



Housing and Planning Bill 2016: Abandonment

ABANDONMENT

The Housing and Planning Bill contains a clause that speeds up the process of a landlord taking possession of their property where it has been abandoned by the tenant. By taking responsibility for possession claims away from the courts this measure risks making it easier for rogue landlords to carry out illegal evictions.

KEY POINTS

- Landlords already have sufficient powers to reclaim a property, including in cases of genuine abandonment.
- Cases of genuine abandonment are rare, fewer than [2,000](#) a year, which amounts to only 0.04% of private renting households.
- Tenants who have to leave their properties for a short period and who fall into arrears are at risk of unintentional or illegal eviction.
- Safeguards within the Bill are well-intentioned but inadequate. The clause should be removed from the Bill or independent verification of abandonment introduced to it.

WHAT PROBLEM IS THE GOVERNMENT TRYING TO ADDRESS?

The government is seeking to reduce the time it takes for a landlord to gain possession of their property, where a tenant has abandoned it. Landlords are reportedly concerned that eviction through the courts takes too long and would prefer another route to evict tenants in these circumstances.

But landlords already have powerful rights to take possession of a property. They can evict tenants through the courts using Section 8 or Section 21 notices and they can use 'implied surrender' in cases of abandonment.

Under 'implied surrender' a landlord may instantly take possession of a property, without court approval, if the actions of the tenant clearly imply they have surrendered the tenancy – for example where a tenant has moved all of their possessions out of the property and left behind their keys.

Genuine cases of abandonment are rare. There are over 4.4 million privately rented households in England but there are only [1750](#) cases of abandonment every year.

With so few cases of abandonment and powerful legal rights of possession, this law is simply not needed.

WHAT DOES THE ABANDONMENT CLAUSE MEAN FOR TENANTS?

The abandonment clause will allow a landlord to take possession of a property in as little as twelve weeks where two specific criteria are both met: the tenant has eight weeks' rent arrears and has not responded to three notices. As drafted, the clause allows landlords to begin the process when someone has accrued just four weeks' of arrears.

This presupposes that the absence of contact with an individual can only mean that they have abandoned the property and tenancy. People who are unexpectedly hospitalised or called away to care for a relative would be absent from a property and unable to respond to the notices. Their change in circumstance could also mean they move into arrears especially if they pay their rent in person, or if their Housing Benefit claim is suspended.

Rogue landlords could also use the pretext of abandonment to evict tenants. There will be no oversight to ensure the process is being used correctly.

Tenants will be allowed to challenge abandonment claims at the county court but only once they have been evicted. Someone who is vulnerable and has been evicted is unlikely to challenge their landlord to get their tenancy reinstated. Many illegal evictions already go unnoticed and only thirteen landlords were prosecuted for evictions in 2011 (Shelter FOI).

WHAT NEEDS TO BE DONE?

The abandonment clause is unnecessary and could result in unintentional or illegal eviction. It should be removed from the Bill entirely. If the clause remains, it must be improved by requiring independent verification of abandonment by a local authority or a tribunal. This could protect tenants from being wilfully or mistakenly evicted by their landlord.

ARGUMENTS AND REBUTTALS

- ***Possession in abandonment cases is taking too long.*** Implied surrender possession is instant and uncontested Section 21 notices could easily progress as fast as the new abandonment clause.
- ***Placing the third warning notice from the landlord on the front door of the perceived abandoned premise will prevent unintentional evictions.*** A tenant who has been called away will still not see this notice. Neighbours cannot be relied upon to spot notices or to defend the tenancy rights of others instead of the courts.
- ***Local authorities lack the resources to provide independent verification.*** New fines and additional government funding will help fund verification and the numbers of cases are small; fewer than 2,000 in England.