

Shelter Briefing: UQ - The implications of the end of the evictions ban for people renting their home.

Summary

Shelter welcomed the government's decisive action to suspend evictions during lockdown and the Secretary of State's commitment that 'no one will be evicted due to Coronavirus. Initially intended to last three months, the suspension was extended for a further two months. During this time we have been urging government to make the legislative changes necessary to protect renters. Due to recess starting on the 22nd June, the government is now out of time to make the changes needed. The eviction suspension will end on 23rd August with no changes to the law made to prevent Coronavirus evictions.

Key Issues

- The government must not end the eviction suspension until renters are legally protected, or we will see a wave of Covid evictions this winter.
- Section 21 and Ground 8, Section 8 of the Housing Act 1988 must be amended in order to consider the effects of Covid on renters' ability to sustain their tenancy.
- The function of the Master of the Rolls Working Group was to provide practical guidance on how courts could safely return to operation. Newly published court rules cannot override housing law, and they will not protect renters from COVID-evictions. The Master of the Rolls Working has been clear that it could not make any changes to legislation to protect renters – these are political choices to be made by politicians.

Latest announcements

For months the Secretary of State for Housing and the Housing Ministers have referred to the Master of the Rolls working group as the forum to provide solutions to protect renters from eviction due to Covid

The working group however, does not have the powers necessary to make changes to legislation and must operate within the existing law, therefore they could only advise the government of the law changes needed and produce guidance within their remit. These new rules will not protect renters from Covid evictions.

The new rules state that:

- Landlords must supply information about their tenants' vulnerabilities and financial situation in their possession claim. Judges will be able to adjourn cases if a landlord hasn't provided details of a tenant's vulnerability or financial situation
- Landlords who applied to evict their tenants through the courts before August 3rd must re-notify the court if they still wish to seek possession. This is to encourage landlords to find alternative means of resolving any difficulties.
- High court bailiffs must adhere to the same rules as county court bailiffs in terms of provision of notice of when the eviction will take place.

The Problem:

- Although the rules allow judges to adjourn where a landlord hasn't supplied certain information, the law dictates that a judge must grant a possession order in mandatory eviction cases (Section 21 and ground 8 claims). Judges have no choice but to follow the law and evict the tenant, or adjourn

following guidelines. There is also the likelihood that a landlord will be able to challenge any decision where a judge adjourns a mandatory claim.

- A judge can adjourn the case if a landlord doesn't supply the information – but not if the information they provide shows that the tenant is vulnerable, in arrears because of COVID etc. It's a question of the landlord following a procedure, not building in protections for tenants. There is no detail available for how this would work in practice.
- Putting the onus on landlords to find out about their tenants' vulnerabilities is a real concern; vulnerable tenants should not be obligated to divulge personal information about their health and financial circumstances to a landlord. The scheme relies heavily on the landlord advising the court of the tenant's personal circumstances – with the disincentive that not providing the info will cause their mandatory claim to fail, it is inevitable that the system will be open to abuse.
- Adjourning cases risks adding further to the backlog in the court and would only serve to prolong the inevitable. Even if proceedings are delayed, ultimately the mandatory claim will succeed, and the person will be evicted. There's no scheme to support tenants with their arrears or issues of affordability to accompany the scheme.

Impact

We know that since the start of March an estimated 227,000 (2%) private renters have fallen into arrears. Current housing law dictates that if a renter is in 8 weeks of arrears, a judge must grant a mandatory eviction - no consideration can be given to the reason for the arrears or the ability to repay.

The total number of private renters in arrears reached 442,000 adults (5%) – double what it was in the same period last year. This demonstrates the impact of the pandemic on private renters' finances. This is only likely to get worse for many renters as the furlough scheme draws to a close, as thousands have already started losing their jobs.

11 million people live in the private rented sector in England. These people pay the highest proportion of their income on rent of any housing tenure, and 61% of private renters have no savings at all. Private renting is also the least secure of any housing tenure, with the existence of Section 21 meaning a landlord can evict most private tenant for no reason whatsoever.

Based on historical data on evictions through court orders, Shelter have previously estimated that tens of thousands of households would be facing eviction and possible homelessness without government intervention

The Solution

Government must urgently introduce emergency legislation to protect renters. Ground 8, Section 8 of the Housing Act 1988 must be disapplied to give judges the ability to respond with discretion when hearing possession claims. Current law mandates that if a tenant has arrears of 8 weeks or more at the time of serving a notice and at the hearing, the judge must grant possession to the landlord. Many renters will have got into arrears through losses of income due to Covid, or benefit delays; allowing judges to consider this and the tenant's ability to repay the arrears is crucial.

The government has already committed to scrapping Section 21 'no-fault' evictions. Until the Renters' Reform Bill is brought forward to scrap this outdated law once and for all, Section 21 must be amended to prevent judges from being forced to grant possession where it is unjust due to Covid.