from Kate Henderson, chief executive of the National Housing Federation. We have until 3.15 pm for this panel. Please you introduce yourself for the record?

Kate Henderson: Good afternoon. I am Kate Henderson, chief executive of the National Housing Federation. We represent housing associations in England, which are not-for-profit providers of 2.7 million homes to around 6 million people.

I would like to say a little about housing associations, just for 30 seconds. While, on the face of it, this Bill does not apply to social housing, and a lot of the homes that we provide would not be seen in the private rented sector, it is important to acknowledge that the Bill has implications, particularly for supported housing, where we might currently be using assured shorthold tenancies.

That type of accommodation—we provide three quarters of all supported accommodation in this country—covers things such as emergency accommodation for people fleeing domestic abuse, for veterans experiencing homelessness, for care-experienced young people, for adults with both physical and learning disabilities, and also step-down accommodation from mental health facilities.

Again, it is about just being really mindful that, while the vast majority of the tenancies in the housing association sector are assured, there are implications for that important supported housing provision, and just making sure that there are no unintended consequences from this Bill coming forward.

Q63 Matthew Pennycook: Thank you, Kate, for coming to give evidence. You are absolutely right: the Bill does have implications for social housing providers in a number of areas—tenancy reform and others. Could you speak to whether you think that the Bill strikes the right balance when it comes to those changes, first in general terms and then, specifically, on grounds for possession? The NHF has made the case for changes in a number of areas—for example, ground 1B to include transfer to another tenant as well as sale. Could you give us a sense as to why you think that those changes are required?

Kate Henderson: The National Housing Federation supports the Government's aims of protecting the rights of tenants, and we agree with the abolition of section 21. That should extend across the board. It is important to strike the right balance between landlords and tenants in all sectors, including tenants of housing associations, so it is really important that the Bill does not have any unintended consequences for the ability of housing associations to operate effectively and to provide decent, secure and affordable homes for their tenants, particularly in that area of support and need.

We have four areas in which we would like to seek further clarification. The first is around changes to rent increases. The second is around ground 1B for rent to buy specifically. The third is around superior landlord grounds—so 2ZA and 2ZB—and the fourth is around ground 6 for redevelopments.

We would like to see all types of social housing exempt from the proposed approach to rent increases, whether included within the rent standard or not. That is a limited change to the Bill but it would help to deliver vital forms of housing to meet specific sub-market needs. We would like to see ground 1B be extended to apply when a property is not being sold but a tenancy is being offered to another tenant wishing to take part in a rent-to-buy scheme. We would like clarification around ground 2ZA so that that can be used on a tenancy at will. Lastly, we would like housing associations to be given access to ground 6. There could be a possibility of making that a prior-notice ground as a safeguard for tenants. I have just listed several grounds for quite specific contexts, so I would be happy to give examples of why we would find changes in those areas useful.

On the specific ground that Matthew has just raised, the current wording of the rent-to-buy ground 1B does not allow it to be used when a property is not being sold but when a new tenant is moving in instead. For example, you have somebody who is in a rent-to-buy property, has been there for five years and has decided that they do not want to buy it or they cannot buy it; we would like the ground available so that that property could be given to another tenant who would like to use the

property as it was intended and designed to be used—as a rent to buy. Just to highlight, that is a Government product supported by the affordable homes programme and regulated by the Regulator of Social Housing, so we would like it to be able to operate as intended. Again, just that access to that ground would ensure that rent to buy works as intended.

Q64 Matthew Pennycook: I think that you implied there that you might send us further evidence, but could you touch briefly on the rent increases point that you made earlier? I think that it was the first of your areas for clarification.

Kate Henderson: Sure. At the moment, the social housing sector is regulated by the Regulator of Social Housing, and the vast majority of our rents are set by Government and set annually. The Bill makes changes that would restrict rent increases to once in 12 months and require landlords to give two months' notice of rent changes.

As I mentioned in my introduction, our members manage 2.7 million homes. Requiring two months' notice of a rent increase, and requiring each tenant's rent to be changed on the anniversary of their tenancy, would place a huge administrative burden, whether it is on a large-volume landlord or even on a smaller landlord with fewer staff.

This would take away from a provider's ability to deliver those core services. The Bill acknowledges that by including an exemption for social housing in the rent standard—social housing is exempt from those changes. However, some types of social housing, such as intermediate rents, specialist supported housing and some forms of low-cost home ownership, are not included and do not appear to be exempt from the changes. Not exempting some types of social housing would cause complications and administrative burdens. It might mean that neighbours had their rents increased at different times, and it would really affect delivery.

Housing associations are responsible landlords, and we are regulated by the Regulator of Social Housing, so any concerns about unscrupulous rent increases do not apply to us. We are asking that all types of social housing be exempted from the proposed approach to rent increases, whether or not they are included in the rent standard.

Q65 Jacob Young: We spoke to the housing ombudsman earlier. I am interested in your reflections on the social housing ombudsman, the creation of the new private rented sector ombudsman and what lessons can be learned.

Kate Henderson: It is absolutely right that residents in the private rented sector have access to an ombudsman. It is really important that that access is clear and easy to navigate and that there are routes to address where things have gone wrong in the private rented sector.

From a housing association perspective, we want to make sure that there is clarity about the remit of a new ombudsman, because we already have an ombudsman service. However, some housing associations also provide market rent homes. If you were a resident in a market rent home, would you go to the current housing ombudsman or to the new PRS ombudsman? We need real clarity on remits so that there is not confusion either for the landlord or, most importantly, for the tenant.

Q66 Ms Buck: Apart from probationary tenancies, most social housing tenants have secure tenancies. You will be aware of the Bill's amendments to ground 14 on antisocial behaviour. Given the experience of dealing with antisocial behaviour with secure tenancies, can any lessons be learned from the work that you do in the social sector?

Kate Henderson: Housing associations take reports of antisocial behaviour very seriously, and we will always investigate them thoroughly. Many of our members have in-house teams dedicated to managing and resolving ASB that often work extensively with the police and local authorities. For any housing association, although eviction is sometimes necessary, it will always be a last resort. There are many actions that housing associations will take to resolve an ASB case prior to its reaching the point at which a tenant might face an eviction.

The Bill's changes to ground 14 propose a widening of the definition of ASB in the ground from any behaviour "likely to cause" to any behaviour "capable of causing" nuisance or annoyance. The word "capable" is really open to interpretation. For us, it is all about clarity: what, exactly, constitutes a legal ground for eviction under the new definition, and how will it work in practice? Eviction is, of course, a last resort. It is incredibly distressing to deal with such cases, particularly if they are having an impact on multiple residents. It is really important that we do everything we can to resolve a case before it gets to an eviction.

Q67 Lloyd Russell-Moyle: Ground 14A relates to the situation in which a social landlord wishes to evict the perpetrator of domestic abuse, where the partner has fled. Very often, it requires the partner, not the perpetrator, to leave. Is the wording sufficient, or should there be some wording to allow possession even if the partner has not fled, and reallocate it to the partner? Very often the tenancy is in the name of the perpetrator.

Kate Henderson: This is an area on which I would like to see further evidence. I am a member of the Domestic Abuse Commissioner's strategic reference group on perpetrators. In that scenario, where the victim does not want to leave the property, how can we ensure that the tenancy is in their name but the perpetrator is removed? I would like to seek the expertise of those who are working at the forefront of domestic abuse before giving you a direct answer on the strength of that ground, but I would be happy to follow that up with the Committee.

Q68 Lloyd Russell-Moyle: That would be much appreciated, so that we can get the right balance.

On ground 6, you said that you would quite like the ability for redevelopment. We know that there have been some very controversial repossessions over a state redevelopment that local authorities and housing associations have been part of. Tenants have often liked the security of knowing that they cannot just be given a few months' notice, that they have to go through a process, and that they have the ability in the end to say, "No, this is my home." Would giving that ability strike a balance that is not in favour of the tenant?

Kate Henderson: The context in which we are asking for access to ground 6 is when regeneration is already taking place. It is a scenario where you have a development where people have been moved out while works are

taking place. That might be for building safety reasons, for energy efficiency reasons or for decency reasons. At the moment, if that accommodation is being rebuilt and the tenant has been moved into temporary decant accommodation, we would always try to do that by consent with the residents.

In that decant accommodation, we typically use assured shorthold tenancies. Obviously that will go with the abolition of section 21, which we support. This is the place for the grounds to be extended to where residents are in the decant accommodation. Those residents would be moving back into the newly built accommodation that would have been allocated to them, but we need to make sure we can have that constant flow between use of the decant accommodation and getting people back into their permanent settled accommodation.

Lloyd Russell-Moyle: So that is where an assured tenancy is being offered.

Kate Henderson: Sometimes it is done on licence. If the building that is being redeveloped is not being fully demolished, and people are going back in, you would move into the decant accommodation on licence. But in a situation with major regeneration—we hope to see more of that; it is great that the affordable homes programme has now opened up to that—typically with the decant accommodation the tenant would have an assured shorthold tenancy. That will not now be an option, so we want a situation where there are grounds for the decant accommodation for those people. It would be a very rare set of circumstances where somebody wanted to stay in the decant accommodation and not move back, but it has happened. We want to make sure that we are able to continue with the pace of regeneration. This could be a prior notice ground to give a safeguard to the tenants. Again, it is just about having access so we can make sure that regeneration can happen in a timely way.

Q69 Mike Amesbury: Is there anything else that should be in the Bill, or anything that concerns you about the Bill?

Kate Henderson: This is very technical, but one of the areas—in addition to rent increases; thank you for the opportunity to discuss those—relates to grounds 2ZA and 2ZB, which are two mandatory grounds for possession where a superior lease ends. This will generally be for situations in which a section 21 would previously have been used.

Let me give an example of why this is an issue. It tends to be an issue in supported housing, where you have a superior landlord who has let on a short-term lease to a housing association for, say, five years. That housing association is the intermediate landlord, and it would typically provide supported housing and sometimes very high-level support to vulnerable residents, who would be the occupational tenant.

In some situations, either the superior or the intermediate landlord will allow the lease to lapse, and then you would go into a scenario of tenancy at will; and in that situation, we do not want a situation where the superior landlord is responsible for the occupational tenant, given the high levels of support needs. It is unclear whether these grounds would then be available for use if there is a tenancy at will. Again, in most situations you would have given notice—the intermediate landlord would have given vacant possession to the superior landlord—but in the case where that has lapsed, we need to ensure that these grounds can work. The second issue is around maintaining possession of the property until proceedings have concluded.

It is a fairly technical area, but it matters to those who are providing supported housing and using leases. I would be happy to provide a further note to the Committee when I submit our written evidence. I appreciate that this is a rather technical matter, but it is important in terms of high-level support.

The Chair: If there are no further questions from members, let me thank the witness for her evidence and let us move on to the next panel.

Examination of Witness

Dr Henry Dawson gave evidence.

3.11 pm

The Chair: Good afternoon. We will now hear oral evidence from Henry Dawson from the Chartered Institute of Environmental Health. For this panel, we have until 3.30 pm. Will you please introduce yourself for the record?

Dr Dawson: Hi. My name is Dr Henry Dawson. I represent the Chartered Institute of Environmental Health.

Q70 Matthew Pennycook: Thank you for coming to give evidence. Could I ask you about the decent homes standard? In what is, I must say, a very welcome move—we have been very clear about that—the Government have made it clear that they intend to require private rented homes to meet the decent homes standard, and have committed to bringing forward legislation, in their words, "at the earliest opportunity" to see that enacted.

I suppose I would like to probe what you think the consequences are if that legislation takes some years to deliver. How does the delay bear on the other reforms that this Bill enacts? How might we use the Bill to tie into that other legislative process? How does this Bill need to relate, if at all, to that forthcoming legislative decent homes standard for the PRS?

Dr Dawson: Thank you for the question. I have a few thoughts with regard to indications we have had that the decent homes standard might be brought in through the Bill. That is something that the CIEH is very keen to see. At the moment, the decent homes standard provides a fairly simple set of criteria, which are measurable, are fairly easy to understand, and provide the opportunity for both tenants and landlords to have some consistent standards to refer to when considering the condition of the property. Not having that in the private rented sector results in an odd disparity: we have social rented accommodation with the highest standards, and conditions have improved considerably through that standard, and then there is private rented accommodation that does not have that standard.

We find it very difficult for the sector to self-regulate and for landlords to organise their own repairs and maintenance schedules, when they very often have to wait for a local authority inspector to visit their property to carry out an inspection under something like the housing health and safety rating system schemes. It is

something we can also get some benefit from through the Housing Act 2004 licensing, which allows us to set some of these conditions, and allows us to tailor them by area. However, bringing in a national standard across the sector would be very advantageous and provide a very clear requirement, although the CIEH would like to see some more clarity and would like to be involved in the consultation on the proposed changes to the decent homes standard.

The standard could be implemented in the sector at a later date, after being included in the Bill in order to get it enacted. That would give us a two-step process, and then we could bring the standard in when the amendments had been made and we had the updated standard to work from.

Q71 Jacob Young: It would be interesting to know your thoughts on the portal, and on how we can make the most use of it to support councils in taking enforcement measures.

Dr Dawson: The CIEH is very happy to see the portal introduced. I am based near Wales, and I sit on the advisory panel for Rent Smart Wales on behalf of the CIEH. We have seen the portal brought in, and it has been very effective. It provides a lot of data on where rental properties are, and who their landlords are. Local authorities have quite a hill to climb in trying to find that out independently. It will be a very useful source of information. It is also a good source to look at when collecting certificates on properties.

However, we find that the portal has limited impact with regard to the condition and contents of properties, and management practices. It is an information-gathering tool. It has the potential to be a central information portal that landlords and tenants can refer to—a sort of single source of truth. On very small landlords registering with landlord bodies, 85% of landlords own one to four properties, and we are finding what an author referred to as a cult of amateurism. These landlords have differing levels of expertise, and of knowledge of a complex legislative environment. The portal can be a central reservoir of information for them, with quite a bit of scrutiny behind it.

As I say, we welcome the portal when it comes to providing data on where the properties are and who the landlords are, though the more unscrupulous operators will still try to avoid the register so as to evade their duties. I would not go so far as to say that it will make a significant impact on the condition and contents of properties, or the management practices of landlords in the sector.

Q72 Ms Buck: Can I go back to the decent homes issue? The repair and maintenance of properties is central to the issue of the security of tenants who are seeking to enforce their rights, and who sometimes have landlords act against them. How do you see the decent homes standard being enforced? How do you see the decent homes standard interacting with other overlapping measures and standards in law, and the tools available to environmental health officers?

May I also ask a question about enforcement, which is central to this issue? As we know, the enforcement record is very patchy in local government. In your view, why is that?

Dr Dawson: With regard to the use of the decent homes standard in the sector, I have found through my personal research on the sector that there is a lot of variation in the licensing conditions and standards set for private landlords in different sub-markets up and down the country. It is only right that local authorities tailor their approach to suit their local market, but there is great need for more consistency between the licensing conditions that they set and what they require in their area.

If we were to bring in the decent homes standard across the sector, licensing standards could be revised to accommodate that new duty and any updates made to the decent homes standard. That would provide a fairly common set of grounds for properties nationally. Then, local authorities need only make small changes to what they require of properties in their area to fit local peculiarities of housing; for example, northern back-to-back houses are something to burden yourself with only if you need to be aware of the issues that they present. You get steel-framed houses in some areas and concrete houses in others. Local authorities need to be able to focus their approach and the standards that they require to fit what they have going on in their area.

We still have the opportunity to use the housing health and safety rating system under the decent homes standard. The updates to the HHSRS will come through fairly shortly; we will welcome their being brought into practice. Use of the HHSRS would remain a common requirement during the inspection of properties, to satisfy the requirement on properties not to have serious hazards.

A whole range of factors influence levels of enforcement in local authorities. At the moment, we have about 2.2 qualified environmental health officers for every 10,000 private rented sector dwellings, so that is already a pretty low rate. Where we have larger authorities and significant political backing, we see more environmental health officers, with better recruitment, better political backing and more funding for those officers, which is key, so you start to see a collection of experience building up and the legal backing behind it. For example, Newham has something like 100 environmental health officers or enforcement staff in its departments, and they can move their way through more than 200 prosecutions in a year. In contrast, a rural authority may have one or two environmental health officers, who must share their duties across all the regulatory functions of environmental health, including food safety, health and safety, environmental protection and public health.

One of the profession's big problems is ensuring consistency in funding. When funding is renewed annually and you are looking at changes each year, it is very difficult to do succession planning. We have seen a gradual reduction in the number of people coming through university environmental health programmes in order to support the profession and provide a reservoir of expertise for the inspectorate. We are also seeing more of them going off to private sector employers, rather than the public sector.

A range of issues are affecting the sector, and the sustainable and predicable funding such as we get with Housing Act 2004 licensing has been a real lifeline for the sector. Where we have big schemes going, it has managed to keep the nucleus of staff that is required for

the expertise and the momentum to move large-scale enforcement forward. My apologies—that was quite a long answer.

Q73 Jacob Young: You touched on your experience in Wales. We are aware that there are similar, but not necessarily identical, reforms in Wales. What lessons can we learn from the reforms implemented there?

Dr Dawson: When Wales first implemented the scheme, about 196 penalty notices were given out in the first couple of years and there were about 13 prosecutions. The main reason, from the Welsh Government's own analysis, is that they did not set up clear systems and processes for liaison with local authorities ahead of the formation of Rent Smart Wales.

There is a process whereby local authorities are expected to carry out enforcement functions and can then bill Rent Smart Wales, through an agreement—a memorandum of operation—that they have all signed up to. However, because they are trying to account for small amounts in hours and tasks, it is very difficult for local authorities to predict the workload and allocate officer time against it. That has become somewhat of a Cinderella to local authorities' other duties.

One of the higher impact areas is that, although Rent Smart Wales provides licensing and can therefore enforce conditions, it also has a separate registration function, which is purely information gathering and gives it the ability to send out mailshots to landlords and letting agents about changes to the law and training courses that are available. However, landlords have the opportunity to exempt themselves from those communications, and a very large proportion did so at the point at which they registered. Therefore, they receive no communications and no updates, so they are none the wiser, despite the benefit of having registered and made themselves available to get that information. That was a sad loss, and there is not much you can do about it now.

Q74 Lloyd Russell-Moyle: Can I ask about the proposed property portal? Of course, some of the enforcement must be through local authorities, as you have just been talking about, but earlier we heard about the idea that, by using the property portal, tenants themselves could seek enforcement. The proposal was that, if a landlord has not met certain standards required for registration on the property portal, there would be rent repayment orders, so that the person who has been harmed is the person who benefits. What is your view, first, on the use of a property portal as a repository of all the information and, secondly, on the ability for tenants to take action rather than having to wait for the local authority?

Dr Dawson: I think we could probably do with the portal as an information repository. That is very welcome. Research shows that a lot of landlords tend to deal with the need for information on a reactive basis, when a situation presents itself. As most of them are not members of recognised landlord bodies, they are using things such as internet portals, chatrooms and blogs to get information on what is required of them. Through local authority licensing, local authorities are getting much better penetration and being brought closer to landlords, and that allows them to provide advice, but landlords in general will tend to use online resources to get information. We would like them to use a single portal that we have quality control over.

The same goes for tenants. At the moment, one of the main reasons for tenants' not complaining is ignorance of their rights; I am sure that Generation Rent will have raised that in its submissions. If we can point to a single, consistent source of information, that will help the sector to regulate itself. Given that so many landlords are small scale—85% of properties in the sector are owned by landlords with portfolios of one to four properties—providing the opportunity for more self-regulation in the sector would be a big help. Local authorities have limited budgets, and because the regulations are so complex and there is such a range of operators—there is a sort of sliding scale from the good to the poor—a more interventionist approach is required. Using rent repayment orders incentivises tenants to keep an eye on landlords.

Things like the three-month period in which you are unable to re-let a property after you have used grounds 1 and 1A will be exceptionally difficult for a local authority to follow up on. We just do not have the resources to react in that sort of time and proactively go out and visit these properties. Six months to a year would be much more sensible.

On incentivising tenants to take action separately from the local authority, the only thing we would say is that we should be able to give them advice. Under the original rent repayment order clauses, we were prevented from giving advice to tenants on cases. If we are taking action, they will often come to the local authority and ask for information. We have not looked at that as an option. We would certainly be open-minded to it, and we would support anything that helps the sector to regulate itself.

Q75 Lloyd Russell-Moyle: You suggested two things there. The first was that the period that applies to grounds 1 and 1A should be more than three months—perhaps six months to a year—to enable your enforcement.

Dr Dawson: Yes.

Lloyd Russell-Moyle: The second was that there needs to be some sort of amendment to allow you to give advice to and support tenants through the rent repayment order process.

Dr Dawson: At the moment, there is nothing that specifically prohibits that in the Bill, and the original legislation has been updated to permit us to provide advice. We are just keen that, in the regulations that will be used to implement many of the changes introduced by the Bill, we do not see anything that interferes with our ability to do that.

Lloyd Russell-Moyle: That needs an agreement between you, the portal and the housing ombudsperson.

Dr Dawson: Yes.

The Chair: If there are no further questions from Members, I thank the witness for his evidence.

Examination of Witnesses

Dr Julie Rugg and Professor Ken Gibb gave evidence.

3.29 pm

The Chair: We will now hear oral evidence from Dr Julie Rugg, senior research fellow at the Centre for Housing Policy at the University of York, and from

[The Chair]

Professor Ken Gibb, professor in housing economics at the University of Glasgow, who joins us via video link. We have until 4 pm for this panel. Will the witnesses please introduce themselves for the record?

Dr Rugg: I am Dr Julie Rugg from the University of York, where I am a reader in social policy.

Professor Gibb: Hello. My name is Ken Gibb. I am a professor at the University of Glasgow and I direct the UK Collaborative Centre for Housing Evidence.

Q76 Matthew Pennycook: Thank you both, and good afternoon. Given your extensive expertise in this area, could I ask a general question about whether the Bill strikes the right balance between the interests of landlords and the interests of tenants? I would like your thoughts specifically on the grounds for possession, linking the abolition of section 21 to "court improvements" unspecified, and other things that might, in your opinion, be missing from the Bill.

Dr Rugg: That is a very big question. I do have concerns about the Bill as it currently stands. We have become quite focused on the abolition of section 21, and I can understand why, but the abolition of section 21 does not deal with the reasons why a landlord might serve a section 21 notice. My feeling is that, if the Bill goes through as it stands, it will give tenants the impression that they have greater security than they in fact have.

One of the biggest concerns with the Bill as it stands relates to possession on the ground of the landlord selling the property. The fact that the landlord is selling is one of the biggest reasons tenants are asked to leave, and a lot of landlords are exiting the market. The Bill does not prevent that, so that will continue. We have to think about how we neutralise the market. At the moment, the market is weaponised for both landlords and tenants in ways that are very unhelpful.

We have to think about how to calm everybody down and start thinking about what the problems are in the market. One of the biggest issues in the market at the moment is the lack of supply. That is quite problematic for tenants, and it is one of the reasons there is a lot of energy around section 21. Abolishing section 21 is not going to deal with supply issues. From the evidence we have at the moment, it is very likely to make supply issues worse.

Professor Gibb: My perspective on this stems to a large extent from the experience we had in Scotland after the introduction of some aspects of the Bill and some of the kinds of measures that you are now proposing. I would echo what Julie says, in that we made these changes, which brought some confidence to tenants—that is what some research tells us—but some fundamental issues remained unchanged.

Despite investing in tribunals—in justice, as it were—there is still a strong sense of asymmetry in access to justice, which is to the detriment of tenants. People supported the changes, which are very similar in terms of the grounds for possession and so on, but none the less we find ourselves with a similar housing rental market in Scotland, which exhibits a great deal of shortage and very high and accelerating rents.

The counterfactual is what it would have been like without the changes. It probably would have been worse, but the changes have not stopped those kinds of things happening. In a sense, they probably are not supposed to do that. It is not enough to do these necessary things to make the rental market work more satisfactorily.

Q77 Jacob Young: Thank you both. First, could you clarify your initial points? What effect do you think the reforms we are proposing would have on supply in the private rented sector? On a different tangent, what are your views on how we should strengthen councils' enforcement powers to crack down on criminal landlords?

Dr Rugg: On the issue of supply and section 21, counterfactually, a lot of landlords let because of section 21; they do not evict people because of section 21. Section 21 gives them the confidence that, if they run into severe difficulties, they will not have to go through a protracted court process in order to end a tenancy. This is particularly pressing for smaller landlords, who might find themselves paying two or three mortgages at the same time, with tenants that are problematic. You can understand the reasons why risk is hugely important to landlords a lot of the time. Antisocial behaviour is really problematic. If there is a tenant causing lots of problems in the neighbourhood, the landlord wants to get that situation to a close as fast as possible.

Abolishing section 21 would increase landlords' perception that there is risk in the market. An area that will be problematic is that landlords who come to the sector with property—perhaps they have inherited it or they have started a partnership and there is a spare property—will think very hard about whether to bring that property to the market. I think that is one of the consequences we will see. The market does not look like a very friendly place to landlords at the moment, and that is the big issue we have around supply.

How we help local authorities deal with criminal landlordism is something that I am particularly concerned about at the moment, because it is part of a big project I am working on. Local authorities have very different approaches to dealing with enforcement action in their area. One of the issues is that there is an awful lot of variation in political—i.e. councillor—attachment to the notion that this is something they should be dealing with, so councils invest at different levels in their enforcement activity. That is a democratic issue, and that is something we cannot do anything about, but I agree with the notion that Dr Dawson introduced that we really need some baseline standards that everybody can expect to adhere to.

One thing we have not really mentioned is the use of letting agents. They cover an awful lot of property in the market, but we do not expect them to show responsibility for the quality of the property they are letting. In a sense, I think that is soft policing, if we think that letting agents should have greater responsibility for ensuring that the properties they have responsibility for meet the standards that we set for the sector. In some ways, that would relieve local authorities of some of the burden of inspecting all properties. At the moment, local authorities are obliged to inspect only a certain proportion of properties that sit under licensing regimes. An awful lot of the sector sits outside that and is covered by letting agents. I think we are missing an opportunity to think about how we skill up different parts of the market to improve property quality.

Professor Gibb: I think one of the reasons I am here is that yesterday my colleagues and I published an evidence review for the Department for Levelling Up on the question, "Is there evidence that increasing non-price regulation has led to disinvestment in the private rented sector?" That is clearly a very important question for the kinds of policies being proposed here. In producing the review—it is an international evidence review over the last 20-odd years—we found that it is very hard to answer that question, because there is very little research that directly speaks to it, but you can infer from some of the peer-reviewed literature, and there is actually very little evidence that that is the case.

In other words, we believe that there is probably a constellation of factors that drive disinvestment in the sector, and it is very hard to identify whether increasing regulation, per se, is behind that. The fact of the matter is that in England, there was increasing regulation in the last 20 years, while the sector was growing. There is also evidence internationally that where regulation has increased in the short-term lets market, there might have been a short period of disinvestment, but there has not been disinvestment in the longer term. In the longer term, investment tends to have stabilised and continued to grow.

So we have been quite struck that there is very little evidence to that effect. That is not to say that there is not disinvestment going on, but it is a much more complicated thing. Another problem is that often we have several regulations being introduced at the same time, and it is quite hard to unpick the causal forces of individual things. The bottom line is that we found it quite hard to identify that increased regulation was causing disinvestment or was correlated with it.

Q78 Ms Buck: Julie, your report from a few years ago was helpful in encouraging people to think about the private rented sector not as a homogeneous whole, but as having different markets within it. Given what you said, and with the Government—rightly, in my view—going ahead with abolishing section 21, I wonder what you think the impact will be on the different markets. What are the warnings there that you have just given us, in particular on the most vulnerable, at the lower end of the market? What safeguards could be introduced to ensure an adequate supply of decent accommodation for people entering the different layers of the market?

Dr Rugg: I am better able to speak about the lower end of the market, because that is the area that I specialise in. We had some comments earlier about build to rent, and there are some concerns about the build-to-rent sector, but I will not go into those here.

Thinking about the lower end of the market, the proposed regulation seeks an end to "No DSS", as a catch-all. I do not think that that will necessarily work particularly well. Landlords seek not to let to people in receipt of benefits for two reasons: first, because they might have some prejudiced view about the people who tend to be in receipt of benefits, and that is something that is certainly not right; and the other set of reasons sits around frustration with the benefits administration and the level of benefits being paid.

I have researched landlords and housing benefit for many years—too many to mention. In the past, landlords who routinely let in the housing benefit market enjoyed quite good relations with their local authority and they worked together to deal with problems that their tenants might encounter in the benefits market. The introduction of universal credit has completely taken that link away. A lot of landlords are feeling quite exposed now: they have tenants with quite high needs having problems with their benefits, and they simply cannot do anything about it. That is a problem that we need to think about.

One of the earlier speakers referred to the rent control that sits in the local housing allowance system. That is hugely problematic. It means that tenants who receive local housing allowance simply cannot shop around the market, because the rent levels are far too low for them to act as effective consumers. Essentially, they are having to shop where they can, and some landlords are definitely exploiting that situation, letting very poor-quality property on the understanding that the tenants do not have very much choice.

Professor Gibb: I do not have much to add, except to say that I completely agree on the local housing allowance. We have just been doing some research in Scotland that suggests that the levels are far too low to be effective for the great majority of people. It is really welcome to think about the market rental sector as a series of segmented markets. We should therefore not expect regulation that covers the whole area to have equivalent effects in different parts of that area.

The only other thing I would say is that we also need to think as much as we can about housing as a system, recognising the importance of social and affordable housing alongside the bottom end of the rental market, and thinking about how those things can connect together and about the value that increasing investment in social and affordable housing would bring.

Q79 Lloyd Russell-Moyle: Dr Rugg, I want to follow up on the maladministration of universal credit, and some of the difficulties that landlords have had since the introduction of universal credit and the local housing allowance going from 50% to 30% and now probably to sub-20%, because of the cuts. We know that possession grounds 8 and 8A are about the failure to pay rent and about rent arrears. There are some weak protections around universal credit in that, but they are non-discretionary grounds in a court, so do you feel that that goes far enough to build the relationship that you were describing between landlord, universal credit and tenant, or could more be done in the legislation?

Dr Rugg: I think we need to re-establish a relationship between landlords and the universal credit system, so that landlords who are encountering problems can talk to someone in detail about those problems. It is a very basic requirement that some landlords have, that when there are individual tenants who might be falling into difficulties they need to talk to somebody about that case, and about the specifics of the case of an individual who might have high support needs. Thinking about how we support landlords through those cases—and we are talking about specialist landlord lines within the universal credit system, so that landlords can seek advice for particular cases—that is not unreasonable; that is the kind of support that we need to re-engender, so that landlords feel that, when they have difficulties, they know exactly where to get advice from.

Q80 Lloyd Russell-Moyle: Should those two grounds be discretionary or mandatory, bearing in mind that often, through dialogue and discussion, a different outcome could be sought?

Dr Rugg: The issue of what rent arrears mean is really quite complicated. Tenants can get quite confused about exactly what their rent arrears mean—whether it is because their housing benefit has not been paid or their shortfall has not been paid. Sitting within that, I think we need to be a little clearer about what rent arrears mean in a housing benefit context, so that that is clear for the landlord and the tenant.

Professor Gibb: This reminds us that the legislation that is being talked about today has to be understood alongside another critical part of the private rented sector, which is the local housing allowance. In a sense, there is something odd about making these changes and treating the LHA levels that it operates at as a constant or a given. In a sense, we are almost trying to fit in bits of legislation and policy on the basis of something that is clearly quite problematic for a lot of people, because the levels are so low.

Q81 Mike Amesbury: Would the proposed single private sector ombudsman provide sufficient and efficient redress for renters?

Dr Rugg: It is good that renters will have the option of going somewhere to get neutral advice. The best advice that you can give to the sector is advice that supports tenancies—that does not support the landlord or the tenant, but seeks to support sustainable tenancies. At the moment, that advice is just not available, coming into the market; you can either, as a landlord, ask for landlord-based advice, or you can go to one of the lobby groups and ask for that kind of advice. Getting some advice that sits in the middle, where everybody can trust that the advice is neutral and accurate, is very important.

Professor Gibb: I completely agree.

The Chair: If there are no further questions, I would like to thank both the witnesses very much for their evidence.

Examination of Witnesses

Fiona Rutherford and Professor Christopher Hodges gave evidence.

3.48 pm

The Chair: We will now hear oral evidence from Fiona Rutherford, chief executive of JUSTICE, and Professor Christopher Hodges OBE, emeritus professor of justice systems at the centre for socio-legal studies at the University of Oxford. We have until 4.30 pm for this panel. Could the witnesses please introduce themselves for the record?

Fiona Rutherford: I am Fiona Rutherford. I am the chief executive of JUSTICE, a law reform and human rights charity that covers the entire justice system across the UK. I could expand further but, as you probably know, we have published a report that is specifically on some of the areas that will be touched upon. I am very grateful to have engaged with many of the stakeholders involved, including the Government Departments.

Professor Hodges: Good afternoon. Thank you for the invitation. I am Chris Hodges. I am not an expert in the property sector, but I claim to be an expert in dispute resolution systems—courts and ombudsmen and anything else—and regulatory systems, which takes you into things like the portal and enforcement issues.

Q82 Matthew Pennycook: Thank you both for coming to give evidence. As you know, the Government have now explicitly tied the enactment of chapter 1 of part 1 of this Bill to the court reforms, and the concern is that the nature of those reforms is unspecified. To what extent do you think the court system, as it applies to matters in this Bill, needs improving? I ask that because the county court system is working relatively well vis-à-vis other parts of the criminal justice system; the guidelines are being met and the then Minister extolled the significant improvements that have been made in recent years.

To the extent that the system still needs to be improved, what is your understanding of what the metrics are? My reading of the Government's response to the Select Committee, what is in the White Paper and what was in the King's Speech briefing notes is that there is a whole set of different metrics—end-to-end digitalisation, new digital processes, bailiffs and so on. How are we to know, because the concern is obviously that the abolition of section 21 could be years away, if we have court improvements that are undefined or are large in scope?

Fiona Rutherford: That is one of the concerns that we have. Looking at the history of the reform project, while there have clearly been some successes, there have also been quite a few delays. And we are also concerned given the implications for the tenants in particular in relation to section 21, and given that a proper argument has not been made as to why that dependency between the two exists.

I am just thinking of the court performance, which you have just raised. Civil court performance, even during the pandemic, was better than that of most of the other jurisdictions and even now section 21 is taking roughly 28 weeks from notice to point of repossession, versus the estimation that the Government have made that section 8—the new approach in the new Bill—would take possibly the same time, maybe even a week less.

We would say, first, that a proper rationale has not been put forward as to why that dependency exists and why section 21 cannot proceed. Secondly, the implications for the tenants themselves are so considerable that it is not at all clear to us why that cannot proceed as fast as possible.

Professor Hodges: I tend to look at things in terms of quite long stages of evolution. Going back a hundred years, we had courts that administered law. One realises, and I speak as a professor of law, that law is not the answer to everything; in fact, in some situations it is not the answer to very much. A lot of colleagues would shoot me for saying that, but I profoundly believe it.

What we have discovered is that human behaviour, and therefore psychology and other forms of dispute resolution and supporting people to work together and restore relationships, is important. The answer to that is usually not law and the process is usually not an adversarial process involving courts or judges, however sympathetic they are.

We then started talking about a technique of mediation and that went into an institution of alternative dispute resolutions, or ADR, and the courts are sort of playing with trying to put these things together at the moment. Actually, that has been leapfrogged by things like ombudsmen, in the private sector as opposed to the public sector—parliamentary or local government ombudsmen. In the private sector, virtually every regulated sector

now has an ombudsman—financial services, energy, communications, motor vehicles, lawyers, blah blah blah. It is quite a long list.

There are various reasons why that is true. The first is that the ombudsmen usually deal with codes—codes of behaviour—and not just legal rights. They can and do decide legal issues, but it is usually codes. They are looking at the underlying behaviour of the bank or the rail company or whatever it is, and therefore you need a different process as well. So it is not adversarial and it is usually free to the consumer, because the business is made to pay or pays for the infrastructure of the ombudsman.

However, there is a very considerable advantage of an ombudsman over a redress scheme, and many of the redress schemes are still somewhat old-fashioned because they are basically arbitration and basically adversarial, and therefore the larger party will bowl up with a whole load of expensive lawyers and you just maintain cost—an adversarialism of not bringing people together. And there is an imbalance of power in that situation.

That does not happen with an ombudsman, because it is a question of "Let's talk to each other." The mediation technique is automatically in the process—you encourage communication. If it is not going to work, the ombudsman makes a decision.

Another big function of why the ombudsman is really useful is that they collect data. In all the sectors I can think of, and critically in financial services, energy and so on, ombudsmen are the data controller for the sector because they can tell the banks or the regulator what is going on and what consumers are worried about. That is a feedback system within which people can see in real time exactly what is going on and can therefore respond to it. You sometimes then need responses. On the legal side, the responses may be enforcement of law by a court, or by a regulator if you have one—we do not have one in private rented yet, but we are, perhaps, close—and on the other side, you can have decisions by an ombudsman that are then put in place.

It was very interesting listening to Dr Rugg, who knows much more about the sector than I do. She spoke about support for landlords. Every regulatory system I know needs support for all the actors—tenants, landlords, agents, whatever. Ombudsmen can help with that, but I think there is a gap in local boots-on-the-ground support. Enforcers, like local authorities, or a national regulator if there is one, are sometimes able to support and help, but we have a missing piece.

Summing up, therefore, my view is that this Bill is a very important step forward in modernising towards a useful, effective future system. It is taking an ombudsman as being a central institution, as well as the portal where you get data—admittedly, it is a regulatory portal, rather than a disputes portal, but we may evolve; it is fairly easy to evolve once you have it. These are absolutely critical elements of what a really good future system would be.

I would go further, with just a couple of sentences. One point is that one needs to think about boots on the ground, with people supporting people. An ombudsman is national, so one has to fill that gap. Actually, I think tribunal judges, ombudsmen, local authorities and maybe others—I have had discussions with people about this—could fill that gap. It is critical for everyone. The other part is that one should ensure that everyone knows where to go—"Where do I go to get support? Have we got too many people?" On the dispute resolution side, do you go to court, a tribunal or an ADR scheme? How many ombudsmen are there? We already have three in the property and housing sector. Proliferation is never a good idea, and there are other sectors that show that. The objective is to pull things together. The inevitable logic of this means that you squeeze together the courts, the tribunal and the ombudsmen.

At their request, I chair an ad hoc committee involving the president of the tribunal, the various ombudsmen and the property redress scheme, who, in the past year, have worked on working together on service charges. It has been very effective. I am not sure it has actually been announced yet, as such, but it is not secret. They are working on how to work together. From the point of view of the tenant, certainly, but also the landlord, you want a simple pathway: where do you go? The data reason for that is that if you have a pathway where you have one database, you are going to maximise it; the data is all over the place at the moment, and we do not collect it.

I see this as a direction of travel. The answer to your question on when we will be ready to institute it is: do it now. I would be bold and move the county courts into the tribunal. We already know that the tribunal and the ombudsman can work together. You just squeeze people together one way or another. Then, you will have a fantastically good system, which is the basis of a very self-regulating regulatory space.

Q83 Jacob Young: Thank you, Professor Hodges, for your in-depth explanation of the benefits of the ombudsman. I wonder, Fiona, whether you have reflections on the ombudsman, particularly on some of the things that Christopher has just mentioned about how we get people to engage in the process and to engage in mediation and settling early, rather than getting lost in the court system.

Fiona Rutherford: Thank you for the question. I think I am going to quote Dr Rugg again—I am afraid I only joined recently—but I thought the point on supporting the tenancy was really good: it is about neither the landlord nor the tenant, but the relationship. That is key to ensuring that, whatever solutions are put in place, you are looking at that as being your key outcome, as opposed to trying to take sides, as we have seen all too often.

The other thing that we have seen—Professor Hodges has strongly alluded to it—is the disaggregation of the amount of services that exist. To some extent that is great, because it means that there are potentially lots of places to go. However, the reality is that most landlords and tenants do not know that those services exist or how to access them. Whether or not that is through another ombudsman—I have some concerns about creating more and more ombudsman, and whether there is a way to streamline the available services—I think the most important thing is that those services are signposted to individuals, which means landlords and tenants, and also that the services are provided.

JUSTICE alluded to that in the report we published in 2020, where we talk about our long-term vision of adopting a multidisciplinary approach to avoid escalation and address the common underlying features behind

tenants going into arrears, such as debt, family issues or employment issues. If there is a way to keep the longer term in mind, while not delaying on things like section 21, but also thinking carefully about addressing the disaggregation of services and including signposting and information, then ultimately, as far as I am concerned, all those things will be ingredients to success.

Professor Hodges: I have a quick comment. Your question was, "How do we get people to engage in mediation?" It is automatic in the pathway. It is not in courts; it is in ombudsman, and to some extent it is now in tribunals. The Ministry of Justice has just introduced a mediation stage for low-value cases, but it is not necessarily automatically in the pathway.

All the consumer ombudsmen have been using this for up to 20 years, automatically. You put in your complaint and the ombudsman then says, "Okay." It is investigative and collaborative, rather than adversarial. You do not need lawyers; they do not do anything. You just say, "Tell me about it," because you have a central expert. It is not that you have two lawyers and a judge—who are not there. Rather, you have one ombudsman in the middle, so it is efficient and quick, and they are saying, "Tell me about it." So you pull all the evidence in, and then you say, "Okay, what do you say? And you?"

That is automatically mediation, and most cases settle at that stage, because they talk to each other. If it is not going to work, you know fairly quickly, in which case you just get more evidence and then make a decision, unless they agree. So it is in the process. The courts are moving toward that but, because of the cost of public provision, they cannot do it as well as the ombudsmen.

Q84 Matthew Pennycook: Your comments there just provoked a thought. It might be too early to tell, but are there any lessons about signposting from the Social Housing (Regulation) Act 2023? We had the issue with that legislation, which we touched on earlier with Richard Blakeway, the ombudsman, about what the regulator can now do, which is to look at systemic things but also dip into cases. You have the ombudsman taking cases but has a view on the systemic side, so there is a potential conflict of interest. I think the Government are trying to get around that by saying to tenants, "Here's where you go for each particular type of problem," or "This is when you might go to the courts." Are there any lessons from that, or anywhere else, where signposting has worked well, so that we can try, on the basis of this Bill, to send tenants to the right place in the first instance?

Professor Hodges: The signposting is to have a single ombudsman.

Q85 Matthew Pennycook: Just the one route?

Professor Hodges: I would have one for the entire property and housing sector, and this is not the first time that I have said that. My ombudsman and judge colleagues know that, and quite a lot of them would not disagree. Fiona mentioned that we have a number at the moment. It must not proliferate. I am fairly confident that, if the Government just send the right signals, they might not have to legislate and that we can get adhesion on the ADR and the ombudsman side—people joining up spontaneously, if they are encouraged and pushed—so that you actually get there.

What we are doing here is filling a gap in private rented. We have already got the property ombudsman, which largely cover agents, and the private rented redress scheme. Then you have got have got social housing—let us converge. If you converge courts and tribunals as well, that is a major step forward for all the players, and certainly tenants and landlords. You will deliver things more quickly, basically, and everyone will know where to go.

As I said, look at every other sector. In financial services, you have the Financial Conduct Authority and the Financial Ombudsman Service; in energy, you have Ofgem and the energy ombudsman; and so on. It is not 100%, but it is well over 95%. In social housing, you have got a regulator. We have not got one in private property. We could have one, which would be a regulatory space involving these elements in a new and very effective way, within which you would not have, if you like, an old-fashioned regulator. Rather, you would have a system regulator, but all the people would work together in the system on supporting good practice, because codes already exist for that. The decent homes standards is just a code. It should apply, obviously, and then everyone would work towards that, whether it is local authorities, or the system regulator, the various ombudsmen, or the various self-regulatory bodies that exist—everyone knows where they are.

I am involved in several discussions like this, in totally different regulated sectors. If you say to people in your sector, "We're all going to work together, and this is how we're going to do it," and if you have responsibilities to everyone—if you are no longer just a self-regulatory body on your own, but you are an ecosystem, and it has to work—then that works incredibly well, if everyone realises that is the game that has to be played.

Fiona Rutherford: I agree with a lot of what Professor Hodges said, but I am not sure that everybody does know where to go.

Professor Hodges: No, they don't.

Fiona Rutherford: To answer your question about where there may be good examples, the health justice partnerships, which we have seen work together, are good examples to look at. They do not rely on a tenant or a landlord to know what they cannot know or do not know, and that is what is missing. The health justice partnerships are where we have seen lawyers, or support workers or sometimes NGOs, sit in doctors' surgeries, so that when a GP sees a patient who is suffering from mental health issues, or various other physical illnesses, and they have it diagnosed that it is probably related to something outside of a medical solution, then there is somebody in the building who that person can go to—if not immediately, then an appointment can be booked. That stops us relying on what are sometimes very vulnerable people, or people who are at vulnerable points in their lives, to seek out support services and help themselves.

Professor Hodges: Just to add one sentence, which was implicit in what I said at the start: in the regulated sectors where you have an ombudsman, such as financial services or energy, no one goes to lawyers or courts—they disappear. People have voted with their feet, because the procedure is faster and more user-friendly, it is free, and it delivers a broader range of behavioural outcomes on the part of the energy companies, or whoever it is, and does not just ask, "Are they breaking the law?" If you feed that in to the ombudsman, you might get a decision,

but you will also get the point referred up to Ofgem, or whichever regulator it is, so that it can do something systemically about it, if necessary. It is an ecosystem, but everyone knows where to go. I am afraid that lawyers and courts are toast.

Q86 Lloyd Russell-Moyle: The amount that the ombudsperson can award is currently capped. Should the cap should exist, and if so, should it be fixed at £25,000, or should it be linked to another, more sensible amount, bearing in mind that that is a year's rent on some properties?

Fiona Rutherford: I would like to make a separate comment about the fine in the enforcement process within the Bill, but that is not your question, so perhaps Professor Hodges might start.

Professor Hodges: The amount of money that either a judge or an ombudsman should award must be relevant to the dispute, because you cannot have people not being compensated. Therefore, there should be a mechanism for the amount to be amendable over time. Personally, I would not waste your time with that—coming back again and again to put it up. I would put a mechanism in the Bill, so that someone can set it, whether that is a Minister or whoever. You cannot have people not bringing forward claims because they will not get fully compensated, or bringing forward claims that are not fully compensated when they should be.

That takes you over, however, into penalties or sanctions for behaviour. That is a complicated issue, but the point is that usually we have a national regulator, and here we have a lot of local authorities, and they need the right powers as well, but quite often the right powers are not fines. I am afraid that there is rather a lot of psychological and other evidence that deterrence does not work—which is a shock, the first time that you hear it. Therefore, other, quite significant penalties—such as talking to people, explaining, informing and giving supporting about how things ought to be different, or, in the extreme, removing the licence to operate and saying, "You cannot let this property"—are the ones that work. A broader toolbox of responses and interventions—I am not using the word "enforcement" here—is what actually delivers good outcomes.

Q87 Lloyd Russell-Moyle: So are you saying that for local authority enforcement, it should be easier for them to effectively de-list or bar someone on the property portal from re-renting that property?

Professor Hodges: That would concentrate minds.

Fiona Rutherford: And even before enforcement, there is something about transparency. There is something about everybody going into a tenancy—going back to that focus on tenancy—knowing a fair amount of history on both sides.

Q88 Lloyd Russell-Moyle: So the property portal should be accessible for you to see that detail of it—potentially in public generally, or for the potential tenant?

Fiona Rutherford: Importantly for the tenant. It is there that transparency matters the most. I think that there are possibly bigger issues with making it fully public.

Professor Hodges: One of the points about the portal is that it is a very effective self-regulatory—or indeed managerial—system, because it says, "Have you got an insurance certificate? Have you got a fire certificate? Well, upload it." It is done, and then you get a reminder saying, "You've got to do the next one." Everyone should be able to see that. There is nothing secret about that information, but it delivers a baseline of regulatory compliance—"Are you compliant with the decent homes standard? Where's your certificate?" or whatever. It is self-policing, and provides a very simple mechanism for doing that.

Just to give one dramatic example of sanctions, the Civil Aviation Authority never fines airlines in relation to safety issues—although it fines them now and again. It has an incredibly good culture among all the players—air traffic control, the airlines, engineers, and so on—and has constructed that deliberately, and it is the only reason why planes stay in the sky and we have confidence in them. It never fines anyone, but it uses the ultimate sanction—rarely—that I was talking about of saying, "I'm going to stop you operating your aircraft or your airport." That concentrates the mind and gets the result of them saying, "Okay, we've fixed it," very quickly.

Q89 Dr Ben Spencer (Runnymede and Weybridge) (Con): Elaborating on that point, would you do that based on a landlord or based on the property itself? Would there not be a danger of evasion through the property group being put in someone else's name, or using a different landlord, to escape that enforcement?

Professor Hodges: Personally, I am in favour of the broadest possible enforcement powers, but not necessarily their regular use. Therefore, whoever is involved in management and responsibility should be within scope of the discussion, and then of the potential response or intervention.

Q90 Dr Spencer: I am just thinking that in terms of the aviation sector, which you gave the example of, it is very difficult to evade that—but I wonder whether in practice, with what you are describing, that would be easy to get around.

Professor Hodges: Well, whoever owns, or shadow-owns, a building, if you stop people letting the building, that will have an effect on anyone, will it not?

Q91 Dr Spencer: Then you have a different problem: if you sanction by property, the property essentially gets blacklisted. How do you switch that if it genuinely does change ownership?

Professor Hodges: You would have other powers against beneficial owners by saying, "You've done this several times; you're out," or, "Do it right otherwise you're out." That is a regulatory power.

Q92 Dr Spencer: Then you would need a separate database of people who are registered landlords.

Professor Hodges: Not necessarily. I think one database is enough, frankly. You should be able to capture all the data about, "Who owns this?" We have been talking about foreign-owned companies and things in other contexts, and there are techniques for identifying them.

Fiona Rutherford: I am going to make a point in relation to enforcement that I referenced earlier. Local authorities have been brought into this as we are talking about the widest panoply of options that might be available. I am going back to the penalties that I referenced earlier, so forgive me—I am moving out of the ombudsman perspective and the regulatory questions—but this is

possibly related to enforcement. While there is a plan with the penalties as and when section 21 can be moved forward, and while the local authorities get a benefit from those penalties, a rate of £5,000 probably does not go far enough to act as any kind of incentive, in so far as you want enforcement to work in that way. Of course, there are other examples: £30,000 is the maximum financial penalty for a breach of the Leasehold Reform (Ground Rent) Act 2022.

The other thing to say about local authorities is that while they benefit from the financial gain of any fixed penalties as a result of section 21 breaches, there is a real problem with local authorities' resourcing. I am probably not saying anything that is particularly new to the Committee, but we are asking local authorities to do something more: it is not only enforcing section 21, but the other obligations to investigate antisocial behaviour appropriately. I again reference a report on behavioural control orders that we have looked into and the poor quality of data and understanding around antisocial behaviour. This means that the resources required are quite simply not going to be delivered through the proposed fixed penalties. We very much urge serious consideration around proper resourcing in a wider sense, but specifically in relation to antisocial behaviour and the section 21 enforcement regime.

Q93 Matthew Pennycook: Briefly on the breaches and penalties, how extensively do you think rent repayment orders should run through the Bill as a back-up? I am talking about the clause 9 and 10 breaches and the ombudsman portal registration breaches. Do you think we should have a much wider inclusion of rent repayment orders—probably as a final resort; we do not want to throw all the onus on tenants—as another deterrent?

Professor Hodges: Following the principle that the pathway and the process should be as simple as possible, we should not have a system in which people have to go to different institutions—a judge, an ombudsman, a regulator or a local authority—to get everything fixed if that can be done in one place at one time. The logic of that takes you towards giving power to the ombudsman, the judge and the regulator to issue rent orders at the end of a case. Why should anyone have to start again and go somewhere else to get that result? They should say, "Okay, on the proposition, the landlord was wrong—badly wrong, probably—in this particular circumstance. Fix it and we will come and make sure you've done all this stuff. The right result is to repay the rent." Give them the power to do that and to be holistic.

The Chair: If there are no further questions, I thank both witnesses for their evidence.

Examination of Witness

James Prestwich gave evidence.

4.20 pm

The Chair: We will now hear oral evidence from James Prestwich, the director of policy and external affairs at the Chartered Institute of Housing. We have until 4.45 pm for this panel. Welcome, James. Could you please introduce yourself?

James Prestwich: I am James Prestwich, director of policy and external affairs at the Chartered Institute of Housing. We are the professional body for the housing sector. Our members are individuals rather than organisations. We are cross-tenure and cross-UK in our remit.

Q94 Matthew Pennycook: James, I will ask you this because I have seen you sitting at the back listening to all the other evidence, and you may well have seen what we did this morning. This is a very open question: after all that you have heard today, is there anything you want to highlight that we have not covered? Do you want to generally give us your views on what is good in the Bill, or what its defects and deficiencies are? I might come back with a further question about that.

James Prestwich: I am very conscious that you have heard from any number of really esteemed experts on all manner of aspects of the Bill in today's sessions, and there was an awful lot to agree with. A question has continued to be posed about striking the balance, and I suppose the position of the CIH is that if we accept that the private rented sector has an important role to play in meeting housing need—I think we all probably do—it is hard to look at what we have at the moment and think that the balance is right. It is tipped much too far in favour of the landlord rather than the tenants. A lot in the Bill is positive in looking to provide a better deal, but there are still some gaps and areas where it would be good to go further. A lot has been said about what was in the White Paper. We need action and to follow through on that now, particularly on the decent homes standard and an assurance on a timetable for its introduction.

We have seen over the past year to 18 months the impact on people of the cost of living challenges, particularly around energy efficiency. Experts have spoken about the importance of ensuring that families and people in receipt of welfare benefits are not discriminated against by landlords, so it is important that we see really firm action on that. We have talked a lot about section 21 and no-fault evictions, and it is worth saying that it is really good to see what is in the Bill as far as section 21 is concerned.

As for those landlord grounds of concern, though, the two-month notice period is a little on the short side. We know—witnesses have stressed this point—that one of the biggest causes of homelessness is the ending of a tenancy via section 21. It takes time for people to find another property, particularly in hot rental markets, and I think it would be reasonable to expect a longer period to allow people to try to find alternative accommodation.

Q95 Matthew Pennycook: Very quickly, specifically on ground 8A, which we discussed this morning, what is the view of the CIH on whether it should be removed from or remain in the Bill? If it should remain in the Bill, should it be made discretionary? Should it be tightened? What is your view on that new ground for possession?

James Prestwich: We have heard really well-reasoned, well-argued points today about the importance of making that a discretionary ground. We know the challenges that people face when paying rent, particularly when we think about interaction with the local housing allowance, which witnesses have talked about. It is important that we are able to trust judges to make informed decisions based on the evidence of the case—the evidence presented before them.

Q96 Jacob Young: Thank you, James; it is great credit to you for sticking through a lot of this. I thank the other witnesses who stayed and listened to some of the other responses. Obviously, a lot of these changes aim to professionalise the sector. I am keen to understand from your perspective what you see as the opportunities presented by the portal and how they can support landlords to better understand their responsibilities.

James Prestwich: Again, as other witnesses have said, there is an awful lot to like about the landlord portal. We have talked quite a lot about the benefits that the portal will have for tenants, but it is right that there are significant advantages for landlords as well. This point might not have been made yet, but the overwhelming majority of landlords, regardless of the number of homes they own, are thoroughly decent people doing a decent job. We know there are examples of poor quality and poor practice, as there are in all professions, but any tool that enables landlords to get a better understanding of the responsibilities expected of them is to be welcomed. The point about how we get the portal to work both ways is really important. There is something about the sort of information that local authorities will be able to access from the portal, although they do not at the moment. That should enable local authorities, providing they have got the capacity and resources, to be able to take a harder line when people fall below the standards that we all want to expect from landlords.

Q97 Lloyd Russell-Moyle: You said that the two-month period seemed quite short, and four months might be preferable. We heard earlier about the cost of moving, as well as the difficulty. Where there are no-fault grounds, is there an argument that there should be some payment to the tenant? Alternatively, as Generation Rent suggested, once the no-fault eviction has been ordered, should no rent effectively be paid for those two months so that a tenant can leave at any time or can use that time to save up?

James Prestwich: There is a lot that Ben Twomey said that you could agree with. I think the challenge here is about how we try to find that balance. We know that a lot of people in the private rented sector are accidental landlords. Previously, I was an accidental landlord and an accidental tenant, and neither of those things was particularly pleasant, so I have a little experience of that. There is a real challenge around all of that that we have not quite bottomed out yet.

Lloyd Russell-Moyle: That sounds a little inconclusive.

James Prestwich: Yes, it is.

Lloyd Russell-Moyle: You are saying you think work needs to be done but you are not quite sure of the solution yet.

James Prestwich: Yes, that is probably the case.

The Chair: If there are no further questions, I thank all the witnesses for the time and expertise that they have given with their evidence.

Ordered, That further consideration be now adjourned. *—(Mr Gagan Mohindra.)*

4.28 pm

Adjourned till Thursday 16 November at half-past Eleven o'clock.

Written evidence reported to the House

RRB01 PayProp UK
RRB02 Thomas Dove
RRB03 West Midlands Combined Authority Homelessness Taskforce
RRB04 Marie Curie
RRB05 Cats Protection
RRB06 St Mungo's homelessness charity
RRB07 Grainger plc
RRB08 British Property Federation (BPF)
RRB09 Shelter
RRB10 The Property Institute
RRB11 Greystar
RRB12 Domestic Abuse Housing Alliance
RRB13 Dogs Trust
RRB14 Renters' Reform Coalition
RRB15 Professor Christopher Hodges OBE PhD MA FSALS FRSA
RRB16 Positive Money
RRB17 Large Agents' Representation Group (LARG)
RRB18 Generation Rent
RRB19 Get Living PLC
RRB20 National Residential Landlords Association
RRB21 Crisis
RRB22 Student Accredited Private Rental Sector (SAPRS)
RRB23 National Debtline